

SKAGIT COUNTY WASH
FILED

AUG 24 2026

MELISSA BEATON, CO CLERK
Deputy

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR COUNTY OF SKAGIT

IAN MUNCE,

PETITIONER

VS.

CITY OF ANACORTES AND
WASHINGTON STATE GROWTH
MANAGEMENT HEARINGS BOARD,

RESPONDENTS

Case No.: 26-2 00984 29.

PETITION FOR JUDICIAL REVIEW OF
ADMINISTRATIVE DECISION, RCW 34.05

I. INTRODUCTION

1.1 Petitioner Ian Munce hereby petitions the Skagit County Superior Court for judicial review of a final order issued by the Washington State Growth Management Hearings Board, Western Region, GMHB, on August 3, 2026. The 'final order' in this case is the Board's issuing a Final Decision and Order. Exhibit A. GMHB Case No. 26-2-0001c.

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PETITION FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISION, RCW 34.05 - 1

1
2 1.2 The State Growth Management Act (GMA) is unambiguous: the Growth
3 Management Hearings Board (GMHB or Board)) is the body exclusively charged with hearing
4 and ruling on State Environmental Policy Act (SEPA) appeals of SEPA actions on
5 comprehensive plans and development regulations. Yet, *sua sponte*, the Board in this case simply
6 eliminated Petitioners' issue statement with a direct reference to the SEPA statute, RCW 43.21C,
7 as somehow not providing sufficient notice of alleged errors to the local government (the body
8 that conducted the SEPA process and heard and decided the Petitioner's SEPA appeal). Not only
9 was this action contrary to existing law but an arbitrary and capricious action designed to simply
10 sidestep a substantive Board review of the SEPA documents. It is also in direct contravention to
11 the recent State Supreme Court holding in *Friends of Sammamish Valley* in that it is not specific
12 bits and pieces of SEPA documentation that is to be alleged to be "clearly erroneous" and
13 reviewed but the entire process, e.g. the standard is whether or not the jurisdiction "meaningfully
14 engaged in the SEPA process". *Friends of Sammamish Valley* (emphasis in original).
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19 1.3 The GMA is also unambiguous as to the GHMB's exclusive jurisdiction over
20 appeals of a jurisdiction's 2025 Comprehensive Plan/Development Regulation Ten Year Periodic
21 Update (2025 CP/DR Periodic Update) and its supporting work. In this regard, the *Friends of*
22 *Sammamish Valley* case reaffirms the central importance of the key provisions of GMA and
23 SEPA statutes, both as stand-alone statutes and as considered together, i.e. piecemealing
24 prohibited, inappropriate balancing prohibited, and the "show your work" test. Yet, the Board in
25 its Final Decision and Order (FDO) in this case embraced piecemealing, impermissible
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1 balancing, and an abject failure by the City to “show their work” as to Comprehensive Plan
2 Policy CF 4.2.

3
4 1.4 Further, the Board in this case acquiesced to procedural due process violations
5 by failing to address: (1) the City chilling public participation by imposing a \$3,000 charge in
6 order to have a policy issue submitted by an party to be considered on their 2025 CP/DR
7 Periodic Update Rocket Docket for the Planning Commission’s ‘public’ process; (2) directing
8 the Planning Commission to adhere to the wrong statutory procedures (RCW 35.70 and not
9 RCW 35A.70) and the Planning Commission did just that; and, (3) the fact that at the 11th hour
10 the City transferred Petitioners’ SEPA appeal of the 2025 CP/DR Periodic Update from the City
11 Hearing Examiner to the City Council to secure the correct ‘political’ conclusion.
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14
15 1.5 Further, the Board in this case acquiesced to routine Open Public Meetings
16 Act violations, e.g. Planning Commission off-line sub-committee meetings and an absence of
17 contemporaneous Planning Commission minutes.
18

19
20 1.6 Further, the Board in this case impermissibly failed to find that the City
21 violated its adopted 2025 CP/DR Periodic Update Participation Plan by not conducting the
22 associated SEPA review in the ‘Spring of 2025’(as promised to the public and relied upon by
23 the public and required by *Friends of Sammamish Valley* (“an environmental review is ...
24 required to be completed as early as possible in the planning process to ensure that plans reflect
25 environmental values”).
26

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1
2 1.7 Further, the Board impermissibly failed to address: (1) the City's sleight of
3 hand in excluding the Draft 2025 Sewer Plan from substantive SEPA review and then simply
4 ignoring Petitioner Munce's correctly filed appeal of their SEPA action/non-action and (2) the
5 absence of the required, updated water system plan. SEPA case law establishes that SEPA
6 piecemealing is prohibited as it materially downplays the overall impact of the proposal.
7

