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STATE OF WASHINGTON

WASHINGTON STATE COURT OF APPEALS
DIVISION II

SUMMIT-WALLER COMMUNITY ASSOCIATION, NORTH CLOVER
CREEK / COLLINS COMMUNITY COUNCIL, et al.,

Appellants,

v.

PIERCE COUNTY and INTERVENERS,

Respondents,

AMENDED REPLY BRIEF OF SUMMIT-WALLER COMMUNITY
ASSOCIATION AND NORTH CLOVER CREEK / COLLINS
COMMUNITY COUNCIL

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I. INTRODUCTION.

The Community's opening brief demonstrates that Pierce County failed to re-designate the M-2 parcels as required by law and, therefore, the GMA Hearing Board's Order is not supported by substantial evidence when viewed in light of the whole record before the court. Respondents filed a responsive brief to which the Community now replies.

II. STANDARD OF REVIEW.

Respondents mischaracterize the proper standard of review and required judicial deference. Standard of review on appeal may be considered a two-step process. The Court first conducts a de novo review¹ to determine whether the Board erroneously interpreted or applied the law in support of its decision.² In this case, the question of "law" is whether the Hearings Board erroneously interpreted or applied PCC19C.10.065(A)(1-8) and related codes. The Court also determines whether the decision is "consistent with the requirements and goals of the GMA." Once the Court determines that the County

¹ *City of Redmond v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 116 Wn. App. 48, 54, 65 P.3d 337, 340 (2003).

² RCW 34.05.570(3)(d).

complied with the “law,” the Court then determines whether there is substantial evidence to support the Board’s decision.³ The Court will generally defer to lawful agency decisions which are supported by substantial evidence.⁴

In this case, Respondents failed to analyze re-designation of the M-2 parcels under the required eight criteria of PCC 19C.10.065(A)(1-8) and, therefore, there is no lawful decision for the Court to review for substantial evidence. In other words, because the GMA Hearings Board erroneously interpreted or applied the law in support of its decision, the Court need not reach the issue of whether the decision is supported by substantial evidence. The Court is unable to defer to the County’s analysis under PCC19C.10.065(A)(1-8) because the required analysis never occurred.

III. REPLY TO RESPONDENTS’ STATEMENT OF THE CASE.

The Community reaffirms its Statement of the Case provided in its opening brief, pages 8-14. Respondents’ brief, page 3, attempts to portray the M-2 parcels as “partially developed with infrastructure to

³ RCW 34.05.570(3)(e).

⁴ *King County v. Cent. Puget Sound Growth Mgmt. Hearings Ed.*, 142 Wn.2d 543, 14 P.3d 133 (2000)

support multifamily housing.” The Respondents’ allegation is unsupported by evidence. Respondents’ attorney, William Lynn, was previously requested to document any infrastructure investments with building permits and receipts, but was unable to do so. AR 25-26. In fact, the M-2 parcels and adjacent parcels are undeveloped forest and grassland located directly adjacent to Pierce County’s rural designated lands. AR 75, 80, 91 (Map), AR 29, (Photo). It is uncontroverted that there are no sewers, no urban standard arterial roads, and no water or fire flow capacity for apartment development located within a 1,000 feet of the M-2 parcels. Additionally, the Respondents’ brief, page 3, attempts to portray the M-2 parcels as once vested for multifamily development. Mr. William Lynn was also previously requested to produce the required applications which are necessary to vest a reasonable expectation for multifamily use. AR 25-26.

IV. **ARGUMENT.**

A) Re-designation of the M-2 parcels from EC to HRD was not analyzed as required under PCC19C.10.065(A)(1-8).

