

ATTACHMENT 5

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
CENTRAL PUGET SOUND REGION
STATE OF WASHINGTON

KITSAP ALLIANCE OF PROPERTY OWNERS; WILLIAM M. PALMER; FUTUREWISE; TERRY Y. YAMAMOTO; and YAMAMOTO HYDROSEEDING,

Petitioners,

v.

KITSAP COUNTY,

Respondent.

Case No. 25-3-0005c

FINAL DECISION AND ORDER

SYNOPSIS

Petitioners challenged Kitsap County’s (County) 2024 periodic update of its Comprehensive Plan and development regulations. The Board concluded that the County’s land use element failed to identify sufficient capacity of land for housing for all income groups and make adequate provisions for the existing and projected needs of all economic segments of the community, specifically those at the low, very low, extremely low, and moderate-income levels. The Board also concluded that the land use element failed to include mandatory elements, such as identification of multimodal emergency and evacuation routes, or include certain planning tools as required. The matter was remanded to the County to address these issues.

I. INTRODUCTION

On January 28, 2025, Kitsap Alliance of Property Owners and William M. Palmer (collectively, KAPO) filed a Petition for Review (Petition) challenging certain provisions of Kitsap County's (County) Comprehensive Plan Update adopted by Ordinance No. 637-2024 on December 2, 2024. The Petition was assigned Case No. 25-3-0002. On February 14,

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1 2025, Futurewise (Futurewise) filed a Petition challenging provisions of Ordinance No. 637-
2 2024. The Petition was assigned Case No. 25-3-0004. On February 14, 2025, Palmer, Terry
3 Y. Yamamoto and Yamamoto Hydroseeding (collectively, Yamamoto) filed a Petition also
4 challenging provisions of Ordinance No. 637-2024. The Petition was assigned Case No. 25-
5 3-0005. The Board consolidated review under Case No. 25-3-0005c.

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7 Futurewise challenges the County's periodic update to the County's Comprehensive
8 Plan and development regulation asserting it did not comply with the housing, rural growth,
9 agricultural conservation, and surface and ground water protection requirements of the
10 Growth Management Act (GMA). Futurewise asserts that the County's comprehensive plan
11 failed to identify sufficient capacity of land for housing including housing for all income
12 groups and make adequate provisions for the existing and projected needs of all economic
13 segments.¹ Futurewise also asserts that the Comprehensive Plan violates the GMA and
14 Multicounty Planning Policies (MPPs) by increasing rural development rather than
15 managing and reducing rural growth rates.² Additionally, that the County failed to address
16 climate adaptation and resilience as they do not include multimodal emergency and
17 evacuation routes or other measures to address wildfire risk, nor does it direct growth away
18 from the wildland urban interface or implementation of firewise standards and strategies as
19 required by the GMA.³ Also, that the County failed appropriately to adopt criteria for
20 designation of agricultural lands of long-term significance.⁴ Lastly, Futurewise asserts that
21 the County failed to protect surface and ground water.⁵

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24 The County contends its Comprehensive Plan serves as a guide and is not required
25 to include a level of detail Futurewise requests. That while its Comprehensive Plan shows
26 a housing deficiency, it followed the Washington State Department of Commerce's
27 (Commerce) guidance and has significantly increased capacity. That its growth projections
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¹ Futurewise Prehearing Br. at 2.

² *Id.* at 8.

³ *Id.* at 14.

⁴ *Id.* at 15-16

⁵ *Id.* at 21.

1 are to be resolved over time and that it directed growth towards the urban centers, rather
2 than the rural environment. That Futurewise has misconstrued the County's growth
3 projections, and it is in fact below its targeted rural growth rate. That the County is not
4 required to adopt its transportation elements, which includes the climate change and
5 resiliency element, at this time, and that it otherwise provided the required wildfire measures
6 in other sections of its Ordinance.⁶ That despite Futurewise's conclusion that no agricultural
7 lands review occurred, it considered what agricultural lands of long term significance may
8 be in the County based on the newly adopted criteria and concluded that no additional lands
9 qualified.⁷ Lastly, that it addressed the requirements of the 2018 water legislation then.⁸

11 Petitioners KAPO and Yamamoto have not filed Prehearing Briefs but did file a form
12 of response which is addressed below.

14 II. PROCEDURAL MATTERS

15 KAPO, Palmer, Yamamoto, and Yamamoto Hydroseeding (all represented by
16 Mr. Palmer) failed to file a Prehearing Brief. They did, however, file a document appearing
17 to address the County's assertion they had abandoned their issues and otherwise suggests
18 its Petition constitutes its argument or Prehearing Brief.⁹ The failure of a party to brief an
19 issue constitutes abandonment of the unbriefed issue.¹⁰ Inadequately briefed issues are
20 treated like unbriefed issues.¹¹ That is because, as this Board has previously stated, the
21 burden of proof is on the Petitioner and the Board must review the Petitioner's rationale for
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24 ⁶ Cnty's Prehearing Br. at 22-23.

25 ⁷ *Id.* at 26 (Futurewise cannot challenge an unchanged provision, and that a WAC amendment does not give
rise to a "failure-to-revise" assertion as WAC's are not GMA amendments).

26 ⁸ *Id.* at 32.

27 ⁹ Filed June 16, 2025, as "Response to Kitsap County's Pretrial Motion to Dismiss," which appears to address
an aspect raised in the County's Prehearing Brief and asserts the County "ignores the arguments presented
28 in the original petitions filed by each..." Response to Kitsap Cnty's Mot. to Dismiss at 9. However, a Petition
does not take the place of a Prehearing Brief and alone provides insufficient analysis to warrant review.

29 ¹⁰ WAC 242-03-590(1), (2); see also *Futurewise v. Snohomish Cnty.*, 9 Wn. App. 2d 391, 444 P.3d 1228
(2019); see Cnty's Prehearing Br. at 5 (The County also contends Futurewise abandoned certain portions of
30 its issues). Issues not specifically addressed in this Final Decision and Order are deemed abandoned and
dismissed.

31 ¹¹ *Sky Valley, v. Snohomish Cnty.*, CPSGMHB No. 95-3-0068c (Final Decision and Order, (Mar. 12, 1996) at
32 24-25; *Tupper v. City of Edmonds*, CPSGMHB No. 03-3-0018, Final Decision and Order at 6 (Mar. 22, 2004).

1 its contention and weigh that argument against the government's response.¹² Here, without
2 filing a Prehearing Brief, the County was denied an opportunity to respond and the Board
3 was deprived a comprehensive argument. Accordingly, unbriefed issues are abandoned
4 and dismissed as noted below.

