

Summary of Appeals to Growth Management Hearings Board (GMHB)

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1. [Pre-Hearing Order and Case Consolidation 2/2/2026](#)

On February 2, 2026, it was determined that four petitions (Turner, Munce, Wetcher, Benedetto) be consolidated into a single case 26-2-0001c *Turner and Ian Munce et al. v. City of Anacortes* challenging the City of Anacortes' regarding adoption of:

- **Ordinance 5013** – 2025 Comprehensive Plan Periodic Update
- **Ordinance 5014** – 2025 Development Regulation Periodic Update It also addresses related SEPA (State Environmental Policy Act) issues, though many SEPA claims were struck for lack of specificity.

The Board identified **five legal issues**, all related to alleged failures in the City's Comprehensive Plan and Development Regulation updates. These include:

Issue 1 – Housing (GMA Goal 4)

Whether the City failed to plan for and accommodate housing affordable to all economic segments.

Issue 2 – Public Participation (RCW 36.70A.140)

Whether the City failed to provide meaningful, early, and continuous public participation.

Issue 3 – Environmental Review (GMA Goal 10 & SEPA)

Whether the City improperly piecemealed environmental review and failed to meaningfully engage with SEPA as required by *Friends of Sammamish Valley*.

Issue 4 – Shoreline Master Program

Whether the City improperly relied on an outdated 2010 SMP during SEPA review.

Issue 5 – Infrastructure Funding (GMA Goal 12)

Whether the City failed to analyze infrastructure funding needed to support densification and housing goals.

The Board struck vague SEPA references because petitioners failed to specify which provisions of RCW 43.21C were allegedly violated. The Board emphasized:

“SEPA is a moderately lengthy statute... none of which Petitioners have identified with any degree of specificity.”

As a result, SEPA arguments were **not permitted** unless properly identified.

A detailed timeline was established, including:

- **March 5, 2026** – City's Index of the Record due

- **April 1, 2026** – Dispositive motions due
- **May 12 & May 26, 2026** – Petitioner and Respondent briefs due
- **June 12, 2026** – Hearing on the merits (via Zoom)
- **August 3, 2026** – Final Decision and Order

2. Supporting Documents for SEPA and Public Participation March 3, 2026

It was declared that the City of Anacortes failed to follow its own Public Participation Plan, which required SEPA review of the Draft 2026 Comprehensive Plan and Development Regulations. Instead, the city split SEPA review into five separate checklist/determination of non significance (DNS) actions across 2024-2026, many involving foundational documents (storm water, sewer, forest lands). Several of these SEPA determinations were appealed, with some appeals denied, some transferred to the City Council, and others still pending without hearings or decisions. Key plans remain in draft form and SEPA review was fragmented, delayed, and incomplete.

A record of Resolution 3156, a Public Participation Plan, adopted by the city council and signed by the Mayor, City Clerk, and City Attorney, was submitted. The plan explains how the City will ensure early and continuous public involvement, outlines outreach methods (webpage, email list, open houses, surveys, stakeholder interviews, pop-up events, workshops), identifies key partners (tribes, agencies, nonprofits, residents), and provides a project schedule for the update process through 2025.

3. On September 30, 2026, The GMHB ruled against the appeal, rejecting all five issues:

1. Housing (GMA Goal 4)

Petitioners claimed Anacortes failed to plan for affordable housing across income levels.

Board’s finding: The City **did** analyze housing needs by income category, completed a Housing Action Plan, conducted a land capacity analysis, and updated policies accordingly. Petitioners provided **no evidence** of noncompliance.

“Petitioners have not carried their burden of proof to demonstrate a violation of GMA’s Goal 4.”

Regarding Housing, the Board determined:

“The city provided the minimum compliance with GMA Housing goals”.

The board only checks whether the city followed required steps, not whether the steps were effective, honest, or responsive to public concerns. That analysis did not meaningfully address whether the City’s policies will actually produce housing affordable to those income groups, nor did it evaluate neighborhood-level impacts or alternatives.

2. Public Participation (RCW 36.70A.140)

Petitioners alleged seven failures, including a “pay to play” fee, lack of minutes, improper Planning Commission procedures, and SEPA timing.

Board’s finding: All seven claims were rejected. Key reasons:

- Petitioners **did not allege Goal 11** in their Petition for Review, so those arguments were out of scope.
- The Board **has no jurisdiction** over OPMA (Open Public Meetings Act).
- Petitioners repeated arguments previously rejected in earlier motions.
- Petitioners failed to show **any actual denial of public participation**.

“Petitioners have not carried their burden of proof to demonstrate a violation of RCW 36.70A.140.”