The GMA Hearings Board did not determine that the County properly analyzed the “alternative” re-designation of the M-2 parcels

from EC to HRD under the eight criteria required pursuant to PCC19C.10.065(A)(1-8). The Board simply acknowledged that the County reviewed the "original" re-designation from EC to CC and noted that the County later changed the re-designation from EC to HRD to allow apartment development. AR 2082. The Board suggested that "it does not appear that a proposal must necessarily satisfy each and every criterion." AR 2082, line 19. This parallels the Respondents' admission at page 21 that "The County relied on several factors listed in PCC19C.10.065 in reaching its conclusion." (emphasis added). Contrary to Respondents, a proper interpretation and application of PCC19C.10.065(A)(1-8) requires each of the eight criterion to be analyzed. PCC 19C.10.050(F), discussion infra. Analysis of the eight criteria are required to prevent the County from randomly converting vital Employment Center (EC) designated lands into apartment developments. The Community's opening brief and reply below demonstrate that the eight criteria required under PCC19C.10.065(A)(1-8) were neither analyzed for re-designation from EC to CC, nor from EC to HRD.

B) Re-designation of the M-2 parcels from EC to HRD must be analyzed as required under PCC19C.10.065(A)(1-8).

The Community's brief, pages 21-36, demonstrates that re-designation of the M-2 parcels from EC to HRD requires an "analysis and recommendation" of each of the eight criterion under PCC19C 10.065(A)(1-8).⁵ The Respondents attempt to avoid this issue by suggesting at page 19 that: "There is no requirement under PCC 19C.10.065 that PALS provide a detailed, written analysis of each factor." (emphasis added). Respondents' assertion is incorrect. Under the exception provided in PCC 19C.10.050(F), the M-2 re-designation specifically requires an "analysis and recommendation" pursuant to PCC19C.10.065(A)(1-8) as follows:

Applications for comprehensive plan amendments considered pursuant to the required GMA periodic update cycle as required by RCW 36.70A.130(5)(a) shall not be subject to the application requirements of PCC19C.10.050E or 19C.10.055 but shall include an analysis and recommendation pursuant to PCC19C.10.065 (emphasis added).

Contrary to Respondents, re-designation of the M-2 parcels from EC to HRD requires an "analysis and recommendation" of each

⁵ The full text of PCC19C.10.065(A)(1-8), including the eight criteria are provided in the Community's brief at page 21.

of the eight criterion pursuant to PCC 19C.10.050(F) and PCC19C.10.065(A)(1-8). Respondents assertions are simply an attempt to hide its failure to have analyzed the M-2 re-designation under PCC19C.10.065(A)(1-8).

C) Respondents essentially admit that the M-2 re-designation was not analyzed as required under PCC19C.10.065(A)(1-8).

Respondents argue at page 19 that "the County did evaluate the original M-2 application using the eight factors laid out in PCC19C.10.065," but fail to provide evidence to support its assertion. The Respondents' brief, pages 20-21, simply repeats the "explanation" that the County Council inserted into its final Ordinance 2015-40 and which does not address the eight analysis criteria required in PCC19C.10.065(A)(1-8). The Respondents admit its failure to analyze the required eight factors at page 21 by stating that "The County relied on several factors listed in PCC19C.10.065 in reaching its conclusion," but fail to identify which "several" factors were analyzed and which of the eight factors were omitted. (emphasis added).

D) Evaluation of the "original re-designation from EC to CC is not sufficient to later approve an "alternative" re-designation from EC to HRD.

The Respondents' brief, page 20, suggests that evaluation of the "original" M-2 proposal (re-designation from EC to CC) was sufficient to later approve the "alternative" re-designation from EC to HRD for apartment development. The Respondents attempt to support this proposition by suggesting at page 20 that apartment development was then allowed in both the CC and HRD land use designations and, therefore, an evaluation from EC to CC is essentially the same as an evaluation from EC to HRD. Respondents' assertion is incorrect and misleading on the following grounds:

1) As indicated by the attached zoning code, the MHR zones which are required for apartment development were not even allowed within the Mid-County Community Plan when the M-2 application was being considered for approval. AR 102, Appendix no. 1, (p. 25). Indeed, Respondents admit at page 20 that the "alternative use designation of HRD" must be coupled with the "implementing MHR zoning classification" before apartment development could be approved. (emphasis added). Without the required MHR zoning and related performance criteria and density restrictions, it was not then possible to analyze apartment development under the eight criteria

required in PCC19C.10.065(A)(1-8). AR 76-90. The Respondents' faulty assertions are disclosed by an empty record which provides no evidence that apartment development was analyzed during the "original" evaluation for re-designation from EC to CC. AR 76-90.