8
9 1.8 Finally, in instance after instance, the Board: failed to require, as has been its
10 previous practice, that the City meaningfully 'show their work' and use baseline numbers for
11 infrastructure that were internally consistent; authorized the withholding of the necessary and
12 essential water system plan; and, actually embraced and endorsed the impermissible
13 piecemealing approach the City took in their 2025 CP/DR Periodic Update.
14
15

16 II. PARTIES 17

18
19 2.1 **Petitioner:** Petitioner is an aggrieved party residing at 1711 Quail Drive,
20 Anacortes, Skagit County, Washington, WA 98221
21

22 2.2 **Respondents:** Respondent Growth Management Hearings Board, Western
23 Region, is an administrative board of the State of Washington, whose final decision is the
24 subject of this petition and City of Anacortes, a Washington State municipal corporation.
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PETITION FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISION, RCW 34.05 - 4

1
2 **III. FACTS SUPPORTING JURISDICTION AND STANDING**
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4
5 3.1 This Court has subject matter jurisdiction pursuant to the Washington
6 Administrative Procedure Act, RCW 34.05.514, because the Petitioner resides in Skagit County.

7 3.2 This Petition is timely filed and served pursuant to RCW 34.05.542, being
8 filed and served within 30 days of the service of the final order.

9 3.3 Petitioner has standing to seek judicial review because Petitioner participated
10 in the administrative proceedings below, and the final order prejudices or threatens to prejudice
11 Petitioner's substantial rights.
12

13 3.4 Petitioner has exhausted all administrative remedies available.
14
15

16 **IV. THE CHALLENGED DECISION**
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18 4.1 Petitioner seeks review of the final administrative order titled **Final Decision**
19 **and Order** issued under Agency Case Number: 26-2-0001c on August 3, 2026.

20 4.2 A copy of the final administrative order is attached hereto as **Exhibit A**.
21
22

23 **V. GROUNDS FOR RELIEF**
24

25 The Respondent administrative board erred in entering the final order and the decision should be
26 reversed because it is:

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1. Unconstitutional and/or in violation of constitutional provisions as set forth in §1.2, §1.4, and §1.5
2. Within the statutory authority or jurisdiction of the agency as set forth in §1.2 and §1.3
3. Erroneously interprets and/or applies the law as set forth in §1.3 and §1.6
4. Unsupported by substantial evidence viewed in light of the whole record established before the agency as set forth in §1.2-1.8, and/or
5. Arbitrary and capricious as set forth in §1.2-1.8

VI. RELIEF SOUGHT

Petitioner prays that the Court grant the following relief:

1. Reverse and/or vacate the Respondent Board's final order,
2. Remand the matter to the City for further proceedings consistent with the Court's ruling, the GMA, and SEPA, and
3. Grant such other and further relief as the Court deems just and equitable.

Dated this 23rd day of August, 2026

Signature of Petitioner/Attorney Ian S. Munce

Ian S. Munce, WSBA No. 21527
1711 Quail Drive
Anacortes, WA 98221
ianmunce@gmail.com
360-333-1646

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EXHIBIT A

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
WESTERN REGION
STATE OF WASHINGTON

WILLIAM TURNER and IAN MUNCE,

Petitioners,

v.

CITY OF ANACORTES,

Respondent.

Case No. 26-2-0001c

FINAL DECISION AND ORDER

I. BACKGROUND

William Turner and Ian Munce (Petitioners) challenge the City of Anacortes' Ordinances No. 5013 (2025 Comprehensive Plan Periodic Update) and No. 5014 (2025 Development Regulation Periodic Update), published on December 24, 2025, together with the associated State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) and the City Council's denial of the SEPA Appeal.

As set forth below, the Board finds that the SEPA issues were not properly presented to the Board in this appeal. The Board further concludes that Petitioners failed to carry their burden of proof to demonstrate non-compliance with the Growth Management Act (GMA).

