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COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
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No. 32240-8-III

**COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON**

SPOKANE COUNTY, a political subdivision of the State of Washington,

Petitioner,

v.

EASTERN WASHINGTON GROWTH MANAGEMENT HEARINGS
BOARD, NEIGHBORHOOD ALLIANCE OF SPOKANE COUNTY,
ET AL.,

Respondents.

**SPOKANE COUNTY'S
OPENING BRIEF**

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I. INTRODUCTION

Prior to recent amendments to the Growth Management Act (GMA), Chapter 36.70A of the Revised Code of Washington, Spokane County began the process of updating its Urban Growth Area (UGA) boundary consistent with the then required schedule to perform the update. On July 18, 2013, Spokane County adopted Resolution No. 13-0689 updating the UGA boundary by expanding the previous boundary. Respondents to this appeal, Neighborhood Alliance of Spokane, et al. (hereinafter “Neighborhood Alliance”) appealed the adopted UGA update to the Growth Management Hearings Board, Eastern Washington Panel, and shortly thereafter filed a dispositive motion with the Growth Management Hearings Board alleging a violation of the public participation procedural requirements of the GMA. Neighborhood Alliances’ motion alleged that Spokane County had failed to properly and accurately advise the public of the population growth projection that could be accommodated in the adopted UGA boundary.

The Growth Management Hearings Board received briefing for and against the Neighborhood Alliances’ dispositive motion and found against Spokane County. As will be fully developed in the body of this brief, the Growth Management Hearings Board misinterpreted the clear language of the GMA, misapplied the goals and requirements of the GMA to the facts before the Board, and drew conclusions that are not supported by substantial evidence

in the record taken as a whole. The Board's decision against Spokane County is clear error and should be reversed by this Court.

Following its finding against Spokane County solely regarding the alleged violation of public participation requirements of the GMA, the Growth Management Hearings Board then found the adoption of the UGA update to be invalid based not only upon the alleged violations of the public participation requirements, but also on other substantive grounds raised in the appeal generally though outside of the arguments regarding the public participation requirements. Without receiving briefing or argument on the merits of the appeal before the Growth Management Hearings Board, the Board accepted the allegations in the Petition for Review to the Board in a light most favorable to the Neighborhood Alliance, the moving parties before the Growth Management Hearings Board, and found that the UGA update was invalid based upon several issues and allegations related to compliance with the goals of the GMA and outside of the requirements related to public participation.

The Growth Management Hearings Board's finding of invalidity is not only unsupported on the basis of the alleged violation of the GMA public participation requirements, but it is also based upon allegations outside of the finding of the Board regarding the public participation requirements, and is thus unlawful procedure followed by the Board. Additionally the finding of

invalidity does not comply with the requirements for such a finding as stated in the GMA.

For the reasons set forth below, the decision of the Growth Management Hearings Board should be reversed and the matter remanded to the Growth Management Hearings Board for proceedings consistent with the law.

II. ASSIGNMENTS OF ERROR

Spokane County asserts that the Growth Management Hearings Board, Eastern Washington Panel's Order Granting Dispositive Motion Re: Public Participation, dated November 26, 2013, in Growth Board Case Number 13-1-0006c should be reversed on the grounds that:

1. The Growth Board has erroneously interpreted and/or applied the law;
2. The Growth Board's Order Granting Dispositive Motion Re: Public Participation is not supported by evidence that is substantial in light of the whole record before the court, including the record from the Growth Board below; and
3. The Order Granting Dispositive Motion Re: Public Participation is the product of unlawful procedure.

III. ISSUES RELATED TO ASSIGNMENTS OF ERROR

Related to the above assignments of error, Spokane County raises the following issues:

a. Whether a detailed description of 5 alternatives being considered by Spokane County for the possible expansion of the UGA boundary, each of which explicitly states the future population that could be accommodated in the proposed UGA boundary, is sufficient to give notice of the population growth projection that would be adopted along with the specific alternative?

b. Whether the Draft Environmental Impact Statement and the Final Environmental Impact Statement, which provides an analysis and specific description of each of 5 separate alternatives being considered by Spokane County for the possible expansion of the UGA boundary and which explicitly states the population growth projection that could be accommodated in each of the proposed UGA boundary alternatives, is sufficient to give notice of the population growth projection that would be adopted along with the specific alternative?

c. Whether a finding of invalidity by the Growth Management Hearings Board based upon grounds other than the specific non-compliance found by the Board is an unlawful procedure and thus grounds for reversal of the finding of invalidity?

IV. STATEMENT OF THE CASE

In 2006, Spokane County began preparations for the update of its UGA boundary, as was then required by RCW 36.70A.130(3)¹, anticipating that the required update would be complete by 2011 pursuant to the schedule mandated by the statute. AR² 000562 - 000565. Based upon the revision of RCW 36.70A.130 that revised the mandatory update schedule, Spokane County chose to complete the UGA update in 2013, thus adopting the challenged UGA update on July 18, 2013, by Spokane County Resolution No. 13-0689. AR 000011 - 000047.

The process of developing the 5 alternatives for the update of the UGA boundary and ultimately adopting an update spanned over 7 years and involved numerous public workshops and public hearings. AR 000562 – 000565; 001119 – 001239; 001260 - 001263. As required by the State Environmental Policy Act, Chapter 43.21C of the RCW, an environmental impact statement was prepared that considered each of the proposed 5 alternatives to the UGA update. Neighborhood Alliance acknowledges in their briefing to the Growth Management Hearings Board that the environmental analysis documents, which are clearly identified in the Notice of Hearing, illustrate that adoption of

¹ Effective 1997 through 2010 RCW 36.70A.130(3) read:
“Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area. ...”

² In the body of this brief reference to the Administrative will be designated by “AR” and the page number assigned in the Certified Record before the Growth Management Hearings Board.

alternatives 2 – 5 or any combination thereof would require a population growth projection higher than that originally chosen by Spokane County for the purpose of beginning the UGA update process. AR 000564 - 000566. Neighborhood Alliance has never alleged, and the Growth Management Hearings Board has never found, that the population growth that could be accommodated by any of the proposed alternatives for update of the UGA boundary is outside of the statutory limits set by the Office of Financial Management (OFM) future growth estimates for the period of the UGA update (2013 – 2033). See RCW 36.70A.110; *Thurston County v Western Washington Growth Management Hearings Board*, 164 Wn.2d 329, 351 – 52, 1990 P.3d 38 (2008). The Growth Management Act does not require that counties set any specific population growth projection, rather the GMA requires that the Urban Growth Area boundary established by a county be sufficient size to accommodate at least the lowest population growth projection and at most the highest population growth projection provided for the county by the Office of Financial Management. RCW 36.70A.110; *Thurston County v Western Washington Growth Management Hearings Board*, supra; *Diehl v Mason County*, 94 Wn. App. 645, 653, 972 P.2d 543 (1999). It is important to keep in mind also, that this is only one of several goals and requirements regarding the size and location of the UGA boundary. RCW 36.70A.110; *Miotke v Spokane County*, ___ Wn. App. ____, ___ P.3d __ (2014, Court of Appeals, Division II Case No. 44121-

7-II) citing *Quadrant Corp. v CPS Growth Management Hearings Board*, 154 Wn.2d 224, 240 – 41, 110 P.3d 1132 (2005).

