

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

CITY OF ANACORTES,)	No. 99-2-0011
)	
Petitioners,)	
)	FINAL DECISION
)	AND ORDER
v.)	
)	
SKAGIT COUNTY,)	
)	
Respondent,)	
)	
and)	
)	
MARINE CONSTRUCTION & DREDGING,)	
INC. AND KENNETH YOUNGSMAN,)	
)	
Intervenors.)	
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Synopsis of the Order

We find Skagit County in compliance with the Growth Management Act (GMA, Act) regarding its action in adopting Ordinance No. 17294 (1997 Amendments to the County Comprehensive Plan) on January 25, 1999, re-designating 16 acres of property owned by Ken Youngsman from Agricultural (Ag-NRL) to Rural Reserve (RRv).

Introduction

Petitioner City of Anacortes challenged the above-cited action, maintaining it was tantamount to allocating acreage for “new” industrial uses to unincorporated Skagit County in violation of County-wide Planning Policy (CPP) 1.1. A hearing on the merits was held June 16, 1999, at the Anacortes City Hall. Ian Munce represented the City of Anacortes. John Moffat represented Skagit County. Intervenors Marine Construction and Dredging, Inc. and Kenneth Youngsman were represented by Alexander Mackie. Board Members Les Eldridge and Nan Henriksen were present.

Intervenors withdrew their July 7, 1999 request for a ruling on the standing of the City of Anacortes, indicating that demonstration of standing had been provided by the City in response. The motion of Skagit County to add to the record (June 8, 1999) was granted. Ordinance No. 16287 was admitted as Exhibit #204. Exhibit #549 from *Abenroth et. al., v. Skagit County* was determined to be already in the Index under Exhibit #1.

Discussion

Petitioner City of Anacortes argued that the County could not be allowed to re-designate acreages with what the City termed “an assumption of new industrial or commercial uses and development” without calculating additions of industrial and commercial acreage. It further asserted that any new industrial and commercial acreage allocated to unincorporated Skagit County would be contrary to CPP 1.1. Petitioner called upon the Board to direct the County to account for the new acreage. Petitioner maintained that the Youngsman property re-designation was an example and a pre-cursor of new commercial industrial acreage and was not simply a technical error or misapplication of criteria, unlike other property requests examined by the County during this review period.

The County responded that the City did not address the question of whether the change from Ag-NRL to RRv was in compliance under the application of the agricultural criteria. The County pointed out that it had retained the agricultural classification during its “grand look” zoning designations during the adoption of the comprehensive plan, but had left open the opportunity for individual land owners to request review with the assumption that some errors could have been made in the “grand-look” designations. The County noted that the City failed to address the new information provided to staff by Youngsman. This information of more than 40 pages led the County staff to recommend the zoning change because they determined that none of the agricultural criteria applied to this site.

The County contended that a Rural Reserve re-classification does not inherently allow the property to “be used for new C/I development”. The County observed that the commercial-industrial review process is going on at this time and will be completed in time for Board review in July, 1999. The County asserted that the mid-summer Board review would be the time when any conversion of Youngsman’s property from Rural Reserve to Commercial-Industrial would be ripe for challenge. Under this proceeding, the County contended, a commercial-industrial

challenge was untimely.

Intervenors cited the new information provided to staff and the May 22, 1999, planning documents which pointed out the Youngsman property's failure to meet agricultural plan criteria. Intervenors asserted that the work on the property preparing it for a use as a marina had been carried out under appropriate and valid permits long in effect. Intervenors enumerated the characteristics of the site which met requirements of Section 7(2) of Ordinance 16559, namely; existing conditional use permits for marine industrial uses, uses not expanding beyond the existing parcel, and not requiring extension of public sewer or water. Intervenors maintained that their property, previously zoned industrial, was inadvertently designated Ag-NRL by the adopted Comprehensive Plan.

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Conclusion

The question of whether new commercial-industrial lands designated outside UGAs are consistent with CPP 1.1 is not germane to this case, as no new commercial-industrial land has been designated. Any examination of future re-designation to commercial-industrial may properly take place under Case #98-2-0060c, *Abenroth et. al., v. Skagit County*, in a forthcoming hearing. The City failed to demonstrate that the property should have remained in Agricultural designation, and has failed to meet its burden of proof. The action taken by the County in re-classifying and re-designating the Youngsman property from Ag-NRL to RRv is in compliance with the GMA.

So ORDERED this 28th day of June, 1999.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

Les Eldridge
Board Member

Nan Henriksen
Board Member