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BEFORE THE WESTERN WASHINGTON
GROWTH MANAGEMENT HEARINGS BOARD

OLYMPIA MASTER BUILDERS, a
Washington non-profit professional trade
association; THURSTON COUNTY
CHAMBER OF COMMERCE, a Washington
non-profit; and HINKLE PROPERTIES, INC.
d/b/a HINKLE HOMES, a Washington
corporation,

Petitioners,

vs.

THURSTON COUNTY

Respondent.

NO. _____

PETITION FOR REVIEW

I. INTRODUCTION

On May 14, 2015, the Thurston County Board of County Commissioners, without motion, resolution, or ordinance subject to public hearing or participation, modified Thurston County’s Critical Area Ordinance (“CAO”) (Thurston County Code (“TCC”) Title 24) by implicitly approving staff implementation of guidance provided by the United States Fish and Wildlife Service (“USFWS”) for County review of local land use permit decisions involving potential impacts to Mazama pocket gopher habitat, known as the “interim permitting process” (“2015 Interim Process”) (**Exhibit A**). The 2015 Interim Process differs significantly, both substantively and procedurally,

1 from provisions of the Thurston CAO directly regulating the identification and protection of
2 Mazama pocket gopher habitat.

3 The 2015 Interim Process is a reaction to the 2014 federal listing of four subspecies of
4 Mazama pocket gopher in Thurston and Pierce Counties as “threatened” under the Endangered
5 Species Act. *Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for*
6 *Mazama Pocket Gophers*, 79 Fed. Reg. 19,712-01 (April 9, 2014); 16 U.S.C. § 1533(b)(2) (critical
7 habitat designation). However, unlike the tens of thousands of local jurisdictions nationwide that
8 continue to review and issue land use and development permits for non-federal projects following
9 the federal listing of a species, Thurston County functionally transferred its authority to issue local
10 permits to a federal agency without any public input, and in direct conflict with applicable local,
11 state, and federal law.

12 The County’s inappropriate and unlawful implementation of the 2015 Interim Process in
13 lieu of its lawfully adopted CAO has resulted in undeniable and continuing harm to Thurston
14 County property owners and citizens. The County’s actions have (1) created unprecedented levels
15 of uncertainty; (2) deprived property owners of the ability to develop their properties with intended
16 and legally permitted uses; (3) left property owners without any ability or process to challenge the
17 edict of a federal agency that should not directly regulate local land use permitting; and (4) created
18 months, if not years, of delay for the thousands of Thurston County residents seeking to sell or buy
19 property, make an addition to their home, build an additional structure on their property, rebuild an
20 existing structure, or build their dream or retirement home. In addition to violating the Growth
21 Management Act (“GMA”), chapter RCW 36.70A (provisions set forth herein), the County’s
22 actions in implementing the 2015 Interim Process directly conflict with four of the Act’s goals:
23 supporting economic development, property rights, predictable permitting, and citizen participation.
24 RCW 36.70A.020(5), (6), (7), (11); TCC 2.05.030(C), (D), (E).

1
2 **II. FACTUAL AND LEGAL BACKGROUND**

3 **A. The 2015 Interim Process**

4 **1. Basis for and Implementation of the Process**

5 The 2015 Interim Process originated with a memo dated May 13, 2015 from United States
6 Fish and Wildlife Service to Thurston County (**Exhibit B**).¹ The public has access to a memo dated
7 May 28, 2015 on the County's website, which is *almost* identical² (**Exhibit C**). The County issued
8 a news release on June 11, 2015, as well as an "FAQ" and a "Fact Sheet" regarding the process
9 (**Exhibits D, E, and F**). According to the County's "FAQ" page (**Exhibit E**), the 2015 Interim
10 Process was developed entirely by USFWS, outside the purview of the CAO amendment process
11 provided for under the GMA:

12 **Why wasn't I told about this process when I submitted my application?**

13 If you submitted a permit application before June 1, 2015, the county did not yet
14 have the guidance document from USFWS. USFWS staff have been developing
15 this process since late 2014. They provided guidance to the county on May 28.
16 County staff began implementing it on June 1.