The sole issue raised by Neighborhood Alliance in their dispositive motion before the Growth Management Hearings Board was that Spokane County had allegedly failed to provide notice prior to adoption of the UGA update that the population growth projection, that had been adopted in 2009 to begin the update process, could be changed depending on which of the 5 proposed alternatives the Board of County Commissioners chose regarding the UGA update. AR 01307 - 01323. Having made its finding that the alleged failure regarding public participation was non-compliant with the GMA, the Growth Management Hearings Board then considered whether the UGA update was invalid based not only upon the finding of non-compliance, but also on substantive issues raised in the Petition for Review before the Growth Management Hearings Board. The Growth Management Board had not held any hearings or made any findings or decision regarding the issues outside of the public participation issues. AR 01319 – 01321.

The Order Granting Dispositive Motion Re: Public Participation of the Growth Management Hearings Board is unsupported in the law or fact. The determination of invalidity is the product of unlawful procedure by the Growth Management Hearings Board. Both the order and determination of invalidity should be reversed.

V. ARGUMENT

A. STANDARD OF REVIEW.

The standard of review by this Court, of the Growth Board's Order Granting Dispositive Motion Re: Public Participation in Case No. 13-1-0006c, is found in Administrative Procedures Act (APA) at RCW 34.05.570(3):

[T]he court shall grant relief from an agency order in an adjudicative proceeding only if it determines that:

(a) The order, or the statute or rule on which the order is based, is in violation of constitutional provision on its face or as applied;

(b) the order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law;

(c) the agency has engaged in unlawful procedure or decision-making process, or has failed to follow prescribed procedure;

(d) the agency has erroneously interpreted or applied the law;

(e) the order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;

(f) the agency has not decided all issues requiring resolution by the agency;

(g) a motion for disqualification under RCW 34.05.425 or 34.12.050 was made and was improperly denied or, if no motion was made, facts are shown to support the grant of such a motion that were not known or were not reasonably discoverable by the challenging party at the appropriate time for making such a motion;

(h) the order is inconsistent with a rule of the agency unless the agency explains the inconsistency by stating facts and reasons to demonstrate a rational basis for inconsistency; or

(i) the order is arbitrary or capricious.

As indicated above in the assignments of error, Spokane County asserts that the Growth Management Hearings Board erred in regard to RCW 34.05.570(3)(c), (d) & (e).

B. THE GROWTH MANAGEMENT HEARINGS BOARD'S ORDER ON DISPOSITIVE MOTIONS RE: PUBLIC PARTICIPATION FAILS TO CITE ANY REQUIREMENT OF THE GMA VIOLATED BY SPOKANE COUNTY.

1. The Public Participation Guidelines Adopted by Spokane County Are GMA Compliant.

In their Dispositive Motion on Public Participation, Neighborhood Alliance cites with approval, that Spokane County has adopted Guidelines for Public Participation by Resolutions Nos. 98-0144 and 98-0788³. AR 00561. Neighborhood Alliance does not raise any objection to, nor does the Growth Management Hearings Board raise any criticism of, the Public Participation Guidelines. Additionally, the time for challenge of the Public Participation Guidelines before the Growth Management Hearings Board has long past, thus the Public Participation Guidelines (AR 000993 – 001027) adopted in 1998 are deemed GMA compliant. RCW 36.70A.320(1); *Thurston County v Western*

³ For the Court's convenience a copy of the Spokane County Public Participation Guidelines accompanies this brief as Appendix A.

Management Hearings Board, 194 Wn.2d 329, 345, 190 P.3d 38 (2008). No error is alleged or found in this case relative to the content or application of the Public Participation Guidelines.

2. The Alleged Change in the Population Growth Projection is Not A “Change to an Amendment to a Comprehensive Plan or Development Regulation” Referred to in RCW 36.70A.035(2)(a) and the Spokane County Public Participation Guidelines.

The Neighborhood Alliance’s Dispositive Motion on Public Participation (AR 0054 – 00575) cites alleged violations by Spokane County in the adoption of Resolution No. 13-0689 under RCW 36.70A.140, RCW 36.70A.035, and RCW 36.70A.130(2). AR 00559 – 00566. No other requirements of the GMA are alleged to have been violated. Neighborhood Alliance agrees that Spokane County has in fact adopted GMA compliant Public Participation Guidelines that almost mirror the requirements and language found in RCW 36.70A.035(2). AR 00560 – 00561. As noted above there is no dispute that Spokane County has adopted the Spokane County Public Participation Guidelines under Spokane County Resolution Nos. 98-0144 and 98-0788 in compliance with the requirements of RCW 36.70A.140, RCW 36.70A.035 and RCW 36.70A.130(2). AR 00561.

The Growth Management Hearings Board’s finding of non-compliance with the GMA is founded solely upon Neighborhood Alliance’s allegation that the population growth projection, adopted by Spokane County in 2009 to initiate the UGA update process was changed after notice to the public of what

the proposed amendment to the UGA boundary would entail. AR 01313; also AR 00563. The fatal error in Neighborhood Alliance's and in the Growth Management Hearings Board's logic is that the alleged change in the population growth projection, that Neighborhood Alliance complains of, is not a change to any of the 5 proposed alternative amendments to the UGA boundary. Nowhere do Neighborhood Alliance or the Growth Management Hearings Board allege or find that any of the 5 proposed alternative amendments under consideration were considered upon less than a full and robust public participation process. AR 00554 – 00571; 01307 – 01325. It is undisputed that all 5 of the proposals for update of the UGA boundary were fully disclosed, were fully reviewed in the Environmental Impact Statement, and were the subject of an extensive public participation and hearing process. AR 00562 – 00565.

The difference between the 2009 population growth projection and the capacity of each the 5 alternative amendments proposed for the UGA boundary update is shown in the Supplemental Environmental Impact Statement prepared and published by Spokane County. AR 00564. Neighborhood Alliance never alleges that any of the proposals were ever modified in any way from that what was advertised and always represented to the public, because no such modification was ever made. Thus, the alleged *change to an amendment to a comprehensive plan or development regulation* referred to in

RCW 36.70A.035(2)(a) and Spokane County Public Participation Guidelines (Resolution No. 98-0788, part 4.k.) did not occur in the adoption of Resolution No. 13-0689.

The Growth Board's authority is strictly limited to enforcing the clear and specific requirements of the GMA. *Thurston County v Western Washington Growth Management Hearings Board*, 162 Wn.2d 329, 341-342, 190 P.3d 38 (2008); *Woods v Kittitas County*, 162 Wn.2d 597, 612 n. 8, 174 P.3d 25 (2007); *Quadrant Corp. v Cent. Puget Sound Growth Mgmt. Hearing Bd.*, 154 Wn.2d 224, 240 n.8, 110, 110 P.3d 1132 (2005). As the product of intense legislative compromise, the GMA contains no provision for liberal construction; the Growth Board has no authority to infer requirements not specifically stated in the GMA. *Quadrant Corp.*, *supra* at 245 n.12, *citing*, *Skagit Surveyors & Eng'rs, LLC v Friends of Skagit County*, 135 Wn.2d 542, 565, 958 P.2d 962 (1998).

Strictly construing RCW 36.70A.035(2)(a) as the Growth Management Hearings Board is required to do, the alleged violation of the GMA and Public Participation Guidelines is not a change in any of the proposed amendments to the update of the UGA boundary. The alleged violation is no violation at all, thus, the Growth Management Hearings Board erred in its interpretation and application of RCW 36.70A.035 which is reversible error. RCW 34.05.570(3)(d).