II. BOARD JURISDICTION

The Board finds the Petition for Review (Petition or PFR) was timely filed pursuant to RCW 36.70A.290 (2). The Board finds that the Petitioners have standing to appear before the

1 Board pursuant to RCW 36.70A.280(2)(a) and (b) and RCW 36.70A.210(6). The Board also
2 finds it has jurisdiction over the subject matter of the Petition pursuant to RCW 36.70A.280(1).
3

4 III. STANDARD OF REVIEW

5 Comprehensive plans and development regulations, and amendments thereto are
6 presumed valid upon adoption.¹ This presumption creates a high threshold for challengers as
7 the burden is on the petitioners to demonstrate that any action taken by a state agency, county
8 or city is not in compliance with the GMA.² The Board is charged with adjudicating GMA
9 compliance and, when necessary, invalidating noncompliant plans and development
10 regulations.³

11
12 The scope of the Board's review is limited to determining whether a city has achieved
13 compliance with the GMA only with respect to those issues presented in a timely petition for
14 review.⁴ The Board is directed to find compliance unless it determines that the challenged
15 action is clearly erroneous in view of the entire record before the Board and in light of the
16 goals and requirements of the GMA.⁵
17

18 IV. ANALYSIS AND DISCUSSION

19 Issue 1

20
21 Did the City adoption of its comprehensive plan and development regulations fail to
22 comply with the GMA when it failed to meet the requirements set forth in recently
23 amended GMA Goal 4 to plan for and accommodate housing affordable to all economic
24 segments of the population of the state and encourage preservation of existing stock?
25
26
27

28 ¹ RCW 36.70A.320(1).

29 ² RCW 36.70A.320(2).

30 ³ RCW 36.70A.280, RCW 36.70A.302.

31 ⁴ RCW 36.70A.290(1).

32 ⁵ RCW 36.70A.320(3). In order to find a city's action clearly erroneous, the Board must be "left with the firm and definite conviction that a mistake has been committed." *Dep't of Ecology v. PUD 1*, 121 Wn.2d 179, 201, 849 P.2d 646 (1993).

1 Petitioners allege that the City violated GMA Goal 4 because the City failed to take
2 action to establish that "sufficient subsidies and incentives will be in place to house the City's
3 full allocation of these households." ⁶ GMA Goal 4, RCW 36.70A.020(4), provides:

4 (4) Housing. Plan for and accommodate housing affordable to all economic
5 segments of the population of this state, promote a variety of residential
6 densities and housing types, and encourage preservation of existing
7 housing stock.

8 However, Petitioners failed to present any evidence that the City failed in this regard.
9 Instead, they offer several quotes from the Board's Mercer Island case ⁷ not an analysis of
10 why Anacortes' Comprehensive Plan update suffered from the same failings as that of Mercer
11 Island.

12 The City notes that Mercer Island is distinguishable because, in that case, the city's
13 land capacity analysis aggregated all the low, to moderate -income levels of housing into a
14 single income category, thereby concealing "the reality that most of the land capacity the City
15 identified as available to all low to moderate income segments will only be available for the
16 moderate-income at best."⁸

17 In contrast, the City notes that it developed a Housing Action Plan (HAP) that promotes
18 housing affordability for all segments of the Anacortes population. ⁹ The City identified
19 projected housing needs broken down by income categories including moderate, low, very
20 low, and extremely low-income while identifying which units would need to be subsidized. In
21 addition, the City participated in coordinated housing planning with Skagit County and other
22 local cities and towns to develop housing needs allocation. ¹⁰ Next, the City conducted an
23 audit of the 2016 Comprehensive Plan's housing element to assess consistency with the GMA
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26

27 ⁶ Petitioners' Opening Brief at 23, citing to *Futurewise, et al v. City of Mercer Island*, GMHB No. 25-3-0003,
28 FDO at 1-2 (Aug. 1, 2025).

29 ⁷ *Futurewise v. City of Mercer Island*, GMHB No. 25-3-0003, FDO (Aug. 1, 2025).

30 ⁸ City Response Brief at 20, citing to *Futurewise, et al. v. City of Mercer Island*, GMHB No. 25-3-0003, FDO at
23 (Aug. 1, 2025).

31 ⁹ City Response Brief at 14, citing to Ex. 34.

32 ¹⁰ See Ex. 496 Skagit County Countywide Planning Policies at 10-11; Ex. 498 Skagit County Population,
Housing and Employment Growth Allocations at 9-10.