17 *See also Exhibit F, page 2, "Q4" (same).*

18 Over the course of the summer of 2015, the County updated its web page summarizing the
19 process. **Exhibit A**.³ Despite the County's apparent recognition that the 2015 Interim Process was
20 entirely different from what had historically applied to applicants, the County took no action to
21 amend its CAO, nor did it seek public comment or other input with respect to the 2015 Interim
22 Process. Despite the absence of public participation or review, the 2015 Interim Process, which,

23 ¹ **Exhibit B** also includes the County Staff Report made available to the Board of County
24 Commissioners on May 14, 2015, which outlines the 2015 Interim Process based upon the
25 USFWS guidance memo.

26 ² The two memos vary by date, and substantively in one sentence on the top of page 2.
Compare Exhibits B and C. The May 13, 2015 memo says that use of third party surveyors is
"not recommended, and will not substitute for the 2015 screening approach described" by
USFWS. The May 28, 2015 memo says that use of third party surveyors "may not meet USFWS
needs; consequently, such assessments will not substitute for the 2015 screening approach"
described by USFWS.

³ The County's 2015 Gopher Review Process as of September 18, 2015, as made
available on their website, is attached as **Exhibit A**.

1 among other requirements, imposes additional screening requirements and limits processing of land
2 use applications over a five-month window (all of which is not provided for in the CAO) has been
3 dictating County procedure for review of all land use applications since at least May 28, 2015.

4 **2. Applicability of the 2015 Interim Process**

5 All applications for any County-issued permits are “screened” against a soil database
6 (**Exhibit G**).⁴ See **Exhibit B**, pages 3-4 of County Staff Report (“Step 1: In Office Screening”). If
7 the screening reveals that the property that is on a soil identified by United States Fish and Wildlife
8 Service in its May 2015 memo, within 300 feet of those soils, or within 600 feet of known
9 occupation of a Mazama pocket gopher, then at least two and up to five site visits were required
10 between June and October 2015. **Exhibit A**. The 2015 Interim Process does not specify how
11 screening distances are to be measured, whether from the proposed project footprint, the property
12 boundary, or another basis.

13 Notably, the 2015 Interim Process expanded the soil database associated with the Mazama
14 pocket gopher and subject to review by 50,370 acres beyond the soil list identified in the 2014
15 Federal Register notice of species listing. **Exhibit B**, page 3 of County Staff Report (“Gopher Soil
16 Classification ... The new soils added by USFWS [in 2015] include a gross acreage of 50,370
17 acres.”). The 2015 list also nearly doubled the number of soil types identified as prairie soils in the
18 CAO, adding eight types beyond the nine specifically identified in the CAO as associated with
19 prairie habitat. See **Exhibit G** (“The soils are derived from the final Federal Rule regarding the
20 listing of the Mazama pocket gopher”); *but see* TCC Table 24.25-6 (list of prairie soils)⁵. The
21 USFWS also classified soils as having a low, medium, or high potential use for gophers, but without
22 explaining the significance of these classifications. **Exhibit B**, page 3 of County Staff Report
23 (“Gopher Soil Classification”). The 2015 additions to the list of soils, and the scientific basis for the

24 ⁴ The soil map used by the County is not available on any of the County’s web pages or
25 in its Code.

26 ⁵ Compare **Exhibit C**, page 4 and Thurston County Code Table 24.25-6. The Code
identifies Baldhill, Grove, and Tenino as prairie soils that do not appear on the USFWS list. The
USFWS list identifies Alderwood, Chehalis, Kapowsin, McKenna, Newberg, Norma, Spanaway-
Nisqually complex, and Yelm, which are not identified in the Code.