C. THE UGA UPDATE PROCESS COMPLIED WITH ALL REQUIREMENTS OF THE GMA REGARDING PUBLIC PARTICIPATION.

1. The Challenged Notice of Hearing Complies with the Spirit of the Public Participation Guidelines.

Spokane County does not agree that the public participation requirements of the GMA or of the Spokane County Public Participation Guidelines apply to or control the change in the population growth projection that the Growth Management Hearings Board found to be error. Spokane County asserts, arguendo, that if the requirements are found to apply, the requirements of the public participation requirements of both the GMA and the Spokane County Public Participation Guidelines have been met in this case.

The purpose of its public participation requirement is stated throughout the GMA. That purpose is described as: that citizens, communities, local governments, and the private sector cooperate and coordinate with one another in comprehensive land use planning (RCW 36.70A.010); to provide notice to property owners and other affected and interested individuals, ... of *proposed amendments to comprehensive plans and development regulations*(RCW 36.70A.035(1)); and provide for the early and continuous public participation *in the development and amendment of comprehensive land use plans and development regulations.* (Emphasis Added) The public participation procedures adopted by the local jurisdictions shall provide for

broad dissemination of *proposed amendments and alternative amendments to comprehensive plans and/or development regulations*, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments. RCW 36.70A.140. RCW 36.70A.140 specifically instructs caution in application of the public participation requirements, stating that: “*Errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.*” (Emphasis added.)

The notice of hearing to which the Neighborhood Alliance objects clearly states that the purpose of the hearing is to “consider testimony related to the update of Spokane County’s Urban Growth Area (UGA)”. AR 001041. The notice goes on to explain the purpose of the UGA and limitations upon urban development in any area outside of the UGA. *Id.* The 5 alternative proposals are referred to in the Notice of Hearing and notice is given that any of the 5 alternatives or any combination thereof may be adopted by Spokane County as a result of the hearing. *Id.* Interested parties are referred to the environmental review documents for each of the 5 alternative proposals with notice that all of the information in the analysis will be considered. *Id.* Finally all are invited to attend and present testimony

in support or opposition to the proposed update of the UGA. *Id.* The 5 alternative proposals for the UGA boundary update indicate that if adopted each proposal would involve a revision to the projected population growth allocation. AR 000564.

The Growth Management Hearings Board did not find that the notice of hearing given by Spokane County failed to give notice of a *change to an amendment to a comprehensive plan or development regulation* as required by RCW 36.70A.035(2)(a), rather the Board found that “Spokane County significantly changed its 2031 UGA population growth projection to 121,112, without public notice and without an opportunity for public review and comment, and this change failed to comply with RCW 36.70A.035(2)(a)”. AR 001319. The Growth Management Hearings Board made that finding, notwithstanding the clear statements within the Notice of Hearing that: the purpose of the hearing is to “consider testimony related to the update of Spokane County’s Urban Growth Area (UGA)”; explanation of the purpose of the UGA and limitations upon urban development in any area outside of the UGA; a clear reference to the 5 alternative amendments proposed to the UGA boundary; and notice that any of the 5 alternatives or any combination thereof may be adopted by Spokane County as a result of the hearing. AR 001041.

The findings of the Growth Management Hearings Board ignore the clear language of RCW 36.70A.140 that *“[e]rrors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.”* Emphasis Added.

The spirit of the program and procedures is to give interested parties and entities the opportunity to review and then comment on the proposed amendments to the comprehensive plan and/or development regulations. Amendments that, if adopted, would include a revision to the projected population growth within the UGA. RCW 36.70A.010, RCW 36.70A.035, RCW 36.70A.130, RCW 36.70A.140. It is difficult to imagine that after a process spanning 7 years of developing and publishing the 5 alternative proposed amendments to the UGA boundary that anyone did not have ample opportunity to review the proposed amendments and comment on them at some forum or before the Board of County Commissioners.

In their Dispositive Motion on Public Participation, Neighborhood Alliance admits that any change in the UGA boundary has a direct impact upon the projected population growth within the UGA. AR 000566. Notwithstanding this clear understanding of the direct relationship between the UGA boundary and the projected population growth, Neighborhood Alliance asserts that notice of action to consider a change in the UGA

boundary would require a specific statement that the a change in the UGA boundary would drive an adjustment of the projected population growth. Neighborhood Alliance points out in their Dispositive Motion on Public Participation that the environmental analysis documents that are clearly identified in the Notice of Hearing illustrate that adoption of alternatives 2 – 5 or any combination thereof would require an adjustment of the population growth projection that was adopted for planning purposes at the beginning of the process. AR 000564. Neighborhood Alliance asks that the Growth Management Hearings Board and this Court to ignore all of the information available to the Neighborhood Alliance in the 5 alternative proposals and the voluminous environmental analysis documents published in the process of considering the UGA boundary update.

The spirit of the public participation requirements of the GMA and of the Spokane County Public Participation Guidelines are clearly met. Pursuant to RCW 36.70A.140, the lack of the specific language demanded by Neighborhood Alliance and found missing by the Growth Management Hearings Board in the Notice of Hearing shall not render Resolution 13-0689 out of compliance or invalid.

2. The Proposed Amendments to the UGA Boundary Are Specifically Identified and Analyzed in the EIS Pursuant to Chapter 43.21C of the RCW.

As discussed above, the Petition for Review to the Growth Management Hearings Board raises no objection or issue regarding any alleged failure of the EIS performed relative to Resolution 13-0689 or any of the 5 alternative proposals for establishing the UGA boundary. Neighborhood Alliance in their briefing to the Growth Management Hearings Board acknowledges that the EIS was completed and that it considered each of the 5 alternative proposals for the UGA boundary. AR 000564 – 000566.

The fatal error in the Growth Management Hearings Board's decision and the Neighborhood Alliance's argument before the Board is their reliance upon RCW 36.70A.035(2)(a) while ignoring the clear language of RCW 36.70A.035(2)(b). AR 001316 - 001318; AR 000560 – 000565. RCW 36.70A.035(2)(a) reads:

(2)(a) Except as otherwise provided in (b) of this subsection, if the legislative body for a county or city chooses to consider a change to an amendment to a comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the county's or city's procedures, an opportunity for review and comment on the proposed change shall be provided before the local legislative body votes on the proposed change. (Emphasis added)

While acknowledging that the EIS clearly considers all of the 5 alternative proposals for the UGA boundary and that each of the

proposals indicates the population that would be accommodated within the UGA boundary under that proposal, the Growth Management Hearings Board then erroneously concludes that, because the EIS also refers to the 2009 population growth projection, the difference in 4 of the alternate proposals between the population growth projection and the population that would be accommodated by the UGA boundary is a significant change to the proposed amendment to the comprehensive plan and thus RCW 36.70A.035(2)(b) does not apply. This ignores the clear language of RCW 36.70A.035(2)(a) and RCW 36.70A.035(2)(b).

RCW 36.70A.035(2)(a) only applies if RCW 36.70A.035(2)(b) does not apply. RCW 36.70A.035(2)(a). RCW 36.70A.035(2)(b) in pertinent part specifically states:

(b) An addition opportunity for public review and comment is not required under (a) of this subsection if:

(i) An environmental impact statement has been prepared under chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;

(ii) The proposed change is within the scope of the alternatives available for public comment;

There is no argument or finding that an environmental impact statement had not been prepared under chapter 43.21C RCW for the pending resolution being considered by Spokane County for the update of the UGA boundary. Neither is there any allegation or finding that all of the

proposed alternatives to the UGA boundary had not been considered in the environmental impact statement and/or have not been available for public comment.