The Board said only:

“Petitioners failed to show denial of public participation”

*This is a **procedural dismissal**, not a substantive endorsement of how city handled public participation.*

In fact, while the City met the minimum legal requirements for public participation, many residents experienced the process as tightly managed rather than genuinely responsive. Public input was often guided by a small number of officials and consultants, and neighborhood concerns about middle housing, conditional use permits, setbacks, parking, and environmental impacts were acknowledged but not meaningfully addressed. In several cases, residents were reassured that their concerns would be resolved, only to later learn that key protections—such as CUPs, larger setbacks, and higher parking requirements—had been removed.

Some residents also discovered that their communications with elected officials were not part of the public record, meaning their input was never included in the official documentation of public comment. The City’s own environmental review, conducted by FACET, included a substantial list of public comments and identified

issues, yet the City responded only to minor corrections rather than the substantive concerns raised.

The Growth Management Hearings Board's decision concluded that the City satisfied the legal standards for public participation, but for many community members, the process did not feel transparent, inclusive, or responsive. As a result, significant changes affecting neighborhood character, environmental protections, and future infrastructure costs were adopted without the level of community understanding or engagement that residents expected.

3. Environment (GMA Goal 10)

Petitioners argued the City ignored environmental obligations and mishandled SEPA.

Board's finding:

- SEPA claims were **barred** because Petitioners failed to specify which SEPA provisions were allegedly violated.
- The City's plan **does include environmental goals and policies**.
- Petitioners did not prove any failure to consider environmental impacts.

"Petitioners have failed to carry their burden of proof regarding their claim of a Goal 10 violation."

This is important.

*The Board did **not** say:*

- *the City's SEPA review was thorough*
- *the City's environmental analysis was correct*
- *the City's DNS was environmentally protective*

The Board said only:

"We cannot consider SEPA arguments because Petitioners did not specify which SEPA provisions were violated."

*This is another **procedural dismissal**, not a substantive endorsement.*

Consequences of this DNS ruling: *Recent development activity in Anacortes shows a recurring pattern in which environmental protections are not consistently enforced, allowing significant violations to slip through. In multiple cases, developers have proceeded with construction without implementing the environmental safeguards required in their approved plans. There are cases where wetlands are first filled, then a permit is obtained to develop that parcel. One documented example involved a large waterfront project that failed to build a mandated soil retention pond — a critical stormwater control feature — even though it was included in the submitted engineering plans. The omission went undetected by the City and was discovered only through volunteer stormwater monitoring efforts.*

Incidents like this reveal systemic weaknesses in the City's oversight practices. Developers have learned that environmental requirements may not be verified or enforced, creating conditions where noncompliance becomes normalized. When violations are not caught or corrected, it signals to the development community that they can bypass stormwater controls, critical area protections, and other environmental measures without consequence. Over time, this erodes the effectiveness of the City's regulatory framework, not because the regulations are absent, but because enforcement is inconsistent or insufficient.

This pattern demonstrates that environmental protections in Anacortes are vulnerable not at the policy level, but at the implementation level. Without reliable inspection, monitoring, and follow-through, required mitigation measures may never be built, and environmental impacts may go unaddressed.

4. Shoreline Master Program

Petitioners said the City improperly relied on a 2010 SMP.

Board's finding: This issue was **settled** and not briefed, so the Board **did not consider it**.

5. Infrastructure Capacity (GMA Goal 12)

Petitioners argued the City failed to analyze infrastructure needs for densification.

Board's finding: The City **did** analyze water, sewer, stormwater, transportation, and capital facilities capacity. The Board found the City met GMA requirements.

“The record indicates that the City met its obligations... Petitioners have failed to carry their burden of proof on Issue 5.”

What this means:

The board did not find the city's analysis strong enough, but because the city produced some infrastructure documents and the board's review is limited to checking whether those documents exist, ruled in favor of the city. This is why the board ruled the city complied, even though the petitioners had deep technical knowledge of infrastructure limitations and raised legitimate concerns.

4. Ian Munce is appealing these two decisions to Superior Court on the following statutory grounds RCW 34.05.570(3):

- 6.1 unconstitutionally violates the petitioners rights, e.g. \$3,000 proposal fee
- 6.2 exceed the statutory authority or jurisdiction of the agency, e.g. the Stormwater Plan is a foundational document
- 6.3 engaged in unlawful procedure or failed to follow a prescribed procedure, e.g. ditto
- 6.4 erroneously interpreted or applied the law, e.g. 'piecemealing'
- 6.5 it is not supported by evidence that is substantial when viewed in the light of the whole record
- 6.6 is arbitrary or capricious

Decisions can be expected by the end of this year.