1 expansion and classification of such soils, were never subject to public process, participation, or
2 review, nor did the County provide notice to the property owners impacted by the addition of eight
3 soil types between 2014 and 2015. Currently, despite the County’s use of soils as a screening tool,
4 there is no method for a landowner to readily view a map identifying soil types on his or her
5 property to determine whether his or her property is subject to the 2015 Interim Process. The
6 expanded soil database includes a significant area within the urban growth boundaries of County
7 cities. *See* **Exhibits H** (gopher soil map) and **I** (urban growth area map).

8 With respect to exceptions, the County website directs property owners to “Ask staff about
9 exceptions” to compliance with the 2015 Interim Process. **Exhibit A**. Should exceptions exist to
10 the 2015 Interim Process, they are not published or publicly available.

11 **3. The Site Visit Process and County Use of Site Visit Results**

12 Site visits under the 2015 Interim Process did not begin until June 1, 2015, and were
13 concluded under the County’s schedule by October 31, 2015. **Exhibit C and E**. The site visits
14 were required to be at least 30 days apart, meaning that the gopher review period took at least three
15 months for those applications requiring more than two visits. *See* **Exhibit B**, page 4-5 of the
16 County Staff Report (“Step 3: Site Visits Begin”). The iterative nature of the site visit process
17 therefore adds nearly three months to the already lengthy permit process, contrary to permit
18 processing timelines found elsewhere in the County Code. *See, e.g.*, TCC 18.10.030(A)
19 (Application review procedures: Type 1 Procedure) (“Within fifty-eight calendar days of the date
20 [of submission], the approval authority . . . shall approve, approve with conditioning, or deny the
21 application . . .”).

22 Under the 2015 Interim Process, USFWS and Thurston County staff were primarily
23 responsible for conducting site visits, although some visits include the Washington Department of
24 Fish and Wildlife. *See* **Exhibit B**, pages 4-5 of County Staff Report (“Step 2: Preliminary Site
25 Assessment Visit ... Step 3: Site Visits Begin”) and **Exhibit C**, page 3 (“USFWS – Site Visits”, ¶4).
26 Petitioners are informed that USFWS staff prepared a data form for each visit; however, this form

1 was not shared with the property owner or project applicant during or after the site visits. *See*
2 **Exhibit F**, page 1 (“Immediate results not provided during visits.”) Despite the existence of this
3 form, USFWS does not appear to have provided the County with a published standard or protocol
4 used to determine the presence, or absence, of Mazama pocket gopher habitat during site visits.

5 If, following the required site visits, USFWS determines that no Mazama pocket gopher
6 habitat is present, then it issues what the agency describes as a “good to go” letter to either the
7 property owner or the County. **Exhibit E**. This “good to go” letter, a mechanism not provided for
8 anywhere in federal law or rule under the ESA, *see generally* 16 U.S.C. § 1531 et seq. and 79 Fed.
9 Reg. 19,712-01 (April 9, 2014), purports to grant the project applicant clearance until October 31 of
10 the following year (2016 for the 2015 site season) to permit and complete their project without
11 further review for Mazama pocket gopher habitat. Thurston County will not issue any land use
12 permits for project development unless and until this “good to go” letter is issued. *See Exhibit F*,
13 page 2 (“If gophers are present, you can work directly with USFWS to develop a [Habitat
14 Conservation Plan] to protect the species and *possibly allow* your project to move forward”) (Emphasis added).