5 The County also asserts Futurewise abandoned portions of their arguments. Each
6 are addressed under their specific issue.¹³
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8 III. BOARD JURISDICTION

9 The Board finds the Petition for Review was timely filed.¹⁴ The Board also finds the
10 Petitioners have standing to appear before the Board.¹⁵ Lastly, the Board finds it has
11 statutory authority over the subject matter of the Petition.¹⁶
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13 IV. STANDARD OF REVIEW

14 Comprehensive plans and development regulations, and amendments to them, are
15 presumed valid upon adoption.¹⁷ This presumption creates a high threshold for challengers
16 as the burden is on the Petitioners to demonstrate that any action taken by the local
17 jurisdiction is not in compliance with the GMA.¹⁸ The Board is charged with adjudicating
18 GMA compliance and, when necessary, invalidating noncompliant plans and development
19 regulations.¹⁹ The scope of the Board's review is limited to determining whether a local
20 jurisdiction has achieved compliance with the GMA only with respect to those issues
21 presented in a timely Petition for Review.²⁰ The Board grants deference to local jurisdictions
22 in how they plan for growth, consistent with the requirements of the GMA.²¹ The Board is
23 directed to find compliance unless it determines that the challenged action is clearly
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26 ¹² *Sky Valley*, CPSGMHB No. 95-3-0068c, Final Decision and Order at 23.

27 ¹³ Cnty's Prehearing Br. at 5.

28 ¹⁴ RCW 36.70A.290(2).

29 ¹⁵ RCW 36.70A.280(2)(b).

30 ¹⁶ RCW 36.70A.280(1)(a).

31 ¹⁷ RCW 36.70A.320(1).

32 ¹⁸ RCW 36.70A.320(2).

¹⁹ RCW 36.70A.280, .302.

²⁰ RCW 36.70A.290(1).

²¹ RCW 36.70A.3201.

1 erroneous in view of the entire record before the Board and in light of the goals and
2 requirements of the GMA.²² In order to find the local jurisdictions action clearly erroneous,
3 the Board must be “left with the firm and definite conviction that a mistake has been
4 committed.”²³

5 6 V. ANALYSIS AND DISCUSSION

7 KITSAP ALLIANCE OF PROPERTY OWNERS

8 **Issue No. 1. Did Kitsap County fail to analysis and/or include plan provisions for all**
9 **15-goals found in 36.70A.020 of which Goal No. 6 is listed?**

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11 Abandoned and dismissed.

12 **Issue No. 2. Did Kitsap County fail to analysis and/ or include plan provisions to**
13 **address Section 3 and Section 16 of the Washington State Constitution and the Fifth**
14 **Amendment to the US Constitution?**

15 Dismissed by earlier Order.²⁴

16 **Issue No. 3. Did Kitsap County fail to be guided by the requirements of**
17 **RCW 36.70A.370.1 - Protection of Private Property, which first requires the state**
18 **attorney general to establish an orderly, consistent process for state and local**
19 **agencies to evaluate proposed regulatory or administrative actions to assure that**
20 **such actions do not result in an unconstitutional taking of private property?**

21 Abandoned and dismissed.

22 **Issue No. 4. Did Kitsap County fail to be guided by an analysis and/or plan provisions**
23 **to address the US Supreme Court's decisions on Noland vs California Coastal**
24 **Commission (1987), Doland vs. City of Tigard (1994), Koontz v. St. Johns River Water**
25 **Management District (2013) and Sheets v. County of El Dorado (2024) prior to the**
26 **adoption of Ordinance Number 637-2024?**

27 Dismissed by earlier Order.²⁵

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30 ²² RCW 36.70A.320(3).

31 ²³ *Dep't of Ecology v. PUD 1*, 121 Wn.2d 179, 201, 849 P.2d 646 (1993).

32 ²⁴ See *Kitsap Alliance of Property Owners, et. al. v. Kitsap County*, GMHB Case No. 25-3-0005c (Order on Motions, Apr. 29, 2025).

²⁵ *Id.*

1 **Issue No. 5. Did Kitsap County fail to analyze the disproportionate cost burden placed**
2 **on property owners for protection of certain elements of the 2 environment that are**
3 **deemed to be of public benefit especially 3 when the public does not share any**
4 **of the cost(s) when it adopted its 2024 Comprehensive Plan Update by Ordinance**
5 **Number 637-2024?**

6 Dismissed by earlier Order.²⁶

7 **Issue No. 6. Did Kitsap County fail to discuss, analysis or include plan provisions to**
8 **address the critique KAP0 provided the County of how inclusion of environmental**
9 **requirements for maintaining so-called "functions and values," "Best Available**
10 **Science" and "no net loss" disproportionately affects property owners when 1.**
11 **"Protection" is not defined in either the GMA or in Kitsap County's 2024**
12 **Comprehensive Plan Update, 2. A baseline environmental study has not been**
13 **conducted to determine or measure loss or equity of loss, 3. The Comprehensive**
14 **Plan does not contain a clear definition of "functions and values," and 4. Since the**
15 **GMA defines "environment" as only pertaining to air and water quality without**
16 **inclusion of issues of habitat for fish, mammals or birds when it adopted Ordinance**
17 **Number 637-2024?**

18 Dismissed by earlier Order.²⁷

19 **Issue No. 7. Did Kitsap County fail to discuss, include plan provisions for or even**
20 **consider in their 2024 Comprehensive Plan Update the issue of the supremacy of**
21 **constitutional protections for people owning property in relation to public interest**
22 **provisions for the use thereof or for the limitations that the Plan or the implementing**
23 **ordinances would impose?**

24 Dismissed by earlier Order.²⁸

FUTUREWISE

25 **Issue No. 8. Did the adoption of Ordinance No. 637-2024, the comprehensive plan, the**
26 **Comprehensive Plan Land Use Map, and Title 17 (Zoning), fail to identify sufficient**
27 **capacity of land for housing including housing for all income groups and make**
28 **adequate provisions for the existing and projected needs of all economic segments**
29 **of the community violating RCW 36.70A.020(4), RCW 36.70A.070,**
30 **RCW 36.70A.070(2)(c) or (2)(d), RCW 36.70A.100, RCW 36.70A.130(1) and (5)(a),**

31 ²⁶ *Id.*

32 ²⁷ *Id.*

²⁸ *Id.*

1 **RCW 36.70A.210, RCW 36.70A.290(2), or Kitsap County Countywide Planning Policy**
2 **Appendix F: Housing Allocation Through 2044?**

3 As an initial matter, the County contends Futurewise did not analyze certain portions
4 of this issue.²⁹ Futurewise does not dispute this in its Reply. Issues not specifically
5 addressed below are deemed abandoned.

