

Adam Zack

From: Erika Shook
Sent: Monday, June 4, 2018 10:02 AM
To: Comp Plan Update
Subject: FW: Eastsound UGA boundaries
Attachments: Shook.10.1.17.pages.pdf

-----Original Message-----

From: Fred Klein <fklein@orcasonline.com>
Sent: Monday, October 2, 2017 4:21 PM
To: Erika Shook <erikas@sanjuanco.com>
Subject: Eastsound UGA boundaries

Hi Erika...

When we last talked, you said you'd be taking a look at the basis for the original boundaries of the Eastsound UGA...one question being as to whether or not all lands characterized by urban growth were included within those boundaries.

Please read my attachment below...I hope it will help to generate future discussion.

Best,

Fred

Fred R. Klein
POB 1089
Eastsound, WA 98245

October 1, 2017

Ms. Erika Shook, Director
San Juan County Department of Community Development
Friday Harbor, WA 98250

Re: SJC Comprehensive Plan Update
Boundaries of Eastsound UGA
TP# 271223 009000

Erika,

In our previous discussions of the potential changes to the boundaries of the Eastsound UGA, you stated that you would be reviewing the bases upon which the original boundaries were set, and would be willing to consider my claims that the above referenced property was both "characterized by urban growth" and unjustly omitted from the Eastsound UGA.

To further our discussion, the first thing I'd like to do is to do is bring to your attention the opinion of the Western Washington Growth Management Hearings Board which it expressed in its Final Decision and Order, Case No. 02-2-0008, when, after enumerating all the pertinent factors, it stated,

"All these factors support the claim that Petitioner's property is located in relationship to an area with urban growth on it as to be appropriate for urban growth, thus constituting property "characterized by urban growth", (and)

"Petitioner correctly asserts that property characterized by urban growth must be included in a UGA before property that is not characterized by urban growth is included."

I have extensive notes, minutes of EPRC meetings, and an affidavit which speak to just how those UGA boundaries were established...not in accordance w/ GMA-compliant process... but that could be a story for another time. For the moment, my sole intention is to establish that my claim is not just my opinion, but is supported by a decision by the Western Board.

The complete FDO can be read at:

<http://www.gmhb.wa.gov/LoadDocument.aspx?did=498>

See pages following for the Western Board's discussion of the pertinent issue. I hope we can find a way to move this forward in the days ahead.

Best,

Fred

The following is an excerpt from the WWGMHB's Final Decision and Order for Case No. 02-2-0008, Fred R. Klein v. San Juan County, dated: October 15, 2002, beginning on Page 11:

Issue No. 4: Does the exclusion of the Petitioner's property from the Eastsound UGA comply with the GMA?

Petitioner Klein has raised many issues concerning the County's overall compliance with the GMA, and ably demonstrates the basis on which his concerns lie. In addition, Petitioner raises a specific challenge to the Eastsound UGA boundaries based on the exclusion of his property and the North Shore generally from the UGA. His argument in essence is that his property, and the rest of the North Shore are characterized by urban growth and therefore the County must include them in the UGA before turning to areas not already characterized by urban growth.

Petitioner's claim that his property should have been included in the Eastsound UGA relies upon the language of RCW 36.70A.110(3) (in pertinent part):

"Urban growth should be located first in areas already characterized by urban growth that have existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas."

And upon the definition of the terms, "urban growth" and "characterized by urban growth:"

" 'Urban growth' refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services."

"Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth."

RCW 36.70A.030(15)

*Petitioner points out that his property is adjacent to the Giffens subdivision on the west, a property having urban growth on it. He also points to the Bartwood Estates subdivision to the east of his property (but not directly adjacent to it) that also has urban growth located on it. To the north of his property, Petitioner asserts, there are 9-10 lots already developed at low intensity urban levels. Two sewer lines serve Bartwood Estates and the North Shore, which creates capacity for sewer service to Petitioner's property. Petitioner also provides a letter from an engineering firm indicating that service from the sewer main to his property is feasible. **All these factors support the claim that Petitioner's property is located in relationship to an area with urban growth on it as to be appropriate for urban growth, thus constituting property "characterized by urban growth"***

However, even if we were to find that Petitioner's property could be characterized by urban growth, it does not follow that Petitioner's property must be included in the UGA. **Petitioner correctly asserts that property characterized by urban growth must be included in a UGA before property that is not characterized by urban growth is included.** We have concluded that the County did not comply with the GMA when it included property west of the sewer district (EWSD) ULID boundaries in the UGA. We have also directed the County to complete the capital facilities analysis as to drainage and sewer services. It is now up to the County to reconsider the Eastsound UGA boundaries in light of this decision. The County has discretion to determine how it will channel growth so long as those decisions comply with the GMA. As the County has not had an opportunity to reconsider its boundary choices, we cannot determine whether Petitioner's property must be included in them.