16 Alternatively, if the site visits result in a determination that Mazama pocket gopher habitat is
17 present, then USFWS issues the County or the property owner a “take” letter. As with the “good to
18 go” letter, the “take” letter is not a regulatory mechanism provided for in federal law or rule under
19 the ESA. *See* 16 U.S.C. § 1536 (no provision for “take” letter); *see also Marbled Murrelet v.*
20 *Babbitt*, 83 F.3d 1068, 1074 (9th Cir. 1996) (concluding that the USFWS had no “power to enforce
21 [conditions] other than its authority under section 9 of the ESA” when it sent letter to lumber
22 companies that had “conditions in mandatory language” to avoid “take” of northern spotted owl).
23 Nonetheless, the “take” letters issued under the 2015 Interim Permit process informed project
24 applicants they may relocate their project, wait for the County to develop a Habitat Conservation
25 Plan (“HCP”) with USFWS, or develop their own individual HCP to provide ESA take coverage.
26 **Exhibit F**, page 2. Federal law quite plainly prohibits USFWS from requiring an individual to

1 develop an HCP, or to develop an HCP when there is no species present on the property. *Defenders*
2 *of Wildlife v. Bernal*, 204 F.2d 920, 927 (9th Cir. 2000) (finding that a private party is not required
3 to obtain a HCP and ITP under Section 10 of the ESA); *see also Arizona Cattle Growers’*
4 *Association v. U.S. Fish and Wildlife Service*, 273 F.3d 1229, 1233 (9th Cir. 2001) (finding that
5 FWS acted in an arbitrary and capricious manner by issuing an Incidental Take Statement on land
6 use permits where there was no evidence that endangered species existed on the land). Further,
7 such a requirement flatly disregards the landowner’s option to simply proceed with their project and
8 risk take and associated federal enforcement action under the Endangered Species Act. *See* 16
9 U.S.C. § 1540 (penalties and enforcement). Nonetheless, under the 2015 Interim Process, Thurston
10 County will not issue land use or development permits unless the property owner can demonstrate
11 compliance with the terms and conditions of the “take” letter, for which there is no federal, state, or
12 local appeal or review process available. *See Exhibit C* (“USFWS – Site Visits”, ¶4).

13 **4. Deferral of Applicants Until 2016**

14 Due to staffing shortages at the County, many timely filed applications seeking gopher
15 review in the summer of 2015 will not receive *any* further review until June 1, 2016. **Exhibit J**
16 (September 23, 2015 News Release); *see also Exhibit B*, page 5 of County Staff Report (“Cut-Off
17 Dates for Review Season”). Specifically, according to the County, applications submitted after
18 August 3, 2015 would not be processed until at least June 1, 2016. **Exhibit J**; *see also Exhibit F*
19 (“Reviews run June – October *only*”) (emphasis in original). The County did not adopt a
20 moratorium pursuant to RCW 36.70A.390 for the approximately 10-month time period it will not
21 process new applications, and therefore continues to accept permit applications and collect permit
22 fees. However, instead of processing and issuing permits, the County is placing applicants with
23 identified Mazama pocket gopher soils in a queue for review in 2016, which apparently will begin
24 with the backlog of applicants for permit review from 2015.

1 24.25.075(A) (applications on sites containing a habitat or species shall include a
2 critical area report) (citing 24.05.027); 24.35.250 (same, identifying special reports).

- 3 • Applicants may be required to hire a professional to perform a survey if the director is
4 unable to determine whether a critical area exists on the site. TCC 24.05.027(B).
- 5 • If the survey is inconclusive, the director may require the applicant to submit a
6 Critical Area Report that outlines impacts and their mitigation. TCC 24.05.027(C);
7 24.35.290 (requirements for reports). A professional must prepare the report. TCC
8 24.35.022. “The report *shall* be prepared in consultation with staff from the
9 appropriate state agency, such as WDFW or DNR.” TCC 24.35.260(A). Critical area
10 reports “may also be referred to as habitat management plans.” *Id.*
- 11 • If a species or habitat is present, then “the approval authority shall establish buffers
12 for the habitat or species on a case-by-case basis, in consultation with the
13 [Washington Department of Fish and Wildlife (“WDFW”)] or others with expertise,
14 based on the critical area report and the WDFW management recommendations for
15 Washington’s priority habitats and species.” TCC 24.25.075(B). The WDFW has
16 published management recommendations for the Mazama pocket gopher. *See*
17 **Exhibit L** (Priority Habitats and Species Management Recommendations: Mazama
18 Pocket Gopher).
- 19 • Table 24.25-3 identifies the uses allowed without a critical area review permit, uses
20 permitted subject to the critical area review permit, and uses prohibited for “important
21 species and habitat.” “Clearing and grading in conjunction with an approved
22 development project”, “on-site sewage”, and “single-family residential, new” are all
23 approvable uses in “important species habitats.” The CAO contains an exception to
24 the required critical area report for developed parcels less than one acre in size, which
25 are surrounded by development, as well as new development on vacant parcels less
26 than ½ acre in size. TCC 24.35.260(C)(3), (4). The CAO also does not apply to