6 The County's housing analysis demonstrates a 1,179 unit deficiency for households
7 below 80% area median income (AMI), and another 166 units for those between 81-120%
8 AMI which, according to Futurewise, violates the GMA by failing to identify sufficient capacity
9 of land for housing including housing for all income groups and making adequate provisions
10 for the existing and projected needs of all economic segments.³⁰ This deficiency, Futurewise
11 asserts, also creates an inconsistency because Housing Policy 1.3 requires the County
12 "ensure sufficient capacity of land is available to accommodate new construction and
13 redevelopment for housing growth targets as established in this Comprehensive Plan,"
14 along with Housing Policy 2.3 which require the County to "evaluate that available housing
15 types align with the needs of residents across income levels and demographic groups."³¹
16 Futurewise suggests because the County is a higher-cost community, something the County
17 disputes, it needed "... low- and mid-rise wood frame housing types..." to provide affordable
18 housing.³² Futurewise also favors high-rise buildings as a means of providing affordable
19 housing.³³ Futurewise suggests that without plan and zoning capacity for these housing
20 types, lower-income households are effectively excluded from the County.³⁴

21 A local jurisdiction must ensure that, taken collectively, adoption of and amendments
22 to their comprehensive plans and/or development regulations provide sufficient capacity of
23 land suitable for development within their jurisdictions to accommodate their allocated

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28 ²⁹ Cnty's Prehearing Br. at 5 (asserting no analysis of RCW 36.70A.100, .210, .290, and CPP Appendix F).

29 ³⁰ Futurewise Prehearing Br. at 2, (citing RCW 36.70A.020(4), RCW 36.70A.130(1) and (5)(a), and RCW
30 36.70A.320(3)).

31 ³¹ *Id.* at 4-5.

32 ³² *Id.* at 3; see also County's Prehearing Brief at 8 (referencing Table 5 in Section 3.4 of the Housing
Element Technical Analysis in Appendix A and comparing Index 64 pg. 522 and Index 75 pg. 774).

³³ *Id.*

³⁴ Futurewise Prehearing Br. at 4.

1 growth.³⁵ In determining whether the County did so, the Board considers the criteria adopted
2 by Commerce.³⁶ Futurewise asserts this affords Commerce guidance significant legal
3 weight in compliance determinations.³⁷ Perhaps, but ultimately the Board “considers” the
4 guidance, but determines compliance based on the GMA itself.³⁸ Futurewise also asserts
5 that the housing deficit “trigger mandatory implementation requirements.”³⁹ This Board does
6 not read a mandatory implementation requirement, but instead the requirement that a local
7 jurisdiction conduct a number of investigatory undertakings (e.g. document programs and
8 actions needed to achieve housing availability including gaps in local funding, determine
9 barriers such as development regulations, consider placing housing around employment
10 and public transportation, utilize Accessory Dwelling Units (ADU’s), and identify policies that
11 may have resulted in racially disparate treatment, etc.).⁴⁰ Commerce Guidelines supports
12 this and indicate local jurisdictions should review housing production trends to determine if
13 a barrier exists, and then determine the what kinds of barriers exist (e.g. development
14 regulations, process obstacles, land availability, or funding gaps), and then identify and
15 document appropriate programs and actions to overcome each barrier identified.⁴¹ The
16 Board does not read a requirement that the County make zoning changes prior to or
17 concurrent with the adoption of the comprehensive plan to address the County’s housing
18 deficit as claimed by Futurewise.⁴² In fact, Commerce’s guidance states: “It is not required
19 that a jurisdiction implement these programs and actions in advance of adoption of the
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24 ³⁵ RCW 36.70A.115.

25 ³⁶ Those guidelines are set forth in WAC Chapter 365-196 and are “to provide assistance in interpreting the
26 act, not to add provisions and meanings beyond those intended by the legislature.” WAC 365-196-020(3).
27 See also RCW 36.70A.320(3) (referencing RCW 36.70A.190(4)); Index No. 75 (Wash. State Dept. of
Commerce, Local Govt. Div. Growth Mgmt. Serv., *Book 2: Guidance for Updating Your Housing Element*
28 (2023).

29 ³⁷ Futurewise Prehearing Br. at 3.

30 ³⁸ WAC 365-196-030(3); see also *Strahm v. Snohomish County*, GMHB No. 15-3-0004, (Jan. 19, 2016, Final
31 Decision and Order) at 3.

32 ³⁹ Futurewise Prehearing Br. at 6 (citing RCW 36.70A.070(2)(d)).

⁴⁰ RCW 36.70A.070(2)(d); see also Index No. 64, Ordinance No. 637-2024 – Comprehensive Plan at PDF
pgs. 510-15 (Appendix A: *Final Report Housing Element Technical Analysis* (2024) at title p. – p. 2).

⁴¹ Index 75 at 53, 56.

⁴² Futurewise Prehearing Br. at 5-6.

1 comprehensive plan.”⁴³ However, as the Board notes below, that does not relieve the
2 County of its GMA obligations to accommodate its growth.

3 Futurewise next contends the County’s barrier analysis identified specific regulatory
4 obstacles limiting affordable housing production such as high minimum lot sizes, low
5 maximum densities, restrictive building heights, excessive setbacks, and burdensome
6 parking requirements, but the County failed to implement these or others zoning changes
7 that would sufficiently address the housing deficit by the County’s statutory deadline.⁴⁴ The
8 County indicates it upzoned almost every zone that accommodated low- and mid-rise
9 multifamily housing.⁴⁵ Additionally, structure height limits were increased and parking
10 requirements relaxed which increased capacity.⁴⁶ The County’s actions align with
11 Commerce guidance and did increase capacity.⁴⁷ Futurewise also indicates the County’s
12 reliance on expanding Urban Growth Areas (UGAs) to address housing shortfalls is
13 speculative and only serves to compound the issue, but that would require the County to
14 disregard what also appears to be Commerce’s guidance.⁴⁸

17 As the County explains it, through Office of Financial Management (OFM) projections
18 and the Countywide Planning Policies (CPPs), the unincorporated County was allocated
19 28,825 people between 2022 and 2044.⁴⁹ The County conducted a land capacity analysis
20 which explored four alternatives to address its population allocation.⁵⁰ Ultimately, the County
21 selected Alternative 2 as the base for establishing its Preferred Alternative because it was
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25 ⁴³ Index 75 at 63.

26 ⁴⁴ Futurewise Prehearing Br. at 7.

27 ⁴⁵ Cnty’s Prehearing Br. at 11-12 (noting and increase in the Commercial zone (C) from 10 to 30 dwelling units
28 per acre to 19-60 units per acre; Urban High zones (UH) from 19-30 to 19-60; Urban Medium zone (UM) from
29 10-18 to 10-30; Urban Low zones from 9 to 14 units; and Regional Center zone in Silverdale from 10-30 to
30 19+ (without a maximum)).

31 ⁴⁶ *Id.*

32 ⁴⁷ *Id.* (citing Index 75 at 42).

⁴⁸ Futurewise Prehearing Br. at 7; Index 75 at 42-43.

