

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2
3 FUTUREWISE, et al.,

4
5 Petitioners,

6 v.

7
8 LEWIS COUNTY,

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10 Respondent,

11 SOVRAN, LLC, SOVRAN LEWIS, LLC
12 AND THE BENAROYA COMPANY,

13
14 Intervenors.

No. 06-2-0003

**ORDER AMENDING FINDINGS OF FACT
AND CONCLUSIONS OF LAW,
RESCINDING INVALIDITY AND FINDING
COMPLIANCE AS TO CHEHALIS AND
NAPAVINE UGA BOUNDARIES**

15 **This Matter** comes before the Board upon the compliance report of Lewis County
16 concerning the Napavine and Chehalis urban growth area (UGA) expansions found
17 noncompliant and invalid in the Final Decision and Order issued August 2, 2006.¹ The
18 Board's decision with respect to the Chehalis UGA expansion was clarified in the Order
19 Clarifying Invalidity Determinations and Adopting Amended Findings of Fact and
20 Conclusions of Law on October 6, 2006. However, that order contained an error in
21 transcription: the second property added to the Chehalis UGA (which addition the
22 Petitioners do not contest) should read "corrected transected property (Gunderson) (city file
23 #05-059)" instead of repeating the description of the first property added. This error occurs
24 at Finding of Fact 14(ii), Finding of Fact Related to Invalidity 37(ii), and Conclusion of Law F.
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28 Therefore, Finding of Fact 14 in the Order dated October 6, 2006 is hereby amended to
29 read as follows:

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Compliance Report of Lewis County, March 15, 2007.

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- 14. Petitioners do not contest the expansion of the Chehalis UGA as to three changes:
 - i. Corrected transected properties in the vicinity of Wallace Road (city file #05-057);
 - ii. Corrected transected property (Gunderson) (city file #05-059); and
 - iii. Addition of the Alexander Park property (city file #05-060).

Finding of Fact Related to Invalidity 37 is hereby amended to read as follows:

- 37. In the case of the Chehalis UGA expansion, the expanded UGA boundaries potentially allow urban levels of development to occur in areas that no evidence shows are needed to accommodate planned urban uses except for the following:
 - iv. Corrected transected properties in the vicinity of Wallace Road (city file #05-057);
 - v. Corrected transected property (Gunderson) (city file #05-059); and
 - vi. Addition of the Alexander Park property (city file #05-060).

Conclusion of Law F is hereby amended to read as follows:

- F. The expansion of the Chehalis UGA fails to comply with RCW 36.70A.110(1) and (2) with the exception of the following:
 - 1. Corrected transected properties in the vicinity of Wallace Road (city file #05-057);
 - 2. Corrected transected property (Gunderson)(city file #05-059); and
 - 3. Addition of the Alexander Park property (city file #05-060).

COMPLIANCE AND INVALIDITY

On March 5, 2007, the County adopted Ordinance 1179N and Resolution 07-079, repealing the portions of Ordinance 1179K and Resolution No. 05-326 which expanded the Napavine and Chehalis UGAs in violation of RCW 36.70A.110(1) and (2).² Petitioners agree that this

² *Ibid.*
 ORDER AMENDING FINDINGS OF FACT AND CONCLUSIONS OF LAW, RESCINDING INVALIDITY
 AND FINDING COMPLIANCE
 Case No. 06-2-0003
 April 17, 2007
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1 action removes substantial interference with Goal 2 of the GMA and the Napavine and
2 Chehalis UGA boundaries are now compliant with the GMA.³

3
4 **ISSUES PRESENTED**

- 5 1. With the adoption of Ordinance 1179N and Resolution No. 07-079, are the Napavine
6 UGA boundaries established in Ordinance 1179K and Resolution No. 05-326 now
7 compliant with RCW 36.70A.110(1) and (2)?
- 8 2. With the adoption of Ordinance 1179N and Resolution No. 07-079, does the
9 expansion of the Chehalis UGA established in Ordinance 1179K and Resolution No.
10 05-326 now comply with RCW 36.70A.110(1) and (2). The addition of the following
11 property was not challenged:
- 12 4. Corrected transected properties in the vicinity of Wallace Road (city file
13 #05-057);
 - 14 5. Corrected transected property (Gunderson) (city file #05-059); and
 - 15 6. Addition of the Alexander Park property (city file #05-060).
- 16 3. Does the adoption of Ordinance 1179N and Resolution No. 07-079 remove
17 substantial interference with Goal 2 of the Growth Management Act (RCW
18 36.70A.020(2)) for the noncompliant expansions of the Napavine and Chehalis UGAs
19 established in Ordinance 1179K and Resolution No. 05-326?

20 (Conclusions of Law E, F, and G, October 6, 2006, Order Clarifying Invalidity
21 Determinations and Adopting Amended Findings of Fact and Conclusions of Law.)

22 A telephonic compliance hearing was held on April 17, 2007. Keith Scully appeared for
23 Petitioners. Petitioner Eugene Butler appeared *pro se*. Douglas Jensen, chief civil deputy
24 prosecuting attorney, represented Lewis County. Board members Holly Gadbow, James
25 McNamara and Margery Hite attended. All parties agreed that the Board should enter a
26 finding of compliance as to the Napavine and Chehalis UGA boundaries.
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32 ³ Response to Compliance Report of Lewis County at 2.

1 **ORDER**

2 Based on the County's compliance report, the Petitioners' response, and the agreement of
3 the parties, the Board finds that the adoption of Ordinance 1179N and Resolution 07-079
4 removes substantial interference with Goal 2 of the GMA (RCW 36.70A.020(2)) and
5 achieves compliance as to the Napavine and Chehalis UGA boundaries (RCW
6 36.70A.110(1) and(2)). The Board therefore hereby **RESCINDS** its findings of invalidity and
7 finds **COMPLIANCE** as to the Napavine and Chehalis UGA boundaries.
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9
10 There being no remaining issues of noncompliance in this matter, this case is hereby
11 **CLOSED.**

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13 Entered this 17th day of April 2007.
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16 _____
Margery Hite, Board Member

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Holly Gadbow, Board Member

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James McNamara, Board Member
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24 Pursuant to RCW 36.70A.300 this is a final order of the Board.
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26 **Judicial Review.** Any party aggrieved by a final decision of the Board may appeal the
27 decision to superior court as provided by RCW 36.70A.300(5). Proceedings for
28 judicial review may be instituted by filing a petition in superior court according to the
29 procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil
30 Enforcement. The petition for judicial review of this Order shall be filed with the
31 appropriate court and served on the Board, the Office of the Attorney General, and all
32 parties within thirty days after service of the final order, as provided in RCW
34.05.542. Service on the Board may be accomplished in person or by mail, but
service on the Board means actual receipt of the document at the Board office within

1 thirty days after service of the final order. A petition for judicial review may not be
2 served on the Board by fax or by electronic mail.

3 Service. This Order was served on you the day it was deposited in the United States
4 mail. RCW 34.05.010(19).

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