RCW 36.70A.035(2)(a) does not control when an exception in RCW 36.70A.035(2)(b) applies. In this case, one of the exceptions does apply. The fact that four of the alternative UGA boundary proposals would accommodate more population growth than the 2009 projection, and thus a change in the projection would be necessary if any of those alternatives were chosen, is clearly stated and analyzed in the EIS documents. AR 001316 - 001318; AR 000560 – 000565.

Because the same exceptions that are found in RCW 36.70A.035(2)(a) and (b) are also found in the Spokane County Public Participation Guidelines, the same argument as above applies to the Guidelines and acts against the Growth Management Hearings Board's decision. AR 000560 – 000561.

In concluding that the change in the population growth projection was a change in the proposed amendments to the comprehensive plan, that RCW 36.70A.035(2)(a) applies, and that RCW 36.70A.035(2)(b)(i) did not apply is clear error by the Growth Management Hearings Board in the interpretation and application of the law. The Board's findings are clearly not supported by evidence that is substantial in the record before the Board

taken as a whole. The decision of the Growth Management Hearings Board should be reversed.

D. THE FINDING OF INVALIDITY BY THE GROWTH MANAGEMENT HEARINGS BOARD IS NOT SUPPORTED BY A PROPER FINDING OF NON-COMPLIANCE AND IS FURTHER MADE UPON UNLAWFUL PROCEDURE AND/OR A MISINTERPRETATION AND MISAPPLICATION OF THE GMA.

1. The Challenged Notice of Hearing Is GMA Compliant and Cannot Thus be the Basis of a Finding of Invalidity.

RCW 36.70A.302 requires that, prior to making a determination of invalidity, the Growth Management Hearings Board must make a finding of noncompliance and issue an order of remand under RCW 36.70A.300. Logic dictates that the determination of invalidity must be based upon the finding of noncompliance. As discussed above, the Growth Management Hearings Board's finding of noncompliance in its Order Granting Dispositive Motion Re: Public Participation is error on several grounds. The Order Granting Dispositive Motion Re: Public Participation cannot therefore form the basis of a determination of invalidity. The Growth Management Hearings Board erred in its determination of invalidity and thus the determination must be reversed.

2. The Determination of Invalidity Exceeds the Scope of the Dispositive Motion and the Finding of Noncompliance.

The Growth Management Hearings Board cites three bases generally for its determination of invalidity against Spokane County in this matter; (1) alleged violation of the requirements for public participation; (2) alleged violation of goals 1, 2, 3, and 12 of the GMA (RCW 36.70A.020); and (3) the risk of “vesting” of development permit applications under the adopted UGA boundary that is challenged by the Petition for Review before the Growth Management Hearings Board. AR 001321.

As discussed above, the finding of violation of the public participation requirements are without basis in law or in fact.

By relying on a basis other than the finding of noncompliance, the Growth Management Hearings Board has committed procedural error in making its determination of invalidity. It only makes sense that the determination of invalidity must be based upon the finding of noncompliance. Nothing in the GMA supports an argument that after a finding of noncompliance on any basis, the Growth Management Hearings Board is then free to consider any other basis for a determination of invalidity. Especially not a basis that is not fully briefed and argued before the Growth Management Hearings Board.

Although the Petition for Review before the Board alleges that there is a violation of GMA goals 1, 2, 3, and 12 (AR 000003 – 000005), those

allegations were not before the Growth Management Hearings Board in the Dispositive Motion on Public Participation. The Board made no finding of noncompliance with the identified goals in its decision on the motion. AR 001307 – 001319.

WAC 242-03-555 and 560 govern dispositive motions generally, dispositive motions on notice, and public participation specifically before the Growth Management Hearings Board. Neighborhood Alliance cites WAC 242-03-560 as the authority under which they bring their motion under consideration by the Growth Board at this time.

The only permitted dispositive motions identified in WAC 242-03-555 are motions to determine the board's jurisdiction, the standing of a petitioner, or the timeliness of the petition. WAC 242-03-560 authorizes only motions to challenge compliance with the notice and public participation requirement of the GMA. None of the goals that the Growth Management Hearings Board cites as a basis for its determination of invalidity pertains to public participation. Consideration of and a finding on any goal that is not a public participation requirement of the GMA is outside of the scope of WAC 242-03-560 and is not permitted under the WAC. The Board reached its conclusion, regarding the alleged violation of the goals of the GMA, based solely upon the allegations of the Neighborhood Alliance and without a hearing on the merits of the matter. To do so is a procedural

error, as indicated above, and a breach of Spokane County's right to be heard on the matter in a hearing on the merits after full briefing of the issues. RCW 36.70A.320(3). Based upon the procedural error, the determination of invalidity should not be allowed to stand.

Lastly, the Growth Management Hearings Board erroneously relied upon the fact that development permit applications might vest during the pendency of the appeal to the Board. AR 001321. The error of the Growth Management Hearings Board is evident in the clear language of RCW 36.70A.320: "(1) Except as provided in subsection (5) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption". On the subject of vesting, with relation to a finding of noncompliance or a determination of invalidity, the GMA is equally clear. RCW 36.70A.302 states: "(2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project."

The Growth Management Hearings Board cannot make a finding of noncompliance without first holding a hearing on the merits of the Petition

for Review. A determination of invalidity cannot be made until after a finding of invalidity. Vesting of development permit applications is recognized and occurs as an operation of law prior to a valid determination of invalidity. RCW 36.70A.302; RCW 36.70A.320. Because the GMA must be strictly construed and due to the limitations on the authority of the Growth Management Hearings Board, the Board has no jurisdiction to consider the possibility of vesting as a basis for a determination of invalidity. *Thurston County v Western Washington Growth Management Hearings Board*, supra; *Woods v Kittitas County*, supra; *Quadrant Corp. v Cent. Puget Sound Growth Mgmt. Hearing Bd.*, supra. Authority to determine invalidity on the basis of possible future vesting of development permit applications is not stated in the GMA and to do so is inconsistent with the well-established law on the subject. *Woodbury v Snohomish County*, __ Wn.2d ____, 322 P.3d 1219 (2014, Supreme Court Case No. 88045-6).

In essence, the Growth Management Hearings Board's decision says: "There are alleged violations of the GMA and if those allegations are true then development permit applications might vest and notwithstanding the legislature's clear language otherwise, vesting should not occur until the Growth Management Hearings Board has approved the challenged action." That is inconsistent with the clear statement in the statute and in the case law on the subject. The Order Granting Dispositive Motion Re: Public

Participation should be reversed in its entirety as being based upon a misinterpretation and misapplication of the law, as being unsupported by substantial evidence in the record as a whole, and for the Board employing unlawful procedure.

III. CONCLUSION

In finding that the Notice of Hearing regarding Resolution 13-0689 was noncompliant with the GMA, the Growth Management Hearings Board misinterpreted the law, misapplied the law, and relied upon allegations that are not supported in the record before the Board when taken as a whole. The alleged error is not related to any change in the proposed amendment to the UGA boundary and thus the cited error, RCW 36.70A.035(2)(a) is not applicable. There in fact is no violation of the GMA as alleged.