⁴⁹ Cnty’s Prehearing Br. at 10.

⁵⁰ *Id.* (referencing Index 49 (FEIS) at 96) (Alternative 1 “No Action”, 2 “Compact Growth/Urban Center Focus,”
3 “Dispersed Growth”, and “Preferred Alternative”).

1 the closest to achieving housing targets and directed growth towards urban areas.⁵¹ From
2 there, the County further reduced the surplus population by removing two potential UGA
3 expansions, noting the challenges “right-sizing” UGAs,⁵² and also reduced available land
4 by increasing critical areas buffers and adopting a new tree canopy requirement.⁵³ This
5 resulted in a 2,000 housing-unit deficiency which it addressed by increasing allowable
6 density in urban centers, resulting in a population capacity surplus of 6,067, with a total
7 capacity of 34,892.⁵⁴ Despite this, the County acknowledged, “the low-rise and mid-rise
8 multifamily zones have capacity for 7,175 units, which falls 1,179 [units] short of the 8,354
9 units needed for the 0%-80% income bracket,” and that there a 166-unit shortfall in the
10 moderate density zones for the 80%-120% AMI bracket.⁵⁵ The County says it attempted to
11 address the shortfall by theoretically increasing housing capacity, but each attempt “also
12 increased the population capacity and vice versa; similarly, every attempt to reduce the
13 population overcapacity lowered the ability to meet the housing targets.”⁵⁶

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16 Despite this, the County claims it made a significant step in the right direction by
17 increased capacity by upzoning several zones and increasing structure heights and
18 reduction parking requirements from single and multifamily development.⁵⁷ The County also
19 addressed capacity by creating additional incentives for ADUs in the urban areas, reduced
20 barriers to add another 381 ADUs, and its “pipeline projects” added another 607 units for a
21 total capacity of 7,175 units; this represents more than 5,100 new units (or a 250%
22 increase).⁵⁸ The County also increased capacity in moderately density zones adding 726
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25 ⁵¹ Cnty’s Prehearing Br. at 10.

26 ⁵² *Id.* at 9-10, discussing *Stalheim v. Whatcom County*, GMHB Case No. 10-2-0016c, (Apr. 11, 2011, Final
Decision and Order) at 16; *Thurston County v. WWGMHB*, 164 Wn.2d 329, 352, 190 P.3d 38 (2008).

27 ⁵³ Cnty’s Prehearing Br. at 10.

28 ⁵⁴ *Id.* at 10 (referencing Index 64).

29 ⁵⁵ *Id.* at 11 (referencing Index 64, pg. 530 (Table 5.4)).

30 ⁵⁶ *Id.* at 11.

31 ⁵⁷ *Id.* at 11-12 (noting and increase in the Commercial zone (C) from 10 to 30 dwelling units per acre to 19-
60 units per acre; Urban High zones (UH) from 19-30 to 19-60; Urban Medium zone (UM) from 10-18 to 10-
30; Urban Low zones from 9 to 14 units; and Regional Center zone in Silverdale from 10-30 to 19+ (without
a maximum)).

32 ⁵⁸ Cnty’s Prehearing Br. at 12.

1 units (a 63% increase).⁵⁹

2 The County also consider barriers that may exist such as unclear development
3 regulations and determined a number of actions could be utilized to address its identified
4 barriers: split-zoned site development regulations, moving single family subdivisions and
5 development standards into another title (because that apparently helps with public street
6 and street connectivity requirements imposed by the County), clarifying certain housing
7 definitions, and consolidating review (Performance Based Development permitting with
8 subdivision permitting).⁶⁰ The County also noted, as did Futurewise, that the County's
9 minimum lot sizes created a barrier which the County reduced in some areas or removed
10 altogether in certain other urban zones.⁶¹ The County also increased density, and removed
11 certain height restrictions.⁶² Additionally, the County reduced setbacks, reduced residential
12 parking requirements, and other development requirements.⁶³ The County also considered
13 process obstacles, such as reduced fees for ADU's and expedited permitting processes.⁶⁴
14 The County also considered land availability and environmental constraints to arrive at a
15 potential barrier and consolidated performance based development with subdivisions
16 permitting so review is done at one time.⁶⁵ The County also considered funding gaps, but
17 declined to increase contributions from the general fund (increasing taxes), donate surplus
18 lands, or enact an affordable housing property tax.⁶⁶ Besides increasing taxes or donating
19 land, the County's efforts are specifically identified by Commerce as strategies to address
20 a housing deficiency.⁶⁷

21 The County suggests that numerical targets and capacity may not necessarily align
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26 ⁵⁹ *Id.* at 13.

27 ⁶⁰ See Index 64 at PDF p. 535 (Appendix A: Housing Element Technical Analysis at 22); see also *id.* at 539-
28 40 (Appendix A: Housing Element Technical Analysis at 26-27).

29 ⁶¹ *Id.* at 536 (Appendix A: Housing Element Technical Analysis at 23).

30 ⁶² *Id.*

31 ⁶³ *Id.* at 537 (Appendix A: Housing Element Technical Analysis at 24).

32 ⁶⁴ *Id.* at 538 (Appendix A: Housing Element Technical Analysis at 25).

⁶⁵ *Id.*

⁶⁶ *Id.* at 34-35 (p. 547-48 Cnty's Record).

⁶⁷ Index 75 at 42-43, County's Exhibits p. 781-82.

1 at the Comprehensive Plan phase, and in those situations the jurisdiction may adopt
2 development regulations to help align the numbers *over time*.⁶⁸ The County argues that this
3 is consistent with Commerce Guidance and past Board decisions wherein the Board
4 discussed the inexactitudes inherent in long-range population planning and the unrealistic
5 expectation that a jurisdiction be exactly right in allocating populations.⁶⁹ Futurewise
6 counters that “the County’s citations to pre-HB 1220 Growth Board decisions arguing that
7 capacity analysis is ‘an inexact science’ misapplies outdated legal standards to current
8 mandatory accommodation requirements,” and the County’s reliance on cases decided
9 under the “encourage” standard are inapplicable to the present standard of “plan for and
10 accommodate” growth.⁷⁰ It appears the County also recognizes this standard when it
11 explained that the legislature has “significantly updat[ed] GMA’s Housing Goal and the
12 Housing Element of Comprehensive Plans to require that jurisdictions no longer just
13 encourage but must now plan for and accommodate housing affordable for all economic
14 segments, particularly housing for moderate (>80-120% area median income (AMI)), low
15 (>50-80% AMI), very low (>30-50% AMI), and extremely low (0-30% AMI) income
16 families.”⁷¹ Thus, a local jurisdiction’s comprehensive plan shall include a housing element
17 that makes adequate provisions for existing and projected needs of all economic segments
18 of the community.⁷²

19 While the GMA does not specifically define what it means to make adequate
20 provisions, Merriam-Webster defines “adequate” as “sufficient for a specific need or
21 requirement.” To Commerce, this means jurisdictions “must use the tools at their disposal
22 to create the conditions that make it feasible for developers to build the kinds of housing
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28 ⁶⁸ Cnty’s Prehearing Br. at 9 (emphasis added).