1 goals, HB 1220, other comprehensive plan elements, housing needs, infrastructure and
2 service needs.¹¹ The City then conducted a Housing Needs Assessment for the 2025 Plan
3 update. The City points out that the section on income examined Anacortes households in all
4 income bands.¹²

5 The City argues that it completed a Land Capacity Analysis (LCA) to measure capacity
6 for new housing on vacant, partially-used, or under-developed land.¹³ The LCA also examined
7 housing needs by income bands, including housing to all income levels including low to
8 moderate income households.¹⁴ This was followed by an evaluation of the City's capacity to
9 meet these housing needs at various income levels with analysis of developable land
10 throughout the City.¹⁵ The City also performed a disparate impact analysis to assess whether
11 the City's policies contributed to disparate impacts or exclusion in housing and identified
12 policies to address any such impacts.¹⁶

13
14 Next, based on this analysis, the City proposed revisions to its Land Use and Housing
15 elements goals and policies.¹⁷ The City's Planning Commission then considered amendments
16 to its development regulations to implement its housing policies and the City adopted policy
17 and regulatory amendments to implement housing strategies from its Housing Action Plan
18 and to comply with state housing laws.¹⁸

19
20 The Board agrees that none of the shortcomings identified in the Mercer Island case
21 are present here. The Board finds that the City's Comprehensive Plan Update complies with
22 the requirements of the GMA in that the City identified projected housing needs, broken down
23 by income categories including "units for moderate, low, very low, and extremely low-income
24
25

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27 ¹¹ See Ex. 15 at 2, 24-30.

28 ¹² City Response Brief at 15, citing to Ex. 1 at 2-30.

29 ¹³ *Id.* at 17, citing to Ex. 11 at 2.

30 ¹⁴ *Id.* at 3-6.

31 ¹⁵ *Id.* at 6-23.

32 ¹⁶ *Id.* at 13-22.

¹⁷ See Ex. 44, City of Anacortes 2025 Comprehensive Plan Update –Preliminary amendment proposals for the
Land Use, Housing, and Transportation Element goals and policies.

¹⁸ Ex. 3, Ordinance No. 5014

1 households” as required by RCW 36.70A.0702(a)(i) and 36.70A.020(4). Petitioners have not
2 carried their burden of proof to demonstrate a violation of GMA’s Goal 4.

3 **Issue 2**

4 Did the City adoption of its comprehensive plan and development regulations fail to
5 comply with the requirements of RCW 36.70A.140 because it did not provide for
6 meaningful, early and continuous public participation?

7 Petitioners allege the City failed to comply with public participation requirements of
8 RCW 36.70A.140 alleging “seven procedural and substantive grounds” for the alleged
9 shortcomings.¹⁹

10 First, Petitioners assert that the City unlawfully implemented a “pay to play”
11 requirement that requires a \$3,000 fee for a member of the public to submit a Comprehensive
12 Plan policy amendment.²⁰ Petitioners argue, “This Board has held that while it does not have
13 jurisdiction over State Open Public Meetings Act (OPMA) or federal and state constitutional
14 procedural due process, it will consider such issues raised by petitioners under GMA Goal 11
15 and the City’s Public Participation Plan.”²¹ However, Petitioners ignore the recent Board order
16 in our ruling on a motion regarding this issue 2, where we held:
17

18 While Petitioners correctly acknowledge that the Board does not have
19 jurisdiction over the OPMA or federal or state constitutional procedural due
20 process, they seek to frame this issue as Goal 11 challenge. However,
21 nowhere in Petitioners’ Petition for Review do they allege a Goal 11
22 violation. This portion of Petitioners’ motion is outside the issue under
23 appeal and is not a basis for granting the motion.²²

24 In this case (and, incidentally, in the *Friends of the San Juan*’s case cited by
25 Petitioners) a Goal 11 challenge was never raised in the PFR. The Board refused to grant
26 Petitioners’ dispositive motion on this very basis.²³ Therefore, the Board will not consider
27 Petitioners’ Goal 11 arguments here.
28

29 ¹⁹ Petitioners’ Opening Brief at 4.

30 ²⁰ *Id.*

31 ²¹ *Id.* at 5, citing to *Friends of the San Juan*’s v. *San Juan County*, GMHB Case No. 13-2-0012c.

32 ²² Order on Petitioners’ Dispositive Motion #2 at 2.

²³ *Id.*

1 Beyond this, Petitioners have not argued why charging a fee to submit a
2 comprehensive plan application prevents "early and continuous public participation" and, as
3 such, have not demonstrated a violation of RCW 36.70A.140 in this regard.