1 sheds, agriculture buildings, or buildings less than 200 square feet. *Id.* The 2015
2 Interim Process contains no published exceptions.

- 3 • The duration of the critical area permit approval is either the length of the building
4 permit or three years. TCC 24.40.080.
- 5 • The only opportunity for third party review is when the application has factual errors,
6 there are inconsistencies with accepted scientific criteria, there are substantive
7 differences interpreting data, or specialized expertise is required. TCC 24.05.022(C).
8 This review is done at the applicant's expense. *Id.* Regardless, the County is
9 required to issue the final permit decision, not an outside agency, such as WDFW or
10 USFWS. TCC 24.05.025(B); 24.40.040.

11 III. IDENTIFICATION OF PETITIONERS

12 Olympia Master Builders
13 1211 State Avenue NE
14 Olympia, Washington 98506
Telephone: 360-754-0912

Thurston County Chamber
809 Legion Way SE
Olympia, Washington 98507
Telephone: 360-357-3362

15 Hinkle Properties, Inc.
16 dba Hinkle Homes
17 P.O. Box 1108
18 Rochester, WA 98579
Telephone: 360-239-3555

19 IV. IDENTIFICATION OF PETITIONER'S ATTORNEYS

20 Heather L. Burgess
21 Phillips Burgess PLLC
22 724 Columbia Street NW, Suite 320
23 Olympia, Washington 98501
Telephone: 360-742-3500
Facsimile: 360-742-3519
Email: hburgess@phillipsburgesslaw.com

Leslie C. Clark
Phillips Burgess PLLC
724 Columbia Street NW, Suite 320
Olympia, Washington 98501
Telephone: 360-742-3500
Facsimile: 360-742-3519
Email: lclark@phillipsburgesslaw.com

24 V. RESPONDENT

25 Thurston County
26 2000 Lakeridge Drive SW
Olympia, Washington 98502

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VI. CHALLENGED ACTION

Petitioners challenge Thurston County’s use of the 2015 Interim Process to identify and regulate properties containing actual or potential Mazama pocket gopher habitat as a *de facto* amendment to its Critical Area Ordinance that was approved without public notice, participation, or publication, or use of best available science; and which functionally acts as a 10-month *de facto* moratorium on local permit applications without proper notice or process, and without publication, under the Growth Management Act (RCW 36.70A).

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VII. THE DE FACTO AMENDMENT WAS NOT PUBLISHED

There are no ordinances, resolutions, or meeting minutes reflecting action taken by the Board of County Commissioners to adopt the 2015 Interim Process. The Board of County Commissioners apparently met on May 14, 2015; the minutes reflect no action, although the Board apparently received a briefing on the subject. *See Exhibit B* (County Staff Report for Board Briefing). Similarly, the Board of County Commissioners did not take action on the interim process in any of its following meetings, including those on May 26 and June 2. **Exhibit M** (May 19, 2015 Meeting Minutes) and **Exhibit N** (June 2, 2015 Meeting Minutes). Then, on June 11, 2015, Thurston County issued a “news release” on its web page and by email indicating it had implemented the 2015 Interim Process, with little details of the actual procedure used to adopt it. **Exhibit D**. On information and belief, Thurston County concluded its site visits under the 2015 Interim Process on October 31, 2015. By public report, land use permit applications submitted as early as August 2015 remain on hold until at least June 2016. Thurston County never published notice of any of these elements of the 2015 Interim Process in accordance with the Growth Management Act.

