

CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

RECEIVED

JAN 30 2007

NORM MALENG
PROSECUTING ATTORNEY
DNR-CIVIL DIVISION

CASCADE BICYCLE CLUB,

Petitioner,

v.

CITY OF LAKE FOREST PARK,

Respondent.

Case No. 07-3-0001

NOTICE OF HEARING and
INTENT TO CONSOLIDATE

KING COUNTY,

Petitioner,

v.

CITY OF LAKE FOREST PARK,

Respondent.

Case No. 07-3-0010

NOTICE OF HEARING and
INTENT TO CONSOLIDATE

I. BACKGROUND

On January 3, 2007, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review (**PFR**) from the Cascade Bicycle Club (**Cascade Bicycle**). The matter was assigned Case No. 07-3-0001. Petitioner challenges the City of Lake Forest Park's (**Respondent** or the **City**) adoption of Ordinance 951, which amends certain development regulations pertaining to conditional use criteria for the development of a multi-use trail. The basis for the challenge is noncompliance with various provisions of the Growth Management Act (**GMA** or **Act**).

On January 22, 2007, the Board received a PFR from King County (**King County** or the **County**). The matter was assigned Case No. 07-3-0010. This Petitioner also challenges Lake Forest Park's adoption of Ordinance 951 for noncompliance with various provisions of the GMA.

Board member David O. Earling is the Presiding Officer (**PO**) for both of these matters.

07-3-0001, 07-3-00010

Cascade Bicycle, et al v. Lake Forest Park (January 26, 2007)

Notice of Hearing and Intent to Consolidate [#07-3-0010c]

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Central Puget Sound
Growth Management Hearings Board
800 Fifth Avenue, Suite 2356, Seattle, WA 98104
Tel. (206) 389-2625 Fax (206) 389-2588

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2 The Board's Rules of Practice and Procedure are found in the Washington
3 Administrative Code (WAC), at Chapter 242-02 WAC. Electronic copies of the Board's
4 Rules of Practice, Decisions, and a Digest of Decisions (1992-2005) are available at the
5 Board's website: www.ghmb.wa.gov.
6
7

8 II. NOTICE OF INTENT TO CONSOLIDATE

9
10 RCW 36.70A.290(4) requires the Board to consolidate, when appropriate, all PFRs
11 involving review of the same comprehensive plan or the same development regulation or
12 regulations.
13

14 The Board finds that the *Cascade Bicycle* PFR (CPSGMHB Case No. 07-3-0001) and the
15 *King County* PFR (CPSGMHB Case No. 07-3-0010) each challenge the same City of
16 Lake Forest Park enactment [Ordinance 951] amending certain development regulations
17 pertaining to conditional use criteria for the development of a multi-use trail. There
18 appear to be significantly overlapping issues among the Petitioners. Therefore, at the
19 Prehearing Conference the Board intends to consolidate the two matters into one
20 consolidated proceeding for efficient and coordinated resolution of the issues. Any
21 objection to consolidation should be filed with the Board and served on all parties no
22 later than January 30, 2007. Hereafter, in this Notice of Hearing the cases are
23 referred to under the consolidated caption, *Cascade Bicycle, et al v. Lake Forest*
24 *park, with the consolidated case number CPSGMHB Consolidated Case No. 07-3-*
25 *0010c.*
26
27

28 III. NOTICE OF HEARING and TENTATIVE SCHEDULE

29 Prehearing Conference

30
31 The Prehearing Conference (PHC) for this case has been set for **10:00 a.m., February 1,**
32 **2007.** The parties are requested to appear at the Board's offices located at 800 Fifth
33 Avenue, Suite 2356, Seattle, WA 98104. The Board will reserve a hearing room in the
34 building that is large enough to accommodate all the parties.
35
36
37

38 Please be aware that rescheduling the time, date or location of the PHC or Hearing on the
39 Merits will be difficult. However, if the time or date scheduled for the PHC is not
40 possible for a party, please confer with the other parties to reach agreement on alternative
41 dates or times, and notify the Board immediately. If the Board's schedule permits, the
42 Board will attempt to accommodate the proposed change in scheduling.
43
44

45 The process may also be facilitated by the parties providing their e-mail addresses and
46 agreeing that documents may be served electronically.
47

48 The purpose of the PHC is specified in the Board's Rules of Practice and Procedure,
49 codified at WAC 242-02-550. In particular, the Board will review the legal issues posed
50

1 in the two PFRs and may format them into a concise written statement. The PO may
2 elect to contact the representatives of the parties prior to the PHC to suggest restatements
3 of the legal issues or raise jurisdictional questions.
4

5 In addition, the parties should be prepared to discuss the general nature of any dispositive
6 motions that they intend to file. If no dispositive motions are anticipated, the case
7 schedule will be modified accordingly. The Board may limit the filing of dispositive
8 motions to questions regarding the Board's jurisdiction. Furthermore, the Board
9 generally does not hold hearings on any motions but decides motions on the basis of
10 briefs and documents filed by the parties.
11