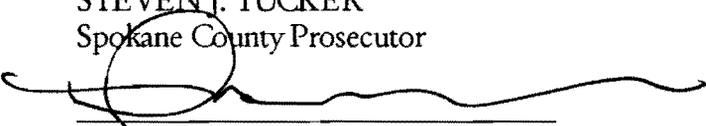
Compounding its error, the Growth Management Hearings Board relied not only upon the erroneous finding of noncompliance, but then went further and relied upon unproven allegations and upon the fear of possible vesting of development permit applications to make a determination of invalidity regarding Resolution 13-0689. In doing so, the Board engaged in unlawful procedure and again misinterpreted and misapplied the law on the subject.

There is simply no basis for the Growth Management Hearings Board's Order Granting Dispositive Motion Re: Public Participation in this

matter. Spokane County respectfully requests that the Board's decision be reversed and remanded to the Growth Management Hearings Board to enter an order on the motion consistent with the applicable law, denying the dispositive motion.

Respectfully submitted this 23rd day of June, 2014.

STEVEN J. TUCKER
Spokane County Prosecutor



DAVID W. HUBERT, WSBA # 16488
Deputy Prosecuting Attorney
Attorneys for Spokane County

PROOF OF SERVICE

I hereby declare under the penalty of perjury and the laws of the State of Washington that the following statements are true.

On the 24th day of June, 2014, I caused to be served a true and correct copy of the Appellant Spokane County's Opening Brief by the method indicated below, and addressed to the following:

Growth Management Hearing Board	<input checked="" type="checkbox"/>	Personal Service
P.O. Box 40953	<input checked="" type="checkbox"/>	U.S. Mail
Olympia, Washington 98504-0953	<input type="checkbox"/>	Hand-Delivered
	<input type="checkbox"/>	Overnight Mail
	<input type="checkbox"/>	Electronic Mail

Tim Trohimovich, Esq.	<input type="checkbox"/>	Personal Service
Futurewise	<input type="checkbox"/>	U.S. Mail
816 Second Avenue, Suite 200	<input type="checkbox"/>	Hand-Delivered
Seattle, Washington 98104	<input type="checkbox"/>	Overnight Mail
(Attorneys for Petitioner)	<input checked="" type="checkbox"/>	Electronic Mail

Rick Eichstaedt, Esq.	<input type="checkbox"/>	Personal Service
Center for Justice	<input type="checkbox"/>	U.S. Mail
35 West Main Avenue, Suite 300	<input type="checkbox"/>	Hand-Delivered
Spokane, Washington 99201	<input type="checkbox"/>	Overnight Mail
(Attorneys for Petitioner)	<input checked="" type="checkbox"/>	Electronic Mail

Kristen K. Mitchell	<input type="checkbox"/>	Personal Service
Assistant Attorney General	<input type="checkbox"/>	U.S. Mail
P.O. Box 40109	<input type="checkbox"/>	Hand-Delivered
Olympia, Washington 98504-0109	<input type="checkbox"/>	Overnight Mail
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(Attorneys for Petitioner - DOC)		

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Stacy A. Bjordahl, Esq.
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Witherspoon, Kelley
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DATED this 24th day of June, 2014 in Spokane, Washington.


TAMARA BALDWIN

Appendix A

98 0144

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF
SPOKANE COUNTY, WASHINGTON**

IN THE MATTER OF ESTABLISHING *SPOKANE*)
COUNTY GROWTH MANAGEMENT ACT (GMA))
PUBLIC PARTICIPATION PROGRAM GUIDELINES) RESOLUTION
PURSUANT TO RCW 36.70A.020(11) AND RCW)
36.70A.140)

WHEREAS, pursuant to RCW 36.32.120(6) the Board of County Commissioners of Spokane County, Washington, hereinafter referred to as *the Board*, has the care of county property and management of county funds and business; *and*

WHEREAS, the Board has the responsibility to provide for the public health, safety and general welfare of all residents within unincorporated Spokane County; *and*

WHEREAS, during the 1990 legislative session, the Washington State Legislature enacted the Growth Management Act (GMA) which was codified as, among other chapters, Chapter 36.70A RCW; *and*

WHEREAS, on July 1, 1993 Spokane County, subsequent to the Washington State Office of Financial Management (OFM) certifying that the county's population had increased by more than 10% in the previous ten years, was mandated to plan consistent with all requirements of the Growth Management Act; *and*

WHEREAS, the Board adopted the *Countywide Planning Policies and Environmental Analysis for Spokane County* on December 22, 1994 (BOCC Resolution #94-1719) subsequent to a 17 month cooperative effort involving all 12 local jurisdictions in Spokane County which included an extensive public participation program specifically designed and implemented to comply with RCW 36.70A.020(11), RCW 36.70A.210, and the 7/22/93 *Final Interlocal Agreement on a Process for Developing and Adopting Countywide Planning Policies*; and

WHEREAS, the Board on April 8, 1997, at the conclusion of an extensive 26 month countywide public participation process, approved Resolution #97-0321 which allocated the 20 year growth management population projection and adopted the *Spokane County Interim Development Regulations Designating Interim Urban Growth Areas (IUGAs)*; and

WHEREAS, an appeal, challenging the adequacy of Spokane County's *Regional Public Participation Program* for the designation of IUGAs and questioning whether or not the design and implementation of that program complied with the requirements of Chapter 36.70A RCW for designating IUGAs, was filed with the Eastern Washington Growth Management Hearings Board (EWGMHB Case #97-1-0001 - Howe vs. Spokane County); and

WHEREAS, the Eastern Washington Growth Management Hearings Board issued its *Final Decision and Order* in the matter of EWGMHB Case #97-1-0001 on June 19, 1997 finding Spokane County in compliance with the GMA public participation requirements for the designation of IUGAs and stating that Spokane County had "... not only met the requirements of RCW 36.70A.020(11) and RCW 36.70A.110(5) but has gone beyond those requirements ..." in public participation efforts for the establishment of the IUGAs; and

WHEREAS, pursuant to RCW 36.70A.020, planning goals are set forth to guide the development of comprehensive plans and development regulations; and

WHEREAS, the citizen participation goal in RCW 36.70A.020(11) states that counties must “ encourage the involvement of citizens in the planning process ...”; *and*

WHEREAS, the provisions of RCW 36.70A.140 - ‘Comprehensive plans - Ensure public participation’ are the heart of GMA’s public participation requirements and that section expands upon the goal in RCW 36.70A.020(11) by mandating that counties establish ‘enhanced’ procedures for “...early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans ...” in addition to any other existing statutory requirement for public participation; *and*

WHEREAS, Spokane County in the Spring, 1997 began the initial steps of updating the existing *Spokane County Generalized Comprehensive Plan* for the ultimate purpose of bringing it into compliance with GMA requirements; *and*

WHEREAS, Spokane County designed, established, and began on May 7, 1997 a public participation program, commonly known as the *Blueprints 2000 - Comprehensive Plan Update Work Group Review Process*, to assist in the review and evaluation of the existing comprehensive plan and its policies; *and*

WHEREAS, the *Blueprints 2000 - Comprehensive Plan Update Work Group Review Process* was specifically designed and established to be consistent with the requirements of RCW 36.70A.140 including being widely disseminated to the public in the following manner:

- media releases were issued to radio / television stations and newspapers serving the Spokane area announcing the start of the citizens work group process and its kick-off event; the ‘Vision Wall Campaign’,
- formal invitations were mailed to an extensive list of community leaders and interested citizens, who had participated previously in planning activities, requesting their attendance at the unveiling of the Vision Wall at a public open house and urging their involvement in the work group process,

- notices were placed in the April, 1997 edition of the *Blueprints 2000 Newsletter*, with a distribution of approximately 3,800, inviting the public to attend the Vision Wall unveiling and open house as well as announcing the initial meeting dates (May 12 & 15, 1997) for the four work groups,
- a commercial advertisement was placed in the *Spokesman-Review* on May 6, 1997 inviting the public to attend the May 7th open house as well as encouraging them to become actively involved in a work group,
- extensive media coverage (including local television and radio news reports and newspaper articles) of the May 7, 1997 unveiling of the Vision Wall by the Spokane County Commissioners and the Planning Commission,
- continuous notices placed on the Spokane County Division of Long Range Planning World Wide Web Internet site announcing all work group meeting dates along with electronic versions of meeting summaries and other work group documents,
- announcements of all the scheduled work group meetings were placed on the Spokane County Division of Long Range Planning call-in telephone line on a weekly basis,
- notice of work group meetings along with feature articles on the work groups' progress were provided in 8 issues of the *Blueprints 2000 Newsletter* (May thru December, 1997),
- scheduled traveling Vision Wall displays at local events and businesses, promoted an interactive electronic version of the Vision Wall on the World Wide Web Internet site, and randomly mailed 5,000 Vision Wall Survey Cards all for the purpose of soliciting public comments and promoting the work group process, and
- widespread distribution of various brochures which described the update of the comprehensive plan, the work group process, and the purpose of the Vision Wall as well as promoting the Spokane County Division of Long Range Planning World Wide Web Internet site and call-in telephone line as sources for up-to-date information; *and*

WHEREAS, the public participation experiences and insights gained from the programs established for adopting Countywide Planning Policies and

designating IUGAs, as well as the current comprehensive plan work group effort, have helped identify several locally successful public participation techniques and the best of those three models have been incorporated into the attached document entitled *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines*; and

WHEREAS, the attached document, *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines*, specifically implements the GMA public participation requirements of RCW 36.70A.020(11), RCW 36.70A.140, and WAC 365-195-600 and the guidelines have been utilized as applicable since May, 1997 and will be used to design and implement all GMA related public participation programs associated with development of both the comprehensive plan and development regulations implementing the plans as well as amendments to either; and

WHEREAS, pursuant to WAC 197-11-800(20), the proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be categorically exempt from threshold determination and EIS requirements of the State Environmental Policy Act (SEPA), Chapter 43.21C RCW.

NOW THEREFORE, BE IT RESOLVED, that the Board adopts the attached document entitled *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines* to implement the provisions of RCW 36.70A.020(11), RCW 36.70A.140, and WAC 365-195-600.

BE IT FURTHER RESOLVED, that adoption of the attached *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines*, relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment, is categorically exempt from SEPA threshold determination and EIS requirements pursuant to WAC 197-11-800(20).

BE IT FURTHER RESOLVED, that these guidelines are adopted by Spokane County to assure citizens, who wish to be involved with or heard on local planning issues, the opportunities to do so before decisions are made.

BE IT FURTHER RESOLVED, that the adopted guidelines pertain to those public participation programs established to accomplish the GMA actions listed in RCW 36.70A.140:

1. Development of comprehensive land use plans.
2. Development of development regulations implementing such plans.
3. Amendment of comprehensive land use plans and development regulations implementing such plans.

BE IT FURTHER RESOLVED, that the Board, in adopting the *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines*, directs that the following occur:

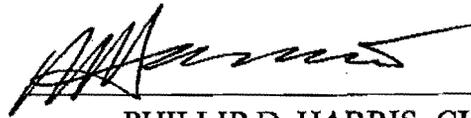
1. A notice publishing this resolution and the *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines* will be published once in the following newspapers within 30 days of adoption:
 - The Spokesman-Review;
 - The Cheney Free Press;
 - Spokane Valley News;
 - Tri-County Tribune; and
 - The Standard Register.
2. The guidelines should be described and explained in prepared media releases issued to radio, television, and newspapers serving the Spokane County area, as well as to readily identifiable community or neighborhood newsletters in Spokane County.
3. The *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines* should be summarized into an easy-to-understand brochure format for widespread and continual distribution.
4. The guidelines themselves or in summary format should be mailed to the existing GMA list of interested parties within 60 days of adoption.

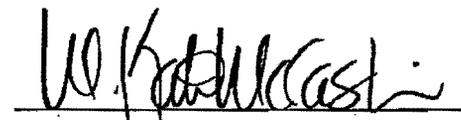
5. The guidelines themselves or in summary format should be made available in public places (*for example, libraries, offices and facilities accessible by the public, public meetings or hearings, etc.*) on a continual basis.
6. The guidelines will be placed on World Wide Web Internet site on a continual basis.
7. The guidelines will be implemented through specific public participation programs established in conjunction with the various tasks associated with development of the comprehensive plan, implementing regulations, or the amendment of either.

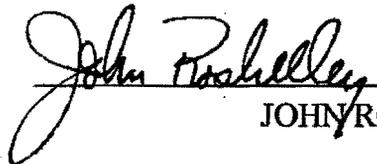
BE IT FURTHER RESOLVED, that the Board adopts all recitals herein as findings of fact in support of this action.

APPROVED BY THE BOARD this 24th day of February, 1998.

BOARD OF COUNTY COMMISSIONERS OF
SPOKANE COUNTY, WASHINGTON

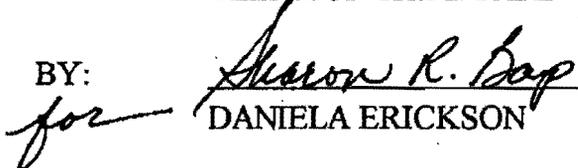

PHILLIP D. HARRIS, CHAIR


M. KATE McCASLIN, VICE-CHAIR


JOHN ROSKELLEY



ATTEST: WILLIAM E. DONAHUE
CLERK OF THE BOARD

BY: 
DANIELA ERICKSON



Growth Management Act (GMA)

PUBLIC PARTICIPATION PROGRAM GUIDELINES

Introduction

One cornerstone for the success of the Growth Management Act (GMA) is citizen participation. That concept is first articulated in the GMA planning goals, specifically RCW 36.70A.020(11), which states that jurisdictions shall "*...encourage the involvement of citizens in the planning process.*"

Other provisions of the GMA expand upon that public participation planning goal. Spokane County must establish

"...procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans."

[RCW 36.70A.140 and WAC 365-195-600]

That early and continuous mandate sets a standard for 'enhanced' public participation to be used continuously throughout the local planning processes. The enhanced procedures augment the minimum legal public notification requirements found in Chapter 36.70 RCW - the Planning Enabling Act and supplements the Open Public Meetings Act. Methods to get the public to participate are not specified in the GMA laws. The development, adoption, and implementation of a local public participation program is left to Spokane County's own determination pursuant to the requirements of RCW 36.70A.140 and WAC 365-195-600.

Spokane County's *Growth Management Act (GMA) Public Participation Program Guidelines* form the basic framework for achieving an interactive dialogue between local decision-makers, the staff, and the public. These guidelines apply throughout

the local planning process leading to adoption of the comprehensive plan, development regulations to implement the plan, and amendments to either. Specific public participation programs should be implemented consistent with the guidelines established here.