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VIII. STATEMENT OF ISSUES

A. Did the County’s decision to apply the 2015 Interim Process, which varies significantly from its adopted CAO, to all applications submitted to the County after June 1,

1 2015, constitute a *de facto* amendment to its CAO in violation of RCW 36.70A.060, 36.70A.130,
2 and 36.70A.390?

3 B. Did the County's implementation of the 2015 Interim Process without public
4 notice or participation violate RCW 36.70A.020(11), 36.70A.035, 36.70A.106(3)(a),
5 36.70A.130(2), and 36.70A.140?

6 C. Did the County's implementation of the 2015 Interim Process without public
7 notice or participation violate its own Code provisions regarding Growth Management Act
8 compliance and amendments to the CAO, TCC 2.05.030(C)-(E), 2.05.040(A), and 24.91.020?

9 D. Did the County's reliance on two USFWS memos to implement the 2015 Interim
10 Process violate the requirement that classification of designated areas be based on "best available
11 science" and require consultation with a list of 10 interested parties, as provided for in RCW
12 36.70A.050, 36.70A.170, 36.70A.172, and TCC 24.91.040?

13 E. Did the County's decision to halt review of permit applications for up to a 10-
14 month period of the year to allow for the 2015 Interim Process - with applications still on hold
15 under that process - constitute a *de facto* moratorium and an interim process without a public
16 hearing, in violation of RCW 36.70A.370(2) and 36.70A.390, and TCC 2.05.040(A)?

17 F. Did the County's implementation of the 2015 Interim Process, changing the
18 designation of critical areas based on a memo from USFWS, constitute an improper
19 comprehensive planning process instead of an individual project decision, in violation of RCW
20 36.70A.470?

21 G. Did the County's implementation of the 2015 Interim Process including use of an
22 expanded soil database wrongfully limit the capacity of land suitable for development within the
23 County's urban growth area, in violation of RCW 36.70A.110(2) and 36.70A.115?

24 H. If the challenged County action is determined to be a *de facto* amendment to its
25 Code, should the County's decision be voided as *ultra vires* because the action was undertaken
26

1 without benefit of required environmental review pursuant to the State Environmental Policy
2 Act, RCW 43.21C?

3 4 **VIII. STANDING**

5 Olympia Master Builders, Thurston County Chamber, and Hinkle Properties, Inc. dba
6 Hinkle Homes have standing to maintain this appeal pursuant to RCW 36.70A.280(2)(b), (d),
7 and RCW 34.05.530.

8 Petitioner Olympia Master Builders is a non-profit professional trade organization
9 representing over 400 member companies in construction and construction-related industries that
10 primarily do business in and/or develop projects within Thurston County. Olympia Master
11 Builders' purpose is to improve the construction industry and the business climate in which it
12 operates, and its members are dedicated to integrity, craftsmanship and respect for consumers,
13 the environment, and one another. Olympia Master Builders' primary goal is to provide
14 affordable housing for all economic segments of society. Olympia Master Builders and/or its
15 members participated in the development of the current Critical Areas Ordinance and its
16 members apply for local land use permits from the County on a daily basis. As such, Olympia
17 Master Builders and its members are aggrieved or adversely affected by the County's action.
18 Petitioner Hinkle Properties, Inc. dba Hinkle Homes is a member of Olympia Master Builders.