12 Please carefully review the Tentative Schedule. Final deadlines for submitting motions
13 and briefs will be established at the prehearing conference, based on this schedule.
14 Following the PHC, the Board will issue a Prehearing Order (**PHO**) that contains the
15 final deadlines and the Statement of Issues the Board is asked to resolve.
16

17 Hearing on the Merits

18
19 The Board has scheduled the Hearing on the Merits (**HOM**) for this matter on **June 1,**
20 **2007**, at the Board's offices.
21

22 Final Decision and Order

23
24 The Board's Final Decision and Order (**FDO**) in *Cascade Bicycle, et al v. Lake Forest*
25 *Park* (Consolidated Case No. 07-3-0010c) is due to be issued no later than **July 23,**
26 **2007**.
27

28 Tentative Schedule

29
30 Notice is hereby given in the table below of the Tentative Schedule for conference and
31 hearing(s) as well as filing of **briefs** and **documents** with the board in this case. The
32 table is reproduced in the appendix for easy reference.
33
34

35 **TENTATIVE SCHEDULE**

36 *CPSGMHB Consolidated Case No.07-3-0010c* 37 *Cascade Bicycle, et al v. Lake Forest Park*

38
39 All documents must be filed with the Board (one original plus four copies on three-hole
40 punched paper and copied back-to-back) and a copy served upon the other party by 5:00
41 p.m. on the designated day, unless otherwise noted. **Please also file documents**
42 **electronically, in Word format via** central@cps.gmhb.wa.gov.
43
44

45 DATE	46 EVENT
47 January 3, 2007	Petition for Review filed (07-3-0001)
48 January 22, 2007	Petition for Review filed (07-3-00010)
49 January 26, 2007	Notice of Hearing and Intent to Consolidate [07-3-0010c]

50 *07-3-0001, 07-3-00010*

Cascade Bicycle, et al v. Lake Forest Park (January 26, 2007)

Notice of Hearing and Intent to Consolidate [#07-3-0010c]

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Growth Management Hearings Board
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1	February 2, 2007	Deadline for seeking Direct Review by Superior Court ¹
2	February 1, 2007	Deadline for Respondent's Index (original plus one copy)
3	February 1, 2007	Prehearing Conference: 10:00 a.m., Board's offices²
4	February 8, 2007	Board Prehearing Order due
5	February 22, 2007	Deadline for Motions and Memoranda in Support (with exhibits)
6		
7	March 8, 2007	Deadline for Response to Motions (with exhibits)
8	March 15, 2007	Deadline for Rebuttal to Response to Motions (optional)
9	March 29, 2007	Board Order on Motions due
10	April 25, 2007	Deadline for Petitioner's Prehearing Brief (with exhibits)
11	May 9, 2007	Deadline for Respondent's Prehearing Brief (with exhibits)
12	May 16, 2007	Deadline for Petitioner's Reply Brief (optional)
13	May 23, 2007	Deadline for Requesting Settlement Extension ³
14	June 1, 2007	Hearing on the Merits of Petition: beginning at 10 a.m. at the Board's offices²
15		
16	July 23, 2007	Final Decision and Order due

17
18
19 Settlement Conference and Mediation

20
21 The status of settlement negotiations will be the first item of discussion at the Prehearing
22 Conference (**PHO**). The parties are advised that the Board is authorized, in certain
23 situations, to extend the 180-day decision deadline. The Board may grant "settlement
24 extensions" of up to ninety days. However, requests for settlement extensions must be
25 filed with the Board no later than seven days before the Hearing on the Merits. The
26 deadline for requesting settlement extensions in this case is **May 23, 2007**.

27
28 If the parties agree that a member of the Eastern or Western Growth Management
29 Hearings Board could be of assistance at a settlement conference by serving as a
30 settlement officer,⁴ the PO should be notified of the parties' agreement to assist in
31 arranging a settlement officer.⁵

32
33 If the parties reach settlement, the PO shall be notified, and a Stipulated Dismissal filed
34 with the Board. If settlement is not reached, the case will proceed as finally scheduled.

35
36 Interpreter or Assistive Devices

37
38 If a limited-English speaking or hearing impaired party needs an interpreter, a qualified
39 interpreter will be appointed at no cost to the party or witness. A form for a request for
40 an interpreter is attached to this Notice. If any party requires assistive devices because of
41

42
43 ¹ See RCW 36.70A.295, Direct Review must be sought within 10 days of filing of the PFR.

44 ² The Board's offices are located at 800 Fifth Avenue, Suite 2356, Seattle, WA 98104

45 ³ See RCW 36.70A.300(2)

46 ⁴ A Central Puget Sound Board member, serving as a settlement officer, may subject that board member to
47 disqualification; thereby prohibiting that member from participating in subsequent proceedings on the case.

