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**BEFORE THE WESTERN WASHINGTON GROWTH
MANAGEMENT HEARINGS BOARD**

WARREN DAWES, JOHN E. DIEHL, GORDON)
JACOBSON, JUTTA RIEDIGER, VERN RUTTER, and) No. 96-2-0023
KERRY HOLM, individually and as members of the)
MASON COUNTY COMMUNITY DEVELOPMENT)
COUNCIL (MCCDC), a non-profit association,)
)
) ORDER RE:
) MOTION FOR) CLARIFICATION
Petitioners,)
)
)
v.)
)
)
MASON COUNTY,)
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Respondent,)
)
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and)
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)
PETER E. OVERTON, et al., McDONALD LAND)
COMPANY, HUNTER CHRISTMAS TREES, HUNTER)
FARMS, SOUTH 101 CORRIDOR GROUP, Inc.,)
and MANKE LUMBER COMPANY,)
)
Intervenors.)
_____)

On May 12, 1999, we received Mason County's motion for clarification of our matrix-of-uses invalidation in our order entered January 14, 1999. A telephonic hearing was held on May 20, 1999. Present were John McCullough representing Intervenor Peter Overton, Petitioner John

Diehl, Gerald Steel representing MCCDC, and David St. Pierre representing the County. Gary Yando and Bob Fink of the County Community Development Office were also present. Present for the Board were Board Members Eldridge, Henriksen and Nielsen.

The County argued that three areas of the order of invalidity were unclear. It asked: “Does invalidity of the matrix apply to the urban growth areas? Are resource base uses in rural areas restricted? Are essential public service uses in rural areas restricted?” The County noted that it had received conflicting advice on whether essential public services are exceptions to findings of invalidity, rather than being included in the order simply because they were included in the matrix. The County said it turned to us for resolution of the conflicting advice it had received.

Mr. McCullough noted that we have found the Belfair UGA noncompliant but not invalid. It was unclear to his client as to whether the Board intended the invalidity of the matrix to extend to urban growth areas (Belfair and the City of Shelton).

Mr. Diehl argued that the County could issue permits for essential public facilities if it wished and if it were confident that those facilities would be permitted under a compliant response to the Board’s remand. Mr. Diehl suggested that the solution for the County was to “quickly fix the matrix” and concurrently “make prudent but not paranoid judgements”. He also argued that extending the matrix invalidation to the Belfair UGA would serve to prevent sprawl in a UGA for which there currently was no “real plan to urbanize”.

Mr. Steel objected to any change in invalidity but noted that MCCDC would accept a clarification. MCCDC particularly objected to the identification of specific types of construction in the rural area as exempt from the invalidity order, asserting that this would be the equivalent of the Board writing development regulations and micromanaging the County.

CONCLUSION

In the body of our January 14, 1999 order we addressed the substantial interference of the matrix of uses only in rural areas (pages 16-18). We did not address substantial interference with the

goals of the Growth Management Act within UGAs. We specifically stated “The County is not in compliance regarding uses outside UGAs”. In the invalidation order, we invalidated Section 1.03.020 of the Mason County Development Regulations. This section happened to include urban growth areas.

We conclude that a reasonable person could be confused as to whether or not we intended to include urban growth areas in the invalidation order. We did not so intend. We addressed only the matrix of uses in the rural area in the body of our order because we intended to invalidate only the matrix of permitted uses outside urban growth areas. We therefore clarify our order to exclude the column in the matrix of permitted uses entitled “urban growth areas” from the finding of invalidity. We decline to offer comment on further definition and distinction among description-of-use categories in the invalidated remainder of the matrix.

So ORDERED this 7th day of June, 1999.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

Les Eldridge
Board Member

Nan Henriksen
Board Member

William H. Nielsen

Board Member