29 ⁶⁹ *Id.* citing *Bremerton v. Kitsap County*, CPSGMHB No. 95-3-0039c Order Rescinding Invalidity at 25-26 (Feb.
30 8, 1999); *Stalheim v. Whatcom County*, GMHB No. 10-2-0016c, FDO at 16 (Apr. 11, 2011).

31 ⁷⁰ Futurewise Reply at 1-2 (quotations in the original) (referencing *Bremerton v. Kitsap County*,

32 ⁷¹ *Id.* at 6, referencing HB 1220 (Laws of 2021, ch. 254), RCW 36.70A.020(4), RCW 36.70A.070, and RCW
36.70A.030(17), (24), (28), and (46)).

⁷² RCW 36.70A.070(2)(c) and (d).

1 needed at all income levels.”⁷³ Here, that need is 1,345 housing units to specifically provide
2 for this community’s most vulnerable members who have been left out of the equation. Thus,
3 it appears to this Board that the Legislature has made it clear, a local jurisdiction can no
4 longer align population allocations “over time.” Instead, local jurisdictions must account for
5 their allocated population either within their Comprehensive Plan or demonstrate how the
6 local jurisdiction’s development regulations will make adequate provisions for the existing
7 and projected needs of all economic segments of the community.⁷⁴ A deficit is no longer
8 permitted to languish unresolved. This deficit, as Futurewise argues, could have been cured
9 by upzoning approximately 24 acers within the Urban Low Residential designation.⁷⁵ The
10 Board, however, proscribes no specific action as the County has broad discretion in how it
11 addresses its population allocation. However, while the County has significantly increased
12 capacity, it nevertheless failed to make adequate provisions as required.⁷⁶ This failure also
13 created an internal inconsistency.
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16 Accordingly, the Board finds the County’s Comprehensive Plan failed to identify
17 sufficient capacity of land for housing for all income groups and make adequate provisions
18 for the existing and projected needs of all economic segments of the community.⁷⁷ Further,
19 that the failure to make adequate provisions created an internal inconsistency and also
20 violated the countywide planning policies.⁷⁸
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22 **Issue No. 9. Are the urban growth area expansions adopted by Ordinance No. 637-**
23 **2024, the comprehensive plan, the Comprehensive Plan Land Use Map, and Title 17**
24 **(Zoning), inconsistent with the requirement to be sized to accommodate planned**
25 **growth and inconsistent with the requirements for stable urban growth areas**
26 **violating RCW 36.70A.020(1) or (2), RCW 36.70A.070, RCW 36.70A.100, RCW**
27 **36.70A.110, RCW 36.70A.130(1), (3), or (5)(a), RCW 36.70A.210, RCW 36.70A.290(2), or**
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29 ⁷³ Index 75 at 52, Cnty’s Exhibits p. 791.

30 ⁷⁴ RCW 36.70A.070(2)(d).

31 ⁷⁵ Futurewise Reply at 3.

32 ⁷⁶ RCW 36.70A.070(2)(c) and (2)(d).

⁷⁷ RCW 36.70A.020(4), and RCW 36.70A.070(2)(c) and (2)(d).

⁷⁸ RCW 36.70A.070, RCW 36.70A.100, and RCW 36.70A.210.

1 **Multicounty Planning Policies MPP-RGS-4, MPP-RGS-5, MPP-RGS-6, MPP-RGS-12, or**
2 **RGS-Action7?**

3 Abandoned and therefore dismissed.⁷⁹

4
5 **Issue No. 10. Did the adoption of Ordinance No. 637-2024, the comprehensive plan,**
6 **the Comprehensive Plan Land Use Map, and Title 17 (Zoning), manage and reduce**
7 **rural growth rates over time consistent with the Regional Growth Strategy and the**
8 **regional vision to maintain rural landscapes, to protect resource lands, and the**
9 **environment violating RCW 36.70A.020(1), (2), (8), (9), or (10), RCW 36.70A.070, RCW**
10 **36.70A.070(5), RCW 36.70A.100, RCW 36.70A.130(1) and (5)(a), RCW 36.70A.210, RCW**
11 **36.70A.290(2), or Multicounty Planning Policies MPPRGS-4, MPP-RGS-14, or RGS-**
12 **Action-7?**

13 As an initial matter, the County contends Futurewise did not analyze certain aspects
14 of this issue.⁸⁰ Futurewise does not dispute this in its Reply. Issues not specifically
15 addressed below are abandoned.

16 Futurewise contends the Comprehensive Plan violates the GMA's rural growth
17 management requirements because it fails to implement mandated reductions in rural
18 growth rates, lacks concrete measures to achieve the Regional Growth Strategy's rural
19 population growth targets, and includes provisions that maintain rather than reduce rural
20 development capacity.⁸¹ According to Futurewise, increasing rural development rather than
21 reducing it violates the County's obligation under the GMA and the MMP's.⁸² Futurewise
22 contends the County's Buildable Lands Report documents that between 2013 and 2019 the
23 County saw a 29% increase in the rural area which exceeded the Regional Growth Strategy
24 of 8%, and the County's Comprehensive Plan intends to add 4,391 new residents between
25 2022 and 2044, or 15.2% of the County's projected rural growth.⁸³ Thus, Futurewise claims,
26 the County provides for no limited quantifiable targets, enforcement mechanisms, or
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30 ⁷⁹ Futurewise Prehearing Br. at 8.

31 ⁸⁰ Cnty's Prehearing Br. at 5 (asserting no analysis of RCW 36.70A.130(5) and .290).

32 ⁸¹ Futurewise Prehearing Br. at 13.

⁸² *Id.* at 8-9.

⁸³ *Id.* at 10 (citing MPP-RGS-14).