19 Petitioner Thurston County Chamber is a non-profit organization that represents private
20 businesses, non-profits, and government that conduct business in Thurston County. The
21 Chamber advocates for a prosperous, healthy community and works on behalf of its members
22 and community interests by participating in regional planning, economic development,
23 education, community health initiatives, workforce development, community infrastructure, and
24 environmental stewardship. The Chamber worked tirelessly on behalf of its members to inform
25 and educate the community about the potential impacts of a federal listing of the Mazama pocket
26 gopher, and provided public comment during the listing process. The Chamber also participated

1 in the development of the County's current Critical Areas Ordinance. The Chamber's members
2 are financially impacted by the uncertainty associated with the 2015 Interim Process, the
3 transition of businesses to adjacent counties due to the unfavorable business climate, and the
4 expense and delay associated with the additional permit process. As such, the Thurston County
5 Chamber and its members are aggrieved or adversely affected by the County's actions.

6 Petitioner Hinkle Properties, Inc. dba Hinkle Homes ("Hinkle Homes") is a Washington
7 corporation doing business in Thurston County. Specifically, Hinkle Homes is a developer and
8 builder of quality single-family residences in the South Sound region, and owns properties in
9 Thurston County. In 2015, Thurston County informed Hinkle Homes that it would subject the
10 Hinkle Homes properties to the 2015 Interim Process. As such, Hinkle Homes is aggrieved or
11 adversely affected by the County's actions.

12 IX. RELIEF SOUGHT

13 Petitioners ask the Growth Management Hearings Board to find as follows:

- 14 1. That the 2015 Interim Process was a *de facto* amendment to the County's Critical Area
15 Ordinance, and not in compliance with the Growth Management Act, the State Environmental
16 Policy Act, and the County's Growth Management Act Public Participation provisions;
- 17 2. That the 2015 Interim Process did not rely on best available science;
- 18 3. That the 2015 Interim Process did not comply with the Growth Management Act's public
19 process and participation requirements, including corresponding provisions of County code; and
- 20 4. Declare that the County's up to 10-month period (between August 2015 and June 2016)
21 when it will not review any completed, submitted permit applications under the 2015 Interim
22 Process is a *de facto* moratorium that does not comply with the Growth Management Act's
23 public process and participation requirements.

24 And, based on these findings, that the Board:

- 25 5. Issue a declaration of invalidity due to the County's substantial non-compliance with the
26 Growth Management Act's requirements before implementing the 2015 Interim Process; and

1 6. Issue an order of non-compliance directing the County to immediately cease use of the
2 2015 Interim Process.


3 7. Require the County to undertake the amendment process legally necessary under the
4 Growth Management Act, including public participation and environmental review required for
5 purposes of amending the Critical Area Ordinance or imposing a moratorium, should it seek to
6 implement similar interim procedures for 2016.

7 **X. VERIFICATION**

8 The undersigned attorneys have read this Petition for Review and believe the contents to
9 be true and accurate.

10 DATED this 24th day of November, 2015.

11
12 PHILLIPS BURGESS PLLC

13
14 By: 
15 Heather L. Burgess, WSBA #28477
16 Leslie C. Clark, WSBA #36164
17 Attorneys for Petitioners
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DECLARATION OF SERVICE

I, Brian North, declare as follows:


I am a resident of the State of Washington. I am over the age of 18 years and not a party to the within entitled cause. I am employed by the law firm of Phillips Burgess PLLC, whose address is 724 Columbia Street NW, Suite 320, Olympia, Washington 98501.

On November 24, 2015, I sent out for service upon the below-listed party at the address and in the manner described below, the Petition For Review appended hereto:

| | | |
|---|-------------------------------------|------------------------------------|
| Thurston County Attn: County Auditor 2000 Lakeridge Drive SW Olympia, Washington 98502 | <input checked="" type="checkbox"/> | U.S. Mail, postage prepaid |
| | <input type="checkbox"/> | Hand Delivered via Legal Messenger |
| | <input type="checkbox"/> | Overnight Courier |
| | <input type="checkbox"/> | Electronic Court Efile |
| | <input type="checkbox"/> | Electronically via email: |
| | <input type="checkbox"/> | Facsimile |

I declare under penalty of perjury under the laws of the State of Washington that the forgoing is true and correct.

DATED at Olympia, Washington this 24th day of November, 2015.



Brian North