2) The concept of a 40 acre apartment development was not analyzed during the "original" evaluation for re-designation of the M-2 parcels from EC to CC. AR 76-90. Respondents' new assertion that the CC designation may allow some apartments as a partial use does not prove that "apartments" were actually analyzed during the "original" M-2 proposal. The record indicates that apartment development was not considered as an "alternative" until after the "original" evaluation from EC to CC was completed. Compare AR 76-90 and 92-94. Indeed, the MHR zone required for apartment development was first introduced during the "alternative" re-designation from EC to HRD after the "original" evaluation from EC to CC was completed. AR 92.

3) If apartment development were allowed in both the CC and HRD designations as Respondents contend, why would it be necessary for Respondents to abandon the "original" re-designation

from EC to CC in favor of the “alternative” re-designation from EC to HRD? Unlike the CC designation which may arguably allow some apartments as a partial or accessory use, only the HRD designation would allow apartment development throughout the 40 acre M-2 parcels. AR 92-94. In this case, the HRD designation and MHR zone which is necessary to allow apartment development were never analyzed under the eight criteria required pursuant to PCC19C.10.065(A)(1-8). AR 76-90.

4) As demonstrated in the Community’s brief, pages 21-36, the Respondents failed to analyze both the “original” re-designation from EC to CC as well as the “alternative” re-designation from EC to HRD under the eight criteria provided in PCC19C.10.065(A)(1-8). Again, the Respondents admit its failure to analyze the required eight factors at page 21 by stating that “The County relied on several factors listed in PCC19C.10.065 in reaching its conclusion.”

E) Re-designation of the M-2 parcels from EC to HRD must be analyzed under the Mid-County Community Plan Planning Polices.

The Community’s brief, pages 26-30, demonstrates that re-designation of the M-2 parcels from EC to HRD must be analyzed

under the Mid-County Community Planning Polices pursuant to PCC 19C10.065(A)(8). The Respondents do not explain its failure to analyze the M-2 re-designation under the MCCC Planning Polices, but instead avoid the issue by suggesting at pages 22-24 that the Planning Policies do not apply to the M-2 re-designation because it is a legislative action, rather than a rezone application. Respondents' failure to analyze the M-2 re-designation under the MCCC "Planning Policy Goals" is erroneous on the following grounds:

1) The Mid-County Community Plan indicates that the Planning Policy Goals apply to both legislative policy decisions and implementing rezone actions. As indicated in MCCC H-15, AR 1967, attached as page 26, appendix no. 2:

Goals describe a desirable future for the community: identifying who, what, why, and how the broad values and hopes set forth in the vision statement will be accomplished. Goals provide the framework from which objectives, policies (principles and standards), and implementing actions and recommendations will be developed. (emphasis added).

2) The MCCC Planning Policy Goals are located within the Land Use Element of the Mid-County Community Plan. The Introduction to the Land Use Element indicates that the "element

contains two main components,” and which apply to policy direction and regulatory implementation. As indicated in MCCP H-21, AR 1973, attached as page 27, appendix no. 3:

The Land Use Element addresses the location and intensity of commercial, industrial, residential, and civic land uses. The element contains two main components: visions, objectives, principles, and standards that provide policy direction and guidance; and, regulatory and non-regulatory implementation actions to carry forth the policy direction. (emphasis added).

3) Again, Respondents’ “alternative” M-2 proposal included both a land use re-designation together with the implementing MHR zone classification. At page 20, the Respondents admit that the M-2 proposal consisted of the “designation of HRD coupled with implementing MHR zoning classification...”. (emphasis added). Therefore, even under Respondents’ argument, the MCCP Planning Policy Goals would apply to the “alternative” M-2 proposal because it included both a re-designation from EC to HRD as well as the “implementing MHR zoning classification.”