1 monitoring procedures to actually reduce rural growth rates over time.⁸⁴ Futurewise also
2 contends this violates the County obligation to analyze or comply with regional planning
3 requirements.⁸⁵

4 The County counters that Futurewise has misconstrued the County's population
5 growth numbers because the County relies on growth targets beyond the current planning
6 horizon, and that Futurewise's 8% figure is based on the entirety of the County, which
7 includes all cities, unincorporated UGAs, and rural lands.⁸⁶ Using the 2022-2044 planning
8 horizon, the County's rural population is actually 7.65%, and not 15.2% as Futurewise
9 claims, which is below the MPP target and consistent with the MPP's and CPPs.⁸⁷ The
10 County also contends Futurewise ignores the County's consistent downward trend and
11 because the goal is to reduce rural growth rates over time, something the County is
12 achieving it argues.⁸⁸ The County submits Futurewise is not using a proper comparison,
13 and the more accurate assessment would be to compare this update against the County's
14 2016 Comprehensive Plan wherein the County's rural allocation declined from 21.8%
15 compared to current figure of 7.65%.⁸⁹ The County also claims it has further incentivized
16 growth in the urban area and reduce barriers towards that end.⁹⁰

17
18
19 The Board agrees with the County and can see how the use of population numbers
20 beyond the current planning horizon caused confusion. Thus, Futurewise has failed to
21 convince the Board of its position as it appears to this Board that the County's rural growth
22 rate is below 8%. Accordingly, Issue 10 is dismissed.
23

24
25 **Issue No. 11. Did the adoption of Ordinance No. 637-2024, the comprehensive plan,**
26 **the Comprehensive Plan Land Use Map, Title 16 (Land Division and Development),**

27 ⁸⁴ *Id.* at 12.

28 ⁸⁵ *Id.* at 13 (referencing RCW 36.70A.100,.210).

29 ⁸⁶ Cnty's Prehearing Br. at 18.

30 ⁸⁷ *Id.* at 19 (referencing Futurewise's Prehearing Br. at 8, 10).

31 ⁸⁸ *Id.* at 19 (referencing Futurewise's Prehearing Br. at 10; Index 3).

32 ⁸⁹ *Id.* at 20. The County requests this Board take Official Notice of the County's 2016 Comprehensive Plan. The Board will do so pursuant to WAC 242-03-630(4). Likewise for Ordinance 511-2018, though the Board failed to find a citation to that Ordinance within the County's Prehearing Brief.

⁹⁰ *Id.* at 20.

1 and Title 17 (Zoning), include policies and regulations to direct growth away from the
2 Wildland-Urban Interface (WUI) and to implement measures to reduce wildfire ignition
3 and hazards violating RCW 36.70A.020(1), RCW 36.70A.070, RCW 36.70A.070(1), RCW
4 36.70A.100, RCW 36.70A.130(1) and (5)(a), RCW 36.70A.210, RCW 36.70A.290(2), and
5 Multicounty Planning Policy CCAction-4?

6 As an initial matter, the County contends Futurewise did not analyze certain aspects
7 of this issue.⁹¹ Futurewise does not dispute this in its Reply. Issues not specifically
8 addressed below are abandoned.

9 Futurewise asserts the land use element of the County's Comprehensive Plan failed
10 to include mandatory elements, specifically that it did not included planning tools such as
11 adoption of the wildland urban interface code or developing building and maintenance
12 standards consistent with the firewise USA program, that it did not direct growth away from
13 the wildland urban interface (wildfire prone landscapes); and that it did not include
14 multimodal emergency and evacuation routes.⁹² And, initially, that the County failed to adopt
15 a climate change and resiliency element. The County contends it is not yet required to adopt
16 this element until its transportation element is required to be updated.⁹³ Futurewise agrees
17 the transportation element is not yet required to be updated but asserts that does not excuse
18 the County from failing to include all required provisions within its updated land use
19 element.⁹⁴

20
21 The County argues that because the legislature delayed the County's requirement to
22 include climate change and resiliency within its transportation element, it was permitted to
23 delay other similar issues in its land use element.⁹⁵ The Board disagrees. While the County
24 was not required to adopt the climate change and resiliency element, it was required to
25 update its land use element. Under that element, the County was obligated to:
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27

28 ⁹¹ Cnty's Prehearing Br. at 5 (asserting no analysis of RCW 36.70A.020(1); RCW 36.70A.130(1), (5)(a); and
29 RCW 36.70A.290(2)).
30 ⁹² Futurewise Prehearing Br. at 12-14; Futurewise Reply at 6-7.
31 ⁹³ *Id.* at 22 (citing RCW 36.70A.070, 36.70A.095(1)(c), and 36.70A.130(10)) (The County's transportation
32 element is to be updated by December 31, 2029).
⁹⁴ Futurewise Reply at 7.
⁹⁵ Cnty's Prehearing Br. at 22.

1 reduce and mitigate the risk to lives and property posed by wildfires by using
2 land use planning tools, which may include, but are not limited to, adoption of
3 portions or all of the wildland urban interface code developed by the
4 international code council or developing building and maintenance standards
5 consistent with the firewise USA program or similar program designed to
6 reduce wildfire risk, reducing wildfire risks to residential development in high
7 risk areas and the wildland urban interface area, separating human
8 development from wildfire prone landscapes, and protecting existing
9 residential development and infrastructure through community wildfire
10 preparedness and fire adaptation measures.⁹⁶

9 Futurewise asserts the County has not adopted all or portions of the wildland urban interface
10 code or developed building and maintenance standards consistent with the firewise USA
11 program.⁹⁷ The County asserts that it does, and that the inclusion of other climate change
12 policies sufficiently address wildfire risks as required.⁹⁸ Climate Change Policy 1.1 provides:
13

14 Promote and incentivize creation and implementation of Firewise strategies in
15 coordination with County fire districts, the WA Department of Natural
16 Resources, community groups, and landowners in forest and urban interface
17 intermix areas.

18 Thus, the Board is not persuaded by Futurewise's argument that the County's
19 Comprehensive Plan has not implemented firewise strategies or similar programming. The
20 County also asserts additional climate change policies and strategies serve as a blueprint
21 for future action that sufficiently address wildfire hazards.⁹⁹ The County directs the Board to
22 Climate Change Policy 1.1 which requires the County to reduce the risks of wildfires
23 generally. And Policy 8.c which require the County to "identify and promote the development
24 of water supplies in wildland and wildland urban interface or intermix areas to increase
25 firefighting capabilities in rural and resource lands."¹⁰⁰ As well as Climate Change Policy
26 6.2, directing the County to focus new development in areas where exposure to climate
27
28

29 _____
30 ⁹⁶ RCW 36.70A.070(1).

31 ⁹⁷ Futurewise Prehearing Br. at 14; Reply at 6 (referencing RCW 36.70A.070(1)).

32 ⁹⁸ *Id.* at 24-25.

⁹⁹ *Id.* at 25.

¹⁰⁰ Cnty's Prehearing Br. at 24 (quotation in the original).