48 ⁵ The State Department of Community, Trade, and Economic Development (**CTED**) may also be able to
49 provide mediation assistance. CTED's growth management staff should be contacted directly if the parties
50 wish to pursue these services.

07-3-0001, 07-3-00010

Cascade Bicycle, et al v. Lake Forest Park (January 26, 2007)

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1 a disability, please contact the Board at once. The Board's administrative officer, Linda
2 Stores, is available to make these arrangements.

3
4 The Record Below

5
6 RCW 36.70A.290(4) requires the Board to base its decision on the record developed
7 below, in this case, by the City. This record may be supplemented with additional
8 evidence if the Board determines that supplemental evidence is necessary or of
9 substantial assistance to the Board in reaching its decision.

10
11 **Pursuant to WAC 242-02-520, the City is required to prepare an Index within 30**
12 **days of service of the PFR that lists all documents it considered in taking the**
13 **challenged action.** Each document included in the Index should be given a unique
14 number for identification purposes and to avoid duplication.

15
16 Filing Exhibits

17
18 Only the exhibits referenced in motions briefs and prehearing briefs shall be filed with
19 the Board. Exhibits must be attached to the brief in which they are referenced. Exhibits
20 previously submitted with a brief need not be resubmitted, as long as the subsequent
21 briefing referring to such exhibits specifically identifies the brief to which the exhibits
22 were originally attached.

23
24
25 Failure to Attend or Participate

26
27 A party who fails to attend or participate in any hearing or other stage of the adjudicative
28 proceedings before the Board in this case may be held in default and the case dismissed
29 pursuant to WAC 242-02-710.

30
31 Communication with the Board

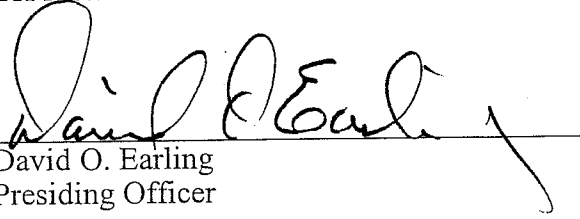
32
33 The parties are reminded about the requirements of WAC 242-02-130 regarding
34 communications with the Board. The only permissible *ex parte* contacts with the Board
35 are on purely *procedural* or *logistical* matters.

36
37 **IV. ORDER**

38
39 The tentative schedule for briefing and hearings in the matter of *Cascade Bicycle, et al v.*
40 *Lake Forest Park* [CPSGMHB Consolidated Case No. 07-3-0010c], is as set forth above.

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42
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44 So ORDERED this 26th day of January, 2007.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD



David O. Earling
Presiding Officer

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INTERPRETER REQUEST

*CPSGMHB Consolidated Case No. 07-3-0010c
Cascade Bicycle, et al v. Lake Forest Park*

I request that an interpreter be present as follows (Please circle as appropriate):

1. Limited English-speaking ability. My primary language is _____
(Indicate language)
2. Hearing impaired.

Dated this _____ day of _____, 200__.

Signature:

Party

Mail to:

**Central Puget Sound Growth Management Hearings Board
ATTENTION: LINDA STORES
800 FIFTH AVENUE, SUITE 2356
SEATTLE, WA 98104**

PREHEARING CONFERENCE AGENDA

CPSGMHB Consolidated Case No. 07-3-0010c
Cascade Bicycle, et al v. Lake Forest Park

- I. Introduction of Board member(s) and Parties
- II. Status of Settlement Discussions and Mediation Options
- III. Brief Review of Options and Review Parameters
 - A. Consolidation
 - B. Settlement Extensions
 - C. Presumption of Validity, Burden of Proof and Standard of Review
 - D. Limitation to Issues as Stated in PFRs or as Restated in Prehearing Order
- IV. Record Below
 - A. Index
 - B. Core Documents
 - C. Exhibits
 - D. Motions to Supplement
- V. Dispositive Motions - Timeliness, Standing and Jurisdiction.
- VI. Scheduling (see attached Tentative Schedule)
 - A. Motions filing deadline
 - 1. Dispositive (if permitted)
 - 2. To Supplement the Record - Include proposed exhibits
 - B. Briefs filing deadlines
 - C. Settlement extension deadline
 - D. Hearing on the Merits date
 - E. Final Decision and Order date
- VII. Review of Legal Issues
 - A. Issues from PFR Case No. 07-3-0001 and PFR Case No. 07-3-0010
 - B. Discussion of overlap of issues and possible restatement, if any
 - C. Discussion of potential jurisdictional issues, if any.
- VIII. Hearing Location and Format
- IX. Other Matters
- X. Adjournment (approximately at 12 p.m. (noon))