In summary, the M-2 proposal must be analyzed under the MCCP Planning Policies because the Policies apply to both legislative

policy decisions and implementing rezone actions. Moreover, the M-2 re-designation consisted of both the HRD re-designation coupled with the implementing MHR zoning classification. It is apparent that the M-2 re-designation should have been analyzed under the MCCP planning policies as required by PCC 19C10.065(A)(8).

F) Contrary to Respondents, the M-2 Re-designation is not consistent with PCC 19C.10.050, the GMA, and the County's Comprehensive Plan.

The Respondents' brief, pages 25-29, correctly asserts that Pierce County may avoid the "no net loss" policy requirement for EC (Employment Center) designated lands by complying with PCC 19C10.065 (A)(1-8). The issue before the Court, however, relates to the County's actual failure to comply with PCC 19C10.065 (A)(1-8). The Respondents attempt to obscure the County's failure to comply by asserting at page 26 as follows:

Finally, as discussed above, the County met the requirement of including an analysis and recommendation under PCC 19C10.065.

The Respondents' brief, however, fails to provide substantial evidence that the re-designation from EC to HRD was analyzed under

PCC 19C10.065 (A)(1-8). Amazingly, Respondents attempt to conduct the analysis required under PCC 19C10.065 (A)(1 and 3) for the first time through its Court of Appeals brief. The Respondents' brief at page 28 addresses the benefits of the M-2 re-designation from EC to HRD for apartment development as follows:

Under RCW 36.70A.020(4), the County is also tasked with encouraging "the availability of affordable housing to all economic segments of the population of this state, promot[ing] a variety of residential densities and housing types...."

As indicated in the Community's brief, pages 32-36, the proper time to analyze the "community need" and "public benefits" of re-designating the M-2 parcels from EC to HRD under PCC 19C10.065(A)(1&3) was during the County's administrative hearing process, not during the Court of Appeals review process. During the administrative process, the County simply answered "Undetermined" to the criteria questions related to "public benefit" and "community need." AR 76-77. Before this court, however, the Respondents no longer answer "Undetermined," but instead illuminate the benefits of re-designating the M-2 parcels from EC to HRD. During the administrative process, the County could not analyze the "public benefit" and "community need" for re-designation under

PCC 19C10.065(A)(1&3) because the future use of the M-2 parcels was then “undetermined.” To this day, the proposed re-designation of the M-2 parcels from EC to HRD to allow apartment development has not been analyzed under the eight criteria as required pursuant to PCC19C.10.065(A)(1-8). AR 76-77.

G) Pierce County failed to provide “Public Notice” of re-designation of the M-2 parcels from EC to HDR.

The Community’s brief, pages 38-41, demonstrates that the County failed to provide “Public Notice” of the proposed re-designation from EC to HDR. As admitted by Mr. Campbell, County Attorney, before the Thurston County Superior Court:

The notice that went out was for the change from EC to CC, not HRD, and HRD was part of the evaluation process. (emphasis added).

1) The Respondents suggest at page 30 that public notice provided for the “original” re-designation from EC to CC was sufficient notice for a later “alternative” re-designation from EC to HRD. Respondents also lament at page 30: “Summit-Waller inexplicably

failed to participate in the process until after Amendment M-2 was approved by the Commission.” As Todd Campbell admitted, the public notice for the “original” re-designation from EC to CC did not propose HRD for apartment development. The Community participated in the hearing process only after it discovered third-hand, without public notice, that the proposed re-designation was being changed from EC to HRD to allow apartment development. As stated by the Thurston County Superior Court at Court RP, p. 3, lines 11-19:

THE COURT: I would like one of you to address for the court the notice issue, because I'm concerned that a party that doesn't have adequate notice can't necessarily raise something below. So I, being familiar with the case law, I know that if notice was inadequate, it can certainly be addressed later, because the whole point is that there was no notice. (emphasis added).