1 hazards is low, and Policy 7.1 which ensure construction “within or abutting urban forests
2 occurs in such a way as to protect the forest and the structures against the hazards of
3 wildfire spreading from one to the other.”¹⁰¹ The County also indicates its Goal 11, with a
4 primary focus of creating resilience against wildfire across forest lands and Wildland Urban
5 Interface/intermix areas, adopted policies that that manage growth within the wildland urban
6 interface, implement modern fire protection regulations for all new development in urban
7 interface / intermix areas, and require best management practices and modern fire
8 regulations on existing land development and forest lands.¹⁰² However, these polices do not
9 adopt the wildland urban interface code or portions thereof, nor are they building and
10 maintenance standards consistent with the firewise USA, or similar, program.
11

12 Futurewise claims that the County’s MPP’s also require the County to update its land
13 use element to address wildfire related issues. The County contends the MPPs are
14 insufficient to raise a “failure-to-revise” claim, and that it largely addressed wildfire hazards
15 in the County’s climate change element. However, here, Futurewise has focused on
16 elements that were required to be included in the land use element that are absent.¹⁰³
17 Specifically, that because the County is require to comply with the MPP’s, and the County’s
18 MPPs require the Comprehensive Plan identify multimodal emergency and evacuation
19 routes in its land use element, the County’s land use element is lacking a required
20 element.¹⁰⁴ The County asserts its MPP’s do not require specific routes, but instead
21 “mitigation measures addressing’ wildfire hazards including evacuation routes.”¹⁰⁵ Also that
22 there is no GMA requirement for these routes be set in the Comprehensive Plan or identified
23 at this stage, as the Comprehensive Plan is a blueprint for future action, and that other
24 policies and strategies address wildfire risk on a broader scope.¹⁰⁶ However, MPP CC-
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28 ¹⁰¹ *Id.* at 24.

29 ¹⁰² See Index 64 at 197 (Climate Change Strategy 11.2, 11.a, and 11.b).

30 ¹⁰³ Futurewise Reply at 7 (referencing RCW 36.70A.070(1)).

31 ¹⁰⁴ Futurewise Reply at 7 (referencing Index 1, Puget Sound Regional Council, *Vision 2050: A Plan for the
Central Puget Sound Region*, at 61 (MPP CC-Action-4)).

32 ¹⁰⁵ Cnty’s Prehearing Br. at 23 (quotations in the original).

¹⁰⁶ *Id.* at 23-24.

1 Action 4 indicates, in relevant part, that the County’s Comprehensive Plan “will identify
2 mitigation measures addressing these hazards including multimodal emergency and
3 evacuation routes... .”¹⁰⁷ The County asserts it is consistent with the MPPs because it
4 adopted measures to address wildfires, such as Climate Change Policy 1.3, which:

5
6 ensure emergency evacuation procedures, including safe evacuation routes
7 and arrival destinations exist, are in place, adequate to ensure life-safety, are
8 known and accessible during flooding, wildfires, and other emergencies.

9 Also, Climate Change Strategy 1.i which provides for development of a comprehensive
10 countywide wildfire mitigation and protection strategy, and Climate Change Strategy 1.j
11 which identify key evacuation sites to provide emergency sheltering during mandatory
12 evacuations. While the County these policies address wildfire risk, they do not address
13 multimodal emergency and evacuation routes which are required by MPP CC-Action-4.
14

15 Accordingly, the Board finds the County’s land use element was required to identify
16 multimodal emergency and evacuation routes and did not.¹⁰⁸ Further, that the County’s
17 Comprehensive Plan did not include planning tools such as adoption of portions or all the
18 wildland urban interface code or develop building and maintenance standards consistent
19 with the firewise USA program as required.¹⁰⁹
20

21 **Issue No. 12. Did the adoption of Ordinance No. 637-2024, the comprehensive plan,**
22 **the Comprehensive Plan Land Use Map, and Title 17 (Zoning), violate**
23 **RCW 36.70A.020(8), RCW 36.70A.030(6) and (23), RCW 36.70A.050(1) and (3),**
24 **RCW 36.70A.060(1), RCW 36.70A.070 and (1), RCW 36.70A.100, RCW 36.70A.130(1)**
25 **and (5)(a), RCW 36.70A.170, RCW 36.70A.210, RCW 36.70A.290(2), WAC 365-190-040,**
26 **WAC 365-190-050, the VISION 2050 Regional Growth Strategy and Multicounty**
27 **Planning Policy RGS-Action-7, and Kitsap County Countywide Planning Policy**
28 **Countywide Growth Pattern and Policies R1b and NE-1c because the County failed**
29 **to adopt criteria for the designation of agricultural lands of long-term commercial**
30 **significance that comply with the Growth Management Act and the Minimum**
31 **Guidelines and failed to designate and conserve the agricultural land that meets the**
32 **Growth Management Act definition of agricultural lands of long-term commercial**

¹⁰⁷ Index 1 at 61 (MPP CC-Action-4).

¹⁰⁸ RCW 36.70A.100,.210; Index 1 at 61 (CC-Action-4).

¹⁰⁹ RCW 36.70A.070(1).

1 **significance and Minimum Guidelines criteria including failing to properly zone those**
2 **lands?**

3 As an initial matter, the County asserts Futurewise did not address issues certain
4 aspects of this issue.¹¹⁰ Futurewise does not dispute this in its Reply. Issues not specifically
5 addressed below are deemed abandoned.

6 Futurewise contends the County failed to conduct a comprehensive countywide
7 analysis as required.¹¹¹ Futurewise contends, “because of the amendments to WAC 365-
8 190-040(10)(c) and WAC 365-190-050(1) clarify that a countywide analysis is required to
9 classify, designate and de-designate natural resource lands and the revisions to the long-
10 term commercial significance factors in WAC 365-190-050(3)(c)(i) and WAC 365-190-
11 050(3)(c)(vi) adopted after the last periodic update, [the] County was required to review its
12 decision to not to adopt designation criteria and designate agricultural lands of long-term
13 commercial significance taking these amendments into account.”¹¹² Futurewise asserts this
14 was particularly important because of improvements to the agricultural industry, decrease
15 in what is considered viable agricultural lands, and an increase to the County’s agricultural
16 lands overall warrants review.¹¹³

17 The County contends, first, that review occurred.¹¹⁴ That the County’s general criteria
18 for designation resources lands mirrors the states, and considers soils of statewide
19 significance, but after review the County found no lands met the criteria and they made no
20 changes.¹¹⁵ The County also asserts that the changes were insufficient to allow a failure-to-
21 revise challenge and that the changes involved the Washington Administrative Code and
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28 ¹¹⁰ Cnty’s Prehearing Br. at 5 (referencing RCW 36.70A.030(6), (23); RCW 36.70A.130(1), (5)(a);
RCW 36.70A.290(2)).

29 ¹¹¹ Futurewise Prehearing Br. at 15 (citing RCW 36.70A.130(1)(a), WAC 365-190-040(10)(C), -050(1)).

30 ¹¹² *Id.* at 16 (Futurewise also sees other changed “provisions” to include VISION 2050’s adoption in 2020,
MPP’s and Countywide Planning Policies (i.e. CPP R1b, CPP NE-1c) at 16-17).

31 ¹¹³ *Id.* at 17.

32 ¹¹⁴ Cnty’s Prehearing Br. at 26.