4 Petitioners state that they contacted the Department of Commerce regarding the fee
5 and was advised that a "fee to play" was not proper.²⁴ However, Ms. Smith, the Planner with
6 the Department of Commerce, had prefaced her comments with the statement - "That is not
7 my understanding of the city's process."²⁵

8
9 Additionally, in its response to the Petitioners' earlier motion on this issue, the City
10 noted that:

11 This fee did not prevent public participation. The City was very clear with
12 Mr. Munce, Mr. Turner, and others that there is no fee to submit public
13 comments about the 2025 Update at any time during the process and that
14 those comments would be provided to the Planning Commission and City
15 Council for their consideration. Additionally, as indicated in Mr. Munce's
16 briefing, then -Councilmember Walters offered to sponsor Mr. Munce's
17 amendments, which would cost him nothing. Mr. Munce declined this
offer.²⁶

18 The second alleged shortcoming regarding public participation is what the Petitioners
19 describe as the "rocket docket" where Petitioner Munce's eleven proposed policy
20 amendments were rejected without explanation. ²⁷ Petitioners made this identical argument
21 in their earlier dispositive motion and the Board at that time held:

22
23 Petitioners offer no support in case law or statute that a refusal to consider
24 proposed amendments without payment of the required fee is a violation of
RCW 36.70A.140. Absent any such authority, the Board finds no violation.²⁸

25
26 Petitioners offer no additional authority in support of this argument in its briefing for the
27 Hearing on the Merits and the Board once again rejects this claim as being without merit.

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29
30 ²⁴ Petitioners' Opening Brief at 5.

²⁵ See Attachment B to Petitioners' Opening Brief

²⁶ City's Response to Petitioner's Dispositive Motion #2 on Public Participation at 13.

²⁷ Petitioners' Opening Brief at 6.

²⁸ Order on Petitioners' Dispositive Motion #2 at 3.

1 The third alleged public participation shortcoming is the failure to provide
2 contemporaneous minutes of Planning Commission meetings "as required by the State Open
3 Public Meetings Act and as necessary to fulfill its Public Participation Plan obligations."²⁹ As
4 the Board has previously held, the Board has no statutory authority over the Open Public
5 Meetings Act.³⁰

6 Fourth, the Petitioners simply repeat an argument made and rejected in their
7 dispositive motion. And once again Petitioners rely on RCW 36.70A.020(11), which they have
8 not alleged in their PFR.³¹ This claim cannot be raised for the first time in briefing.
9

10 As in our previous order on that motion, the Board will hold again that "Petitioners fail
11 to argue that the public was, in fact, denied the opportunity to engage with the SEPA review.
12 Instead, Petitioners merely insist that the City missed the deadline for SEPA in its preliminary
13 project schedule, a schedule which was explicitly identified as subject to adjustment. This is
14 not a failure of public participation."³²

15 Petitioners' fifth allegation regarding public participation alleges that the City's Planning
16 Commission failed to operate, as required under RCW 35A.63A.³³ Again, Petitioners repeat
17 arguments made and rejected in their earlier dispositive motion. Petitioners fail to explain what
18 legal authority exists for the Board to consider this allegation.
19

20 RCW 36.70A.280(1)(a) provides, in pertinent part:

21 (1) The growth management hearings board shall hear and determine only
22 those petitions alleging either:

23
24 (a) That, except as provided otherwise by this subsection, a state agency,
25 county, or city planning under this chapter is not in compliance with the
26 requirements of this chapter.
27
28

29 ²⁹ Petitioners' Opening Brief at 6.

30 ³⁰ Order on Petitioners' Dispositive Motion #2 at 3.

31 ³¹ *Id.*

32 ³² *Id.* at 4.

33 ³³ Petitioners' Opening Brief at 8.

1 The Board lacks authority to review compliance with RCW 35A.63. Then, as now, the Board
2 holds:

3 While Petitioners allege that by operating under RCW 35.63 instead of RCW
4 35A.63, the City did not meaningfully engage with the public on any
5 proposal not on the docket, they fail to explain how operation under RCW
6 35.63 (if improper) had this effect. At most, they assert that by doing so the
7 City was able to sidestep the conflict of interest s trictures in RCW
8 35A.63.020. But Petitioners fail to provide any argument that the Board has
9 the authority to make a determination as to which statute the City was
required to operate.³⁴

10 Petitioners' sixth argument regarding public participation addressing that lack of
11 meaningful engagement with the SEPA process.³⁵ Petitioners again merely recites the
12 argument made, and rejected, by an earlier Board order. The Board reaffirms what we held
13 in that earlier order:

14 As noted above, the City's preliminary project schedule (not a PPP) stated,
15 "This schedule **will be adjusted** throughout the update process." (emphasis
16 added). Petitioners do not cite to, much less support, an argument that the
17 City violated RCW 36.70A.140.³⁶

18 Lastly, Petitioners allege that the City violated its public participation obligations by
19 failing to show its work.³⁷ This section of Petitioners' brief is, with minor changes, a repeat of
20 their argument in their dispositive motion.