2) Respondents' brief, pages 30-31, suggests that James Halmo's petition before the GMA Hearings Board was “completely unrelated to Amendment M-2.” In fact, Graham Petitioner, James Halmo's appeal specifically included Amendment M-2, but the GMA Hearings Board bifurcated the hearing which resulted in the Community's appeal being heard during the morning session and Mr. Halmo's appeal being heard in the afternoon. AR 106, AR 109-111.

3) The above notwithstanding, the Community is allowed to challenge issues, including lack of notice / participation on appeal under RCW 34.05.554 which provides in pertinent part as follows:

- (1) Issues not raised before the agency may not be raised on appeal, except to the extent that:
 - (a) The person did not know and was under no duty to discover or could not have reasonably discovered facts giving rise to the issue;
 - (b) The interests of justice would be served by resolution of an issue arising from:
 - (i) A change in controlling law occurring after the agency action; or
 - (ii) Agency action occurring after the person exhausted the last feasible opportunity for seeking relief from the agency.

In this case, the GMA Hearings Board took action to raise the issue regarding lack of public notice sua sponte. Board RP, p. 57, lines 12-25. The Board's action to raise the issue regarding the lack of public notice constitutes "Agency action occurring after the person exhausted the last feasible opportunity for seeking relief from the

agency.” In the interests of justice, the Court should allow the Community to address the “notice” issue on appeal. RCW 34.05.554 (1)(a)(b)(ii).

The Thurston County Superior Court also raised the issue regarding lack of public notice sua sponte. Court RP, pp.3-6. Where parties brief and argue an issue in a lower court, and the court rules upon it, that issue is properly raised for appellate review even if not formally within the pleadings before the lower court. See, e.g., *Reichelt v. Johns-Manville Corp.*, 107 Wn.2d 761, 768, 733 P.2d 530 (1987); *Touchet Vly. Grain Growers, Inc. v. Opp & Seibold Gen. Constr., Inc.*, 119 Wn.2d 334, 347, 831 P.2d 724 (1992).

In order to decide the issues that were directly raised below, it's necessary for the court to consider the notice/participation statutes. Appellate courts are allowed to consider and apply “a statutory commandment, or an established precedent” not raised by the parties when “necessary for decision.” *City of Seattle v. McCready*, 123 Wn.2d 260, 269, 868 P.2d 134 (1994); see, e.g., *Hall v. Am. Nat'l Plastics, Inc.*, 73 Wn.2d 203, 205, 437 P.2d 693 (1968) (noting that courts “frequently decide crucial issues which the parties themselves

fail to present” (emphasis added)); *Conard v. Univ. of Wash.*, 119 Wn.2d 519, 527-28, 834 P.2d 17 (1992) (considering due process claim raised sua sponte that addressed the same underlying dispute actually raised and argued on appeal). Appellate courts are also allowed to seek out briefing regarding issues deemed important to proper adjudication. See RAP 10.6(c); RAP 12.1(b).

It is the duty of reviewing courts to apply the law, even where the parties have argued their case under different theories. *Maynard Inv. Co. v. McCann*, 77 Wn.2d 616, 623, 465 P.2d 657 (1970). Thus, when the parties have ignored a governing statute, a court may raise the issue sua sponte or allow the parties to raise it for the first time on appeal. *Id.* The court in *Maynard Investment* stated that “the courts have frequently recognized that error may be considered for the first time on appeal where the matter in question affects the public interest.” *Id.* at 622 (quoting 5 Am. Jur. 2d Appeal and Error §§ 548-549, 551 (1962)). The Community urges the court to consider the County’s failure to provide adequate notice and opportunity for participation.

H) The County's adoption of Ordinance 2015-40 was untimely under RCW 36.70A.130 (5)(A).