¹¹⁵ *Id.* at 26-28 (referencing Index 64, Index 16).

1 not the GMA.¹¹⁶ Lastly, the County asserts, correctly, that the amendments focused on de-
2 designation of natural resource lands.¹¹⁷

3 The Board agrees with the County that amendments to the WAC do not give rise to
4 a failure-to-revise challenge, but instead only amendments to the GMA.¹¹⁸ Further, the
5 County considered the new soils criteria and determined there we no farmlands eligible to
6 be designated.¹¹⁹ Also, as the County correctly notes, the legislation addressed de-
7 designation of farmland. Thus, the Board cannot find that a definite mistake has been made.
8 Accordingly, Futurewise has failed to meet its burden and Issue 12 is dismissed.
9

10
11 **Issue No. 13. Did the adoption of Ordinance No. 637-2024, the comprehensive plan,**
12 **the Comprehensive Plan Land Use Map, Title 16 (Land Division and Development),**
13 **and Title 17 (Zoning), protect surface and ground water as required by**
14 **RCW 36.70A.020(10), RCW 36.70A.070, RCW 36.70A.070(1), RCW 36.70A.070(5)(c)(iv),**
15 **RCW 36.70A.130(1) and (5)(a), RCW 36.70A.290(2), or RCW 36.70A.590?**

16 Futurewise contends the County's periodic update failed to include provisions that
17 comply with requirements relating to surface and groundwater resources.¹²⁰ The County
18 asserts these are not GMA requirements, that it addressed these requirements in 2018
19 when it adopted Ordinance 551-2018 in direct response to the legislation, and that
20 Futurewise has both failed to meet its burden and attempted to shift the burden to the
21 County.¹²¹ At the Hearing on the Merits, the County also asserted Futurewise was time-
22 barred from raising issues regarding their 2018 Ordinance in this action.¹²² Futurewise
23 asserted the County's record in this matter failed to produce a publication date for the 2018
24 Ordinance, and they were therefore not time-barred from raising it here. Futurewise also
25

26
27 ¹¹⁶ *Id.* (citing *Clallam County v Dry Creek Coalition*, 161 Wn. App. 366, 384-391, 255 P.3d 709 (2011)) ("this
28 holding applies to all the mandatory plan elements listed in former RCW 36.70A.070.").

29 ¹¹⁷ *Id.* at 29.

30 ¹¹⁸ *Thurston County v. W. Wash. Growth Mgmt. Hearings Bd.*, 164 Wn.2d 329, 345, 190 P.3d 38 (2008).

31 ¹¹⁹ Index 64; Index 16.

32 ¹²⁰ Futurewise Prehearing Br. at 21 (referencing RCW 36.70A.590).

¹²¹ Cnty's Prehearing Br. at 32-36.

¹²² See WAC 242-03-220(1) ("A petition ... shall be filed with the board within sixty days from the date of
publication by the legislative body...").

1 asserted that the 2018 Ordinance failed to limit any permit-exempt well to five thousand
2 gallons per day as required.¹²³ The Board would not anticipate the Index of Record in this
3 matter to include the publication from a 2018 Ordinance, nor would the County presume to
4 include it as the Issue deals with Ordinance No. 637-2024, and not Ordinance 551-2018.
5 Thus, the Board is not persuaded by Futurewise’s argument regarding the 2018 Ordinance
6 and find issues related to that Ordinance would not be properly before this Board in this
7 matter. Futurewise has not convinced this Board that this Ordinance is clearly erroneous.
8 Accordingly, issue 13 is dismissed.
9

10 **TERRY Y. YAMAMOTO and YAMAMOTO HYDROSEEDING**

11 **Issue No. 14. Did Kitsap County fail to coordinate its planning program activities**
12 **with the City of Port Orchard as required by RCW 36. 70A.100?**
13

14 Abandoned and dismissed.

15 **Issue No. 15. Did Kitsap County fail to be guided by the planning goals set forth in**
16 **RCW 36.70A.100 when it adopted Ordinance Number 637-2024?**

17 Abandoned and dismissed.

18 **Issue No. 16. Did Kitsap County fail to be guided by RCW 36.70A & RCW 36.70A.215**
19 **when it established the size of its or the cities' Urban Growth Areas?**
20

21 Abandoned and dismissed.

22 **Issue No. 17. Did Kitsap County fail to be guided by the provisions of RCW**
23 **36.70A.0740 when it adopted Ordinance Number 637-2024?**

24 Abandoned and dismissed.

25 **VI. ORDER**

26 Based upon review of the Petition for Review, the briefs and exhibits submitted by
27 the parties, the GMA, prior Board orders and case law, having considered the arguments of
28 the parties, and having deliberated on the matter, the Board finds:
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32 ¹²³ Futurewise Reply at 10 (referencing RCW 90.44.050).

- The County’s Comprehensive Plan failed to identify sufficient capacity of land for housing for all income groups and make adequate provisions for the existing and projected needs of all economic segments of the community, in particular for the low, very low, extremely low, and moderate-income levels of the County. This creates an internal inconsistency and violates the countywide planning policies.
- The County’s land use element failed to identify multimodal emergency and evacuation routes and did not include planning tools such as adoption of portions or all of the wildland urban interface code or develop building and maintenance standards consistent with the firewise USA program.
- As to Invalidity: Futurewise, in its Petition, requested invalidity but did not brief it or explain why invalidity may be appropriate in this matter and repeatedly requested remand for compliance.¹²⁴ The Board is delaying consideration of Invalidity and may address it at the time of compliance, if warranted.

Item	Date Due
Compliance Due	February 4, 2026
Compliance Report/Statement of Actions Taken to Comply and Index to Compliance Record	February 18, 2026
Objections to a Finding of Compliance	March 4, 2026
Response to Objections	March 16, 2026
Compliance Hearing Zoom link to be provided at a later date.	March 23, 2026 1:00 p.m.

Length of Briefs – A brief of 15 pages or longer shall have a table of exhibits and a table of authorities.¹²⁵ **Compliance Report/Statement of Actions Taken to Comply**

¹²⁴ Futurewise PHB at 4; Futurewise Reply at 3-4, 6, 12.

¹²⁵ WAC 242-03-590(3).

1 shall be limited to 25 pages, 35 pages for Objections to Finding of Compliance, and
2 10 pages for the Response to Objections.

3
4 SO ORDERED this 8th day of August, 2025.

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6
7 _____
Mark McClain, Presiding

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9 _____
Rick Eichstaedt, Board Chair

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Alex Sidles, Board Member
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27 **Note: This is a final decision and order of the Growth Management Hearings Board**
28 **issued pursuant to RCW 36.70A.300.¹²⁶**

29
30 _____
31 ¹²⁶ A party aggrieved by a final decision of the Board may appeal the decision to Superior Court within thirty
32 days as provided in 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.