21 We again reject it, noting once again that Petitioners make no argument that
22 RCW 36.70A.140 mandates that a local jurisdiction "show its work", a term typically applied
23 in the context of a ppropriately sizing an Urban Growth Area (UGA) boundary under
24 RCW 36.70A.110.³⁸

25 Petitioners have not carried their burden of proof to demonstrate a violation of
26 RCW 36.70A.140.
27
28

29 ³⁴ Order on Petitioners' Dispositive Motion #2 at 4.

30 ³⁵ Petitioners' Opening Brief at 9.

31 ³⁶ Order on Petitioners' Dispositive Motion #2 at 5.

32 ³⁷ Petitioners' Opening Brief at 10.

³⁸ See *Master Builders Association, et al. v. Snohomish Cty.*, CPSGMHB No. 01-3-0016 at 6, (Dec. 13, 2001).

1 **Issue 3**

2 Did the City fail to comply with GMA Goal 10 (Environment), and, more directly, meet
3 the State Supreme Court's mandate in *Friends of Sammamish Valley* when it
4 impermissibly piecemealed and balanced housing interests against the environment
5 and failed to conduct early environmental review, consider alternatives, and provide
6 reasonably sufficient information.³⁹

7 Petitioners allege that the City failed with comply with GMA Goal 10 asserting two
8 grounds: (1) failure to comply with the Board ruling in an early proceeding and (2)
9 shortcomings in the City's SEPA process.

10 GMA Goal 10, RCW 36.70A.020(10), states:

11 Environment. Protect and enhance the environment and enhance the
12 state's high quality of life, including air and water quality, and the availability
13 of water.

14 Petitioners first argue that the City has violated Goal 10 because the City has "taken
15 no actions in furtherance of the Board's ruling and have no intention of ever doing so" with
16 reference to the Board's ruling in case No. 21-2-0001c⁴⁰, *Munce and Evergreen Islands v.*
17 *City of Anacortes*. This is offered as evidence of the City's pattern of Goal 10 violations.

18 It must be pointed out that, not only are the facts of that appeal not before the Board
19 in this appeal but, contrary to Petitioners' assertion, the City did take action in response to the
20 Board's order in that case and on December 22, 2022 the Board issued an Order of
21 Compliance and closed the case.⁴¹

22 Petitioners next argue that the City did not meaningfully engage in the SEPA process.⁴²
23 Petitioners assert inappropriate "piecemealing" of the SEPA process, a faulty SEPA checklist,
24 an insufficiently detailed DNS, failure to consider alternatives, and inappropriate balancing of
25
26
27

28 ³⁹ The City in its brief appears to identify this as Issue 4. Since the City's argument is in fact focused on the
29 substance of Issue 3, the Board will consider this a scrivener's error.

30 ⁴⁰ Petitioners reference case 21-2-0001c. That case was consolidated with case 21-2-0002 on September 24,
31 2021, as case 21-2-0002c.

32 ⁴¹ *Ian Munce and Evergreen Islands v. City of Anacortes*, GMHB No. 21-2-0002c, Order on Compliance (Dec.
22, 2022).

⁴² Petitioners' Opening Brief at 14-18.

1 beneficial and adverse impacts. Petitioners focus not on Goal 10 , but instead alleged
2 violations of SEPA. However, this Board has earlier held that:

3 In the Board's footnote 1 to the Third Order of Consolidation and Second
4 Prehearing Order, the Board stated that due to Petitioners' failure to
5 adequately specify the provision of SEPA at issue "The Board will not permit
6 arguments related to alleged violations of SEPA due to Petitioners' failure
7 to specify which provisions of RCW 43.21C are at issue. This restriction
8 applies to Issue 4 as well. ⁴³

9 While it is clear that the City was obligated to consider Goal 10 during its update
10 process, Petitioners have not demonstrated that the City failed to consider the environment.
11 A review of the "Environment & Conservation"⁴⁴ section of the City's plan details a number of
12 goals and policies relating to environmental protection.

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

15 Issue 4

16 Did the City impermissibly rely upon a 2010 Shoreline Master Program that was
17 required to have been updated, according to current Best Available Science and new
18 statutory and regulatory direction, between five and seven years ago for its 2025
19 Comprehensive Plan/Development Regulation Periodic Update and sought to comply
20 with GMA Goal 12 (Environment)?