As indicated in the Community's brief, pages 36-38, Pierce County failed to re-designate the M-2 parcels from EC to HDR under PCC19C.10.065 (A)(1-8) within the statutory deadline provided by RCW 36.70A.130(5)(a). Contrary to Respondents, the Community did argue this issue before the GMA Hearings Board and which resulted in its decision that "the allegation is essentially a failure to act challenge and moot at this time as the County has completed its update." AR 2083, line 25. Because of the County's failure to provide public notice, the Community's right to participate in the process was thwarted, including the right to file a "failure to act challenge" against the County's violation of the statutory deadline to invoke the exception to the plan amendment process under PCC 19C.10.050(F) and PCC19C.10.065 (A)(1-8). It is clear that Pierce County failed to provide proper notice of the "alternative" M-2 re-designation and to revise its comprehensive plan and development regulations under the required criteria within the statutory deadline. Court RP, p.6, lines 9-13. The Community was harmed because it was unable to seek

remand to properly evaluate re-designation of the M-2 parcels from EC to HDR under PCC19C.10.065 (A)(1-8) as required.

I. The M-2 re-designation constitutes improper land use planning contrary to the public's trust.

Respondents' brief, page 34, portrays the M-2 re-designation as a "thorough and well-reasoned decision." Contrary to Respondents, the M-2 re-designation constitutes improper land use planning and threatens the public's trust in Pierce County planning. This may explain why citizen groups from across Pierce County appealed the M-2 re-designation.⁶ Under Respondents' argument, any land use designation could be analyzed under specified criteria for re-designated to another similar use designation and then, after the required analysis is completed, be re-designated without notice and analysis to an entirely different, higher-intensity use. In the instant case, an Employment Center (EC) was evaluated for re-designation to a similar use (Community Center, CC) and then, after the evaluation was completed, was re-designated without notice or evaluation to HRD / MHR for apartment development. Compare AR 76- 90 and 92-

⁶ The M-2 Petitioners before the GMA Hearings Board included citizens and community groups from Graham, Summit-Waller, and North Clover Creek/Collins.

94. In other words, the M-2 parcels were “originally” evaluated for re-designation to another “business/employment” designation (CC), and then later without notice or analysis re-designated to a non-business/employment designation under HRD for apartment development. If Pierce County planning is allowed to evolve into an administrative shell-game, virtually any Pierce County lands could be similarly re-designated from one designation to another designation without public notice and without the required analysis necessary for proper re-designation. The Community’s appeal before this court is more than “procedural” as Respondents assert; the issues before this court are substantive and truly impact the lives of real people, their property, and their community. AR 63-66. The Community reaffirms its opening brief regarding the harm caused by the erroneous M-2 re-designation from EC to HRD.

J) Respondents’ assertions are misleading.

Respondents assert that the Court’s invalidation of the M-2 re-designation “would result in inconsistent, piecemeal zoning between properties in the area” because “six adjacent parcels would remain

re-designated as HRD.” The Respondents argue that this would be “inconsistent with the County’s holistic zoning approach across this area.” Resp. Brief, pp. 34-35. The Respondents’ assertions are misleading because Respondents fail to emphasize that Pierce County reviews its land use plans every other year. (Board RP, p. 58, lines 2-10). As stated by Pierce County Deputy Prosecutor, Todd Campbell, before the GMA Hearings Board:

(Board RP, p. 58, lines 2-10):

As far as the coordination, I’ll get to this later in the afternoon, but maybe it’s a good time to just point out how we got here with the amendments. The amendment cycle is 2014. That was our standard, every-other-year cycle. What happened was the County found itself in a predicament where we’re doing a periodic update for 2015, but we don’t have, really, a procedure inline where we can do amendments to the plan in two consecutive years. (emphasis added).

