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

Jocelynnne Fallgatter  
13231 Trout Farm Road  
Sultan, WA 98294  
(360) 793-2919

Jocelynnne Fallgatter, Jeff Kirkman, Plaintiffs,  
vs.  
City of Sultan,  
Respondent

**Case No.:**  
  
**PETITION FOR REVIEW**

**I. PETITIONERS**

Petitioners are Jocelynnne Fallgatter and Jeff Kirkman. Mrs. Fallgatter will represent herself. Mrs. Fallgatter is a resident of Snohomish County residing in the Urban Growth Area of the City of Sultan. The mailing address for Mrs. Fallgatter is 13231 Trout Farm Rd., Sultan, WA 98294, phone (360) 793-2919. Mr. Kirkman will represent himself. Mr. Kirkman is a resident of Snohomish County residing within the City limits of the City of

1 Sultan. The mailing address for Mr. Kirkman is 210 Woodwind Pl., Sultan, WA 98294,  
2 Phone (360) 799-2315.

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4 **II. ACTIONS FOR WHICH REVIEW IS SOUGHT**

5 This petition addresses two separate but related issues.

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7 Firstly, the City of Sultan has, since the adoption of its GMA mandated comprehensive  
8 plan, annexed lands beyond the confines of its adopted Urban Growth Boundary  
9 inconsistent with its Future Land Use Map, and rezoned lands within city limits. Lands  
10 affected by these actions have not been subjected to required land use analysis.  
11 Especially relevant to the issues of this appeal is the fact that no capital facilities  
12 element has ever existed for annexed lands that lie outside the City's adopted UGA, or  
13 for the rezoned areas within the city limits. Further, the capital facilities element of the  
14 City adopted comprehensive plan did not extend beyond the year 1999 and no action  
15 has since been taken by the City to restore compliance with the GMA. Petitioners  
16 contend that lands annexed by the City beyond the confines of the City adopted UGA,  
17 and lands rezoned within the city limits, must be subjected to the land use analysis  
18 required by RCW 36.70A prior to adoption of any citywide development regulations.  
19 This failure to act by the City substantially interferes with the goals of the GMA  
20 [RCW36.70A.020].

21  
22 Secondly, on July 17, 2004, the City of Sultan published its adoption of Ordinances 853-  
23 04 and 854-04. These citywide ordinances respectively amend SMC section 16.10.140 B  
24 Open Space Requirements, and SMC section 16.72.050 Recreational and Open Space

1 Standards to provide for off-site dedications of recreational facilities or financial  
2 contributions to the city park system. Petitioners seek action on these ordinances on  
3 the basis that the City has adopted development regulations that are not consistent with  
4 the adopted comprehensive plan [RCW 36.70A.040]. Because the City lacks a Capital  
5 Facilities Plan element, it has no way to ensure these ordinances promote the public  
6 interest as intended [RCW 36.70A.010] or to evaluate whether or not they implement  
7 the Comprehensive Plan [36.70A.130]. Without the proper planning tools, the City of  
8 Sultan cannot prepare a prioritized list of lands for potential sites for parks and  
9 recreation and an estimated date by which the lands will be needed [RCW 36.70A.150].  
10 Nor, can it make capital budget decisions with any certainty that the fees collected will  
11 enable the City to provide community parks that would meet or exceed the levels of  
12 service contemplated in the current comprehensive plan [RCW 36.70A.120]. It cannot  
13 even guarantee that the fees will be used within the specified time rather than being  
14 refunded without retaining open space developing parks and recreation facilities [RCW  
15 36.70A.020(9)].

### 17 III. ISSUES

- 18 1) Did the City fail to amend its Future Land Use Map and Comprehensive Plan to  
19 reflect annexations that occurred outside of the City's adopted Urban Growth Area  
20 (UGA) boundary and to reflect zoning changes within the city limits in compliance  
21 with RCW 36.70A.070?
- 22 2) Does this failure to act substantially interfere with RCW 36.70A.020(1), (2) & (12)?

- 1 3) Since annexation of lands outside the City's adopted UGA and rezones within the city  
2 limits, has the City failed to amend the Comprehensive Plan to reflect changes to the  
3 capital facilities element in compliance with RCW 36.70A.070 and RCW 36.70A.120?
- 4 4) Did the City fail to adopt a capital facility plan that extends beyond the year 1999 in  
5 compliance with RCW 36.70A.070(3)?
- 6 5) Does this failure to act substantially interfere with goal (12) of RCW 36.70A.020?
- 7 6) Is the City's adoption of Ordinances 853-04 & 854-04 inconsistent with the Growth  
8 Management Act for the following reasons:
- 9 a) These citywide ordinances effect land outside the boundaries of the Land Use  
10 Map contrary to RCW 36.70A.070;
- 11 b) RCW 36.70A.070(3) & (8) require a capital facilities element that addresses  
12 parks and recreation, and the City lacks a capital facilities plan;
- 13 c) RCW 36.70A.120 requires a city to perform its activities and make capital  
14 budget decisions in conformity with its comprehensive plan, and absent a  
15 capital facilities plan and a park plan the City cannot comply;
- 16 d) RCW 36.70A.130 requires that any change to development regulations shall  
17 be consistent with and implement the comprehensive plan;
- 18 e) RCW 36.70A.150 requires the City to prepare a prioritized list of lands  
19 necessary for the identified public uses including an estimated date by which  
20 the acquisition will be needed and without this list the City has no basis for  
21 decision making?
- 22 7) Do these failures substantially interfere with RCW 36.70A.020(9)?
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**IV. GMA STANDING**

Jocelynn Fallgatter is a Planning Commissioner for the City of Sultan, who is a property owner residing in and representing the Urban Growth Area of the City of Sultan and has participated in public hearings and meetings regarding these issues. Jeff Kirkman is a Planning Commissioner for the City of Sultan who is a property owner residing within the city limits of the City of Sultan and has participated in public hearings and meetings regarding these issues.

**V. ESTIMATED LENGTH OF HEARING**

The estimated length of the hearing is one half day.

**VI. RELIEF SOUGHT**

The petition requests that the Board:

- Issue findings and conclusions that the City of Sultan has failed to act in compliance with the Growth Management Act with regard to the issues raised in this petition, and that this failure substantially interferes with the goals of the act.
- Enter findings of non-compliance.
- Enter findings of invalidity.
- Recommend the Governor apply appropriate sanctions and/or enter a finding of non-compliance and/or invalidity with respect to those provisions found not to comply with the GMA in the event the City fails to come into compliance with the GMA by the scheduled compliance date.
- Schedule a compliance hearing shortly after the City's compliance date.

**VII. VERIFICATION**

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The undersigned petitioners state that we have read this Petition for Review and believe its contents to be true.

Respectfully submitted this 10<sup>th</sup> day of September, 2004,

By: \_\_\_\_\_

Jocelynn Fallgatter  
13231 Trout Farm Road  
Sultan, WA 98294

By: \_\_\_\_\_

Jeff Kirkman  
210 Woodwind Place  
Sultan, WA 98294