21 This matter was not briefed or argued and, according to Petitioners, was settled.
22 Accordingly, it shall not be addressed in this Order.

23 Issue 5

24 Did the City adoption of its comprehensive plan and development regulations fail to
25 comply with RCW 36.70A.020 and, more specifically, GMA Goal 12, when it did not
26 include a meaningful analysis of the funding capacity for the infrastructure necessary
27 to support its neighborhood densification and market rate housing aspirations? ⁴⁵

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29
30 ⁴³ Order on Motion to Reinstate Issue 3 at 6.

31 ⁴⁴ Ex. 1 at 1-51 et seq.

32 ⁴⁵ Petitioners also make an RCW 36.70A.070 internal consistency argument in this section of their brief that
the Board will not consider, as it was not alleged in the PFR. See WAC 242-03-810(2).

1 Petitioners allege that the City failed to comply with GMA Goal 12 by failing to finalize
2 and failing to include accurate information in the draft Water System Plan Stormwater Master
3 Plan, and Sewer Plan.⁴⁶

4 GMA Goal 12, RCW 36.70A.020(12), states:

5 Public facilities and services. Ensure that those public facilities and services
6 necessary to support development shall be adequate to serve the development at
7 the time the development is available for occupancy and use without decreasing
8 current service levels below locally established minimum standards.

9 First, regarding the Stormwater Master Plan, that plan was not adopted until April 27,
10 2026, subsequent to the filing of the present appeal via Resolution 3212 . That action is the
11 subject of a separate Board appeal (26-2-0018). Any claims regarding the adequacy of that
12 plan shall be deferred to that proceeding.
13

14 As to the other plans, Petitioners argue that the draft Water System Plan has yet to be
15 released and the Stormwater Plan merely addressed a design population of 19,300 and not
16 the 2025 population target of approximately 23,000.⁴⁷ They point out that the City concluded
17 that the population growth target initially recommended by the Countywide Growth
18 Management Committee could be met under existing zoning, included a calculation of 351
19 ADUs, but did not include a calculation for "Middle Housing" replacing existing single family
20 units.
21

22 Petitioners note the draft Sewer Plan has a price tag of \$95 million to expand to meet
23 the 23,000 growth target.⁴⁸ However, they do not present argument as to why that estimate
24 is inaccurate.

25 Finally, Petitioners argue that the 2025 Comprehensive Plan states that it is planning
26 for 23,000 (although Petitioners fail to cite to where in the Plan this is noted) but makes no
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31 ⁴⁶ Petitioners' Opening Brief at 18-23.

32 ⁴⁷ *Id.* at 20.

⁴⁸ *Id.* at 21.

1 allowance for the 2 -3,000 or more people attracted to Anacortes with its Middle Housing
2 aspirations.⁴⁹

3 The City responds that it conducted necessary analysis of the infrastructure capacity.
4 The City states that it reviewed population and housing allocations established through the
5 most recent urban growth area and regional planning processes including evaluation of
6 adopted growth forecasts, housing needs, and consistency between projected growth and
7 available infrastructure capacity.⁵⁰ This is consistent with WAC 365 -196-610(2)(b)(ii)(A),
8 which requires, "Analysis of the population and housing needs allocated to a county or city
9 during the most recent urban growth area review."
10

11 The City argues that it analyzed whether updated zoning changes, including reducing
12 certain regulatory barriers (like minimum lot sizes) to building more middle housing, would
13 materially alter adopted growth assumptions. This analysis determined that changes resulted
14 in only a modest increase in capacity of approximately 45 percent or approximately 130 units
15 This increase remained consistent with existing infrastructure planning assumptions.
16

17 WAC 365-196-610(2)(b)(ii)(B) requires an "[a]nalysis of patterns of development and
18 densities permitted within urban growth areas" Here too, the City cites evidence in the record
19 that it evaluated patterns of development and permitted densities within its urban growth area
20 to determine whether existing zoning and development regulations continue to implement the
21 Comprehensive Plan.⁵¹ This included review of infill patterns, redevelopment potential, and
22 the effect of revised middle housing standards and minimum lot size reductions.⁵² The City
23 concluded that its development patterns remain generally consistent with planned
24 urbanization and are supported by existing infrastructure planning and concurrency
25 frameworks.
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30 ⁴⁹ *Id.* at 22.

31 ⁵⁰ City Response Brief at 31.

32 ⁵¹ *Id.* at 31-32.

⁵² *Id.* at 32, citing to *Ex. 11* at 1-23 and *Ex. 33*.