The Community believes that in the interest of justice, Mr. Campbell should disclose to the Court any current 2018 Pierce County proposal or recommendation to remove the HRD designation and MHR zone classification from the M-2 parcels and adjacent parcels. Respondents’ entire brief is predicated on the assumption that the M-2 re-designation is Pierce County’s final land use decision regarding the subject parcels and the Community believes that Mr. Campbell has a

duty to confirm or deny the correctness of such assumption. It is apparent that the Court of Appeal's invalidation of the M-2 re-designation would not result in "inconsistent, piecemeal zoning between properties in the area" if Pierce County proceeds to remove HRD / MHR from the M-2 parcels and adjacent parcels. Conversely, the Court's validation of the M-2 re-designation would result in "inconsistent, piecemeal zoning" if Pierce County removes HRD / MHR from properties in the area.

Mr. Campbell has admitted that the M-2 re-designations were considered during 2015, outside of the "standard, every-other-year cycle" and without "a procedure inline." Board RP, p. 58, lines 2-10. Mr. Campbell also admits Pierce County's standard, every-other-year cycle included year 2014 and, thereafter, "every-other-year." The Court of Appeals should not be misled into making a decision that would result in "inconsistent, piecemeal zoning." The Community urges the Court to allow the "standard, every-other-year cycle" described by Mr. Campbell to proceed and function in an open and proper manner.

V. **Conclusion.**

The Community respectfully urges the Court of Appeals to reverse and remand the Board's decision so that Pierce County citizens and the County may proceed to properly and openly evaluate the subject parcels during Pierce County's "standard, every-other-year cycle" as required by State GMA law and Pierce County Code.

RESPECTFULLY SUBMITTED, April 3, 2018

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18A.27.010 Urban Zone Classifications. Amended Ord. 2015-40 Ord. 2015-86

Use Categories and Use Types	MID-COUNTY							
	Urban Zone Classifications (Table 18A.27.010)							
	Urban Residential			Urban Centers		Employment Centers and Other Zones		
	RR: Residential Resource			CC: Community Center		CE: Community Employment		
	SF: Single Family			NC: Neighborhood Center		PR: Park and Recreation		
	RR	[Rsvd]	SF	CC	NC	CE	PR	
RESIDENTIAL USE CATEGORY: See PCC 18A.33.210 for Description of Residential Use Categories.								
Fraternity or Sorority House								
Group Home	C		C	C	C			
Mobile Home								
Mobile Home Park								
Multi-Family Housing				P	P1,3,5			
Nursing Homes				P	P			
Senior Housing				P	P			
Single-Family Detached Housing	P		P	P	P	(1)		
Two-Family Housing (Duplex)				P	P			
CIVIC USE CATEGORY: See PCC 18A.33.220 for Description of Civic Use Categories.								
Administrative Government Svcs.				P	P1,4	P		
Community and Cultural Svcs.				P1-5	P1,4			
Day-Care Centers	P1		P1	P	P	P		
Education	A1		A1	P	P			
Health Services				P1;C2	P1	P1;C2		
Postal Services				P1	P1	P2		
Public Park Facilities	P1,2,4;C3; PFP3		P1,2,4;C3; PFP3	P1,2,4	P1,4	P	P1,2,4;	
Public Safety Services	C1		C1	P1	P1	C2	P1	
Religious Assembly	P1;C2,3		P1;C2,3	P	P			

APPENDIX I

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what standards could be utilized to control the character of the community. The desired outcomes of the Mid-County Community Plan include:

- Update the Summit/Waller Community Plan;
- Development of a long-range vision for the Mid-County communities;
- Evaluate the vision for the Mid-County communities in light of the Pierce County Comprehensive Plan and make refinements as necessary to ensure consistency between the overall Countywide plan and the community plan; and
- Identify actions necessary to implement the policies of the community plan, including: adopting or revising land use regulations; identifying priorities for use of public funds to develop physical improvements, such as roads, sidewalks, street landscaping, street lights, water-related improvements, and park development; social programs; economic programs, etc.

COMPONENTS OF THE COMMUNITY PLAN

VISION STATEMENTS AND POLICIES

The vision statements and all of the policies (goals, objectives, principles, and standards) were developed through citizen input. When applying the policy statements, each should be afforded equal weight and consideration.