Various county bodies have certain responsibilities under the requirements of GMA and in terms of these public participation guidelines. Three bodies have major roles in the local planning process:

- **Spokane County Board of County Commissioners (BOCC)**
- **Spokane County Public Works Department - Division of Long Range Planning**
- **Spokane County Planning Commission**

All three share the responsibility for following these guidelines, implementing specific public participation programs based upon these guidelines, and employing any other methods that bring the public actively into the local GMA planning process. Ultimately, it is the Board of County Commissioners who decide on the direction and content of policy documents or regulations that they find to be in the community's best interest.

The guidelines that follow are intended to guide and form the basis for public participation programs related to GMA and Spokane County's local planning process. Spokane County intends to comply with these guidelines as appropriate to a situation. However, it should be noted that legitimate deviations from the guidelines may be warranted, given specific circumstances. The GMA, specifically RCW 36.70A.140, states that

"... errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed."

Public Participation Guidelines

1. Communication programs and information services

Spokane County will develop, implement, and maintain communication programs and information services for the purpose of involving the broadest cross-section of the community in the planning process.

To ensure the overall success of the GMA planning process, Spokane County must take steps to involve the public in a meaningful manner. To accomplish that, there are several things that must occur. First, the public should understand the basic concepts of GMA, the local planning process, and how their own participation can affect local plans and regulations. Secondly, the public needs to know how and when to get involved. And finally, they need to understand how their input is used.

Spokane County will inform the public through various techniques including, but not limited to, the following.

- a. Produce and circulate, on a regular basis, a Spokane County newsletter regarding GMA, local planning issues, and meeting or hearing notices.
- b. Develop and maintain a World Wide Web Internet site containing information from various agencies concerning the local GMA planning process, meeting and hearing notices, summaries, documents, or maps.
- c. Establish, advertise, and maintain a call-in telephone line which announces GMA meetings and hearings and the availability of documents.
- d. Compile, on an ongoing basis, a list of parties interested in GMA and local planning issues. Names should come from meeting and hearing sign-in sheets, written correspondence, and known community groups, as well as specific requests to be included. The list should be used for newsletter circulation, special mailings, and notices as appropriate.

- e. Issue press releases, public service announcements, and media packets as appropriate to inform the public about GMA issues, local planning activities, availability of documents, or meeting and hearing dates.
- f. Establish a 'speakers bureau' consisting of a variety of staff and officials with GMA expertise who are willing to explain, as well as facilitate public discussions about, growth management and local planning issues.
- g. Design, display, and distribute printed and visual material to inform the public about the local planning process and engage them in relevant discussions.

2. Broad dissemination of proposals and alternatives

Spokane County will distribute documents so that they are readily available in a timely fashion to all who want to review them.

Documents that contain or describe proposed plans, policies, maps, regulations, or the amendment of those should be readily available. Supporting documents such as reports, analyses, recommendations, or environmental reviews should also be easily accessible. Documents must be available for review well in advance of opportunities for public discussion or testimony.

Spokane County will take the following steps to ensure that pertinent documents are available in a timely manner to those who want or need them.

- a. Proposals or alternatives should be published and available 10 days prior to a public meeting or hearing scheduled for their discussion or a decision.
- b. When scheduled for discussion or decision, proposals or alternatives should be available as follows:
 - i. Electronic versions accessible through the World Wide Web Internet site.
 - ii. A hard copy will be sent to Spokane County Library District Branches and City of Spokane Libraries as appropriate. The likely geographic area to be affected by a proposal should be the basis on which branch libraries receive documents. Proposals or alternatives of a countywide nature should be sent to all branches.

- iii. Hard copies for checkout or in-office review at the Division of Long Range Planning and, as appropriate, through other divisions or agencies.
 - iv. Copies available for the cost of reproduction through the Division of Long Range Planning or, as appropriate, through other divisions or agencies.
- c. Meeting and hearing notices should state the availability and location of documents describing proposals and alternatives or other supporting documents being considered.

3. Public meetings after effective notice

Spokane County will publicize public meetings and hearings to ensure that the broadest cross-section of the community is made aware of the opportunities to become involved in the planning process.

At a minimum, the requirements of RCW 36.70 pertaining to public hearings and notification will always be met. However, Spokane County will go beyond the legal minimums to ensure the public is aware of meetings or hearings and of their opportunity to be involved in local planning efforts.

Public meetings (that include activities such as workshops, open houses, or design studios) are opportunities for open discussion between the public, staff, and decision-makers. Meetings do not normally involve public testimony. On the other hand, public hearings are more formalized, legal proceedings where public testimony is presented to a decision-maker for consideration. The result of a public hearing generally consists of an official recommendation in the case of the Planning Commission or a legislative decision by the Board of County Commissioners.

The following guidelines provide direction regarding the number, location, and notification of meetings or hearings relative to the local GMA planning process.

- a. At least one public hearing will be conducted prior to making either a recommendation or an official decision on a comprehensive plan, a development regulation implementing the plan, or an amendment to either.
- b. As appropriate, given the specific proposal, public meetings should be hosted prior to the public hearing(s) as a means to involve and educate the public and

solicit their opinions, reactions, or suggestions. The number of meetings should be based upon the specific circumstances of the case.

- c. If a proposed plan, regulation, or amendment pertains to only a portion or subarea of the county, then meetings should be held at a public facility within that area or in close proximity to the area.
- d. Public meetings for proposed plans, regulations, or amendments which are applicable countywide should be held at a public location central and convenient to the public. Meetings at public facilities within each of the county commissioner districts (or some other logical subarea scheme) would be preferable in these instances.
- e. A variety of notification techniques should be used to advertise meetings and hearings. The following list, while not exhaustive, represents those that Spokane County will generally employ. Ultimately, the specifics of the proposal may dictate the best technique or combination of techniques to be used. Additional advertising methods may be identified and used as warranted by the circumstances.
 - i. Legal notices as required by applicable statutes.
 - ii. Notices in the GMA newsletter.
 - iii. Posting on Spokane County's World Wide Web Internet site.
 - iv. Announcements on the GMA call-in telephone line.
 - v. Mailings to the compiled list of interested parties.
 - vi. Media releases.
 - vii. Commercial display advertisements, as appropriate, in countywide or regional newspapers.
 - viii. Notices in community or neighborhood newsletters as appropriate or available.
- f. Public meetings or hearings should be advertised at least 10 days before the scheduled date.
- g. Working subgroup meetings may deviate from these guidelines at times due to the unique circumstances associated with their function. These include the rapid, high volume, recurring meetings of technical committees, subcommittees, or work groups which focus their efforts on specific issues or limited supporting tasks (as opposed to meetings of a quorum of the Planning

Commission or Board of County Commissioners in which they consider complete draft plans, regulations, or amendment proposals meant to result in a formal recommendation or official decision). In all cases, the work program for subgroups should be guided by #3a thru #3f above as applicable as well as the Open Public Meetings Act as applicable and will include at least the following elements.

- i. The initial meeting(s) of the group should be widely advertised through the most appropriate method(s) in #3e above.
- ii. Sign-in sheets should be used at each meeting to develop a specific mailing list for the group itself, as well as adding to the compiled list of parties interested in GMA and local planning issues.
- iii. Meeting summaries should be prepared and available as soon as possible after the meeting.