1 Next, WAC365 -196-610(2)(b)(ii)(E) provides that “ [c]hanges in anticipated
2 circumstances and needs should be addressed by updating the 10 -year transportation plan
3 and six-year capital facilities elements. This includes a reassessment of the land use element
4 if funding falls short.” The City conducted a comprehensive update of its Capital Facilities
5 element, including the required 10-year transportation plan and six-year capital facilities plan.
6 The update incorporated updates to water, sewer, stormwater, and transportation system
7 modeling. It also identified system capacity constraints and infrastructure deficiencies. It
8 updated capital project lists and resulting cost estimates, evaluated funding sources and
9 assessed timing and phasing of infrastructure improvements.⁵³

11 The GMA itself sets out the requirements of a capital facilities plan at RCW
12 36.70A.070(3). The record reflects that the City identified necessary capital improvements
13 and evaluated the financial feasibility within projected funding capacities . The City also
14 confirmed that its concurrency regulations provide an enforceable mechanism to ensure that
15 infrastructure capacity is adequate at the time of development approval.⁵⁴

17 Finally, WAC 365 -196-610(2)(b)(ii)(I) states, “Counties and cities should review
18 required inventories and to determine if new data or analysis is needed.” The record
19 demonstrates that the City reviewed and updated its inventories of capital facilities including
20 water, sewer, stormwater and transportation.⁵⁵

22 The record indicates that the City met its obligations under RCW 36.70A.020 and GMA
23 Goal 12 to consider infrastructure capacity. The Board concludes that Petitioners have failed
24 to carry their burden of proof on Issue 5.

26 V. ORDER

27 Based upon review of the Petition for Review, the briefs and exhibits submitted by the
28 parties, the GMA, prior Board orders and case law, having considered the arguments of the
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31 ⁵³ See Ex. 1 at 2-204 – 2-241 and Ex. 29 (2026-2031 Capital Facilities Plan).

32 ⁵⁴ See Ex. 1 at 2-147 – 2-241 and Ex. 29.

⁵⁵ See Ex. 1 at 2-147 – 2-241.

1 parties, and having deliberated on the matter, the Board finds Petitioners have not carried
2 their burden of proof to demonstrate that the City's amendments to its Comprehensive Plan
3 or development regulations failed to comply with the GMA. This case is now **CLOSED**.
4

5 SO ORDERED this 3rd day of August, 2026.
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10 Rick Eichstaedt, Presiding Officer

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13 Alex Sidles, Board Member
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18 **Note: This is a final decision and order of the Growth Management Hearings Board**
19 **issued pursuant to RCW 36.70A.300⁵⁶**
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29 ⁵⁶ Should a party choose to do so, a motion for reconsideration must be filed with the Board and served on all
30 parties within ten days of mailing of the final order. WAC 242-03-830(1), -840. A party aggrieved by a final
31 decision of the Board may appeal the decision to Superior Court within thirty days as provided in
32 RCW 34.05.514; RCW 36.01.050. *See also* RCW 36.70A.300(5); WAC 242-03-970. It is incumbent upon the
parties to review all applicable statutes and rules. The staff of the Growth Management Hearings Board is not
authorized to provide legal advice.

Appendix A: Procedural matters

On January 6, 2026, William Turner (Petitioner) filed a Petition for Review challenging City of Anacortes Ordinance No. 5013 and Ordinance No. 5014. The Petition was assigned Case No. 26-2-0001. On January 7, 2026, Ian Munce (Petitioner) filed a Petition for Review challenging Ordinance No. 5013 and Ordinance No. 5014. The Petition was assigned Case No. 26-2-0002. An Order of Consolidation and Notice of Preliminary Schedule was issued on January 14, 2026 consolidating the two matters and assigning Case No. 26-2-0001c. A prehearing conference was held telephonically on January 27, 2026. Petitioners appeared through Ian Munce. Respondent City of Anacortes appeared through its attorney Darcy Swetnam.

The Briefs and exhibits of the parties were timely filed and are referenced in this order as follows:

- Petitioners' Prehearing Brief, dated May 11, 2026 (Petitioner's Brief);
- Response Brief, dated May 26, 2026 (Response Brief); and
- Reply Brief, dated June 2, 2026.

Hearing on the Merits

The Hearing on the Merits convened June 12, 2026. The hearing afforded each party the opportunity to emphasize the most important facts and arguments relevant to its case. Board members asked questions seeking to thoroughly understand the history of the proceedings, the important facts in the case, and the legal arguments of the parties.