VISIONING PROCESS AND VISION STATEMENTS

Visioning is typically completed through a series of public meetings or workshops structured to allow the community to articulate hopes for the future. Statements, thoughts, and ideas brought forth in the visioning process become the basis for the visions, goals, objectives, and principles of the community plan.

A vision is a statement of hope within the best of circumstances. It is placed on the horizon of the future, provides direction, and is a reflection of who and what the community is and what it wants to become.

Vision statements can be either: 1) broad - painting a picture of what the community should strive to be like, physically and socially; or 2) focused – to express how the concerns, values, and hopes of the community should be reflected in various topics.

GOALS

Goals describe a desirable future for the community: identifying who, what, why, and how the broad values and hopes set forth in the vision statement will be accomplished. Goals provide the framework from which objectives, policies (principles and standards), and implementing actions and recommendations will be developed.

Chapter 2: Land Use Element

INTRODUCTION



The Land Use Element of the Mid-County Community Plan provides direction regarding the location and intensity of land uses. This element is intended to supplement and further refine the Land Use Element of the Pierce County Comprehensive Plan. Where the community plan provides specific guidance regarding land uses, the policy language of this plan will govern. Where the community plan does not provide specific guidance, the reader is directed to utilize the land use objectives, principles, and standards of the Pierce County Comprehensive Plan.

The Land Use Element addresses the location and intensity of commercial, industrial, residential, and civic land uses. The element contains two main components: visions, objectives, principles, and standards that provide policy direction and guidance; and, regulatory and non-regulatory implementation actions to carry forth the policy direction.

DESCRIPTION OF CURRENT CONDITIONS

The residents and business owners of Mid-County are proud of the rural character that has defined their community for decades. The character of Mid-County has been threatened by the drastic development that has occurred in adjacent communities in the past 30 years. In the late 1960s, Mid-County and unincorporated neighbors were primarily rural communities containing farms and large tracts of land. In 1972, the construction of State Route 512 was completed, opening the door for development.

In 1995 Pierce County implemented a Comprehensive Plan in accordance with the Washington State Growth Management Act. The Plan directs growth into urban areas where adequate facilities and services exist to serve urban populations. The Comprehensive Plan assigned commercial growth to a portion of 112th Street East and along Canyon Road East, south of SR 512, while the rest of the community was designated for residential or resource uses. The Comprehensive Plan did not address whether certain neighborhoods should or should not have higher densities, if environmental constraints should limit development, or identify unique or significant places in individual communities.

The implementing regulations for the Comprehensive Plan provided for consistent regulations throughout unincorporated Pierce County and failed to recognize individual communities' desires. The regulations included requirements for landscaping and stipulated the allowable range of densities for each zone classification. Revisions were made to the regulations in the late 1990s to include standards for sidewalks, lot size, curbs, and gutters. The Comprehensive

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STATE OF WASHINGTON

WASHINGTON STATE COURT OF APPEALS
DEPUTY DIVISION II

SUMMIT-WALLER COMMUNITY
ASSOCIATION, NORTH CLOVER
CREEK / COLLINS COMMUNITY
COUNCIL, et al.,

Petitioner / Appellant,

v.

PIERCE COUNTY,

Respondent,

, and INTERVENERS.

COURT OF APPEALS NO:
50363-8-II

PETITIONER'S DECLARATION
OF SERVICE

Daniel Haire, under the penalty of perjury of the laws of the State of Washington, declares that the following facts are true and correct:

I caused to be served upon the following Courts and Attorneys by the following processes the Appellants' Motion to file an Amended Reply Brief.

- 1) Court of Appeals: hand delivered on 4/6/2018
- 2) William Lynn, 1201 Pacific Ave Ste 2100, Tacoma WA 98402: US mail on 4/6/2018 and email.
- 3) Todd Campbell, Pierce County Prosecutor's Office-Civil Division, 955 Tacoma Avenue S., #301, Tacoma, WA. 98402-2160: US mail on 4/6/2018 and email.

/s/ Daniel Haire 4/5/2018

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