4. Provision for open discussion

Spokane County will ensure that public meetings allow for an open discussion of the relevant issues and that hearings allow for appropriate public testimony.

When public meetings or hearings are conducted, Spokane County will ensure that those who choose to participate in the planning process have the opportunity to actually take part and have their opinions heard. Towards that end, the following actions will be implemented.

- a. Establish an agenda that clearly defines the purpose of the meeting or hearing, the items to be considered, and actions that may be taken. If available early, the agenda should be included or summarized in the notice(s).
- b. The scheduled date, time, and place should be convenient so as to encourage the greatest number of people to attend.
- c. A clearly identifiable facilitator or chair will conduct the meeting or hearing in an orderly fashion to ensure that all attendees have an opportunity to discuss issues, offer comments, or provide testimony.

- d. The facilitator or chair should provide introductory remarks outlining the purpose of the meeting or hearing and describing how the attendees can best participate and how their input may be used.
- e. As appropriate, provide a brief overview of any documents or proposals to be considered.
- f. All persons desiring to participate should be allowed to do so. However, specific factors, such as the purpose of the meeting, size of attendance, time factors, or other opportunities to participate, may suggest some appropriate constraints to be applied. Rules of order for the meeting or hearing should be set forth clearly by the chair or facilitator.
- g. All attendees will be encouraged to identify themselves on sign-in sheets.
- h. All meetings and hearings should be tape recorded.
- i. Summaries should be prepared and available as soon as possible following a meeting or hearing. As appropriate, summaries should include a listing of relevant issues, comments, or responses. In the case of public hearings, the findings and decision document should serve as the actual summary.
- j. Special arrangements for meetings or hearings will be made under the provisions of the Americans with Disabilities Act (ADA) with advance notice.

5. Opportunity for written comments

Spokane County will encourage submission of written comments or written testimony throughout the planning process.

In many instances, detailed, technical, or personal comments can be best expressed and understood in written format. The following steps should be taken to encourage written comments.

- a. As appropriate, notices for meetings and hearings should include the name and address of the person(s) to whom written comments should be sent, along with

the deadline for submitting comments.

- b. Persons speaking or testifying should be encouraged to concisely express their comments verbally and provide specific details in written format.
- c. The deadline for submitting written comments, if allowed subsequent to a meeting or hearing, should be clearly announced by the facilitator or chair.
- d. Innovative techniques, as appropriate to a specific planning task, should be developed and implemented to solicit and document the public's concerns, suggestions, or visions for the community. Techniques may include, but are not limited to, surveys, interactive displays, or the innovative use of electronic communication technologies.

6. Consideration of and response to public comments

Spokane County will consider relevant public comments and public testimony in the decision-making process.

Various methods for informing and involving the public, publicizing proposals, and soliciting public opinion or comments have been established in guidelines #1 thru #5 above. Many of those represent the initial steps for bringing public comments into the decision-making process. Other guidelines set the stage for decision-makers to consider those comments. *(For example, tape recording meetings or hearings (#4h) and soliciting written comments (#5a and #5b) allow decision-makers the opportunity to review and consider relevant information in detail before a decision is actually made.)*

Additional steps will be taken so that comments and recommendations from the public are reviewed by the decision-makers for relevancy. Those would include the following.

- a. Time should be reserved subsequent to the close of a hearing or comment deadline and prior to an actual decision so that the decision-maker(s) can adequately review all relevant material or comments.

- b. Reconvening a hearing for the purpose of addressing comments is an option that the decision-maker(s) may use on a case-by-case basis.
- c. Substantive comments pertaining to studies, analyses, or reports, along with necessary responses, should be included in the published document itself (such as occurs in the SEPA process of developing a Draft Environmental Impact Statement (EIS) and then a Final EIS with comments and responses).
- d. The record (such as tape recordings, written comments or testimony, documents, summaries, etc.) will be compiled and maintained by the appropriate Spokane County agency(ies). That record will be made available to the decision-maker(s) for their consideration and review prior to a decision.
- e. Relevant comments or testimony should be addressed through the findings-of-fact portion of the decision-maker's written decision or recommendation.

98-0788

98 0788

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF
SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF AMENDING THE *SPOKANE*)
COUNTY GROWTH MANAGEMENT ACT (GMA)) RESOLUTION
PUBLIC PARTICIPATION PROGRAM GUIDELINES TO)
INCORPORATE PROVISIONS OF RCW 36.70A.035)

WHEREAS, pursuant to RCW 36.32.120(6) the Board of County Commissioners of Spokane County, Washington, hereinafter referred to as *the Board*, has the care of county property and management of county funds and business; *and*

WHEREAS, the Board has the responsibility to provide for the public health, safety and general welfare of all residents within unincorporated Spokane County; *and*

WHEREAS, during the 1990 legislative session, the Washington State Legislature enacted the Growth Management Act (GMA) which was codified as, among other chapters, Chapter 36.70A RCW; *and*

WHEREAS, the Board adopted the *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines* on February 24, 1998 through Resolution #98-0144 in order to implement the provisions of RCW 36.70A.020(11), RCW 36.70A.140, and WAC 365-195-600; *and*

WHEREAS, Chapter 36.70A RCW has been amended periodically by the Washington State Legislature and specifically the legislature recently added RCW 36.70A.035 entitled 'Public participation - - Notice provisions' which affects the established *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines*; *and*

WHEREAS, the Board being desirous of implementing the public participation requirements of the GMA have incorporated the provision of RCW 36.70A.035 into the *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines* as indicated in the attached document dated September 29, 1998; and

WHEREAS, the attached document, *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines* (dated September 29, 1998), with its indicated amendments specifically implements the GMA public participation requirements of RCW 36.70A.020(11), RCW 36.70A.140, WAC 365-195-600, and RCW 36.70A.035; and

WHEREAS, pursuant to WAC 197-11-800(20), the proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be categorically exempt from threshold determination and EIS requirements of the State Environmental Policy Act (SEPA), Chapter 43.21C RCW.

NOW THEREFORE, BE IT RESOLVED, that the Board adopts the attached document entitled *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines* (dated September 29, 1998) to implement the provisions of RCW 36.70A.020(11), RCW 36.70A.140, WAC 365-195-600, and RCW 36.70A.035.

BE IT FURTHER RESOLVED, that adoption of the attached *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines* (dated September 29, 1998), relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment, is categorically exempt from SEPA threshold determination and EIS requirements pursuant to WAC 197-11-800(20).

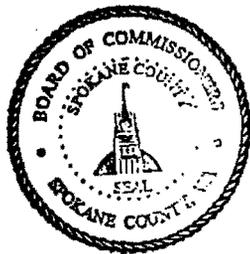
BE IT FURTHER RESOLVED, that the Board, in adopting the *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines* (dated September 29, 1998), directs that the following occur:

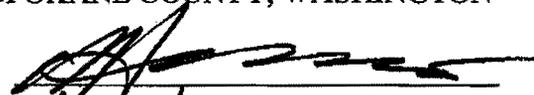
1. The guidelines themselves or in summary format should be made available in public places (*for example, libraries, offices and facilities accessible by the public, public meetings or hearings, etc.*) on a continual basis.
2. The guidelines will be placed on World Wide Web Internet site on a continual basis.
3. The guidelines will be implemented through specific public participation programs established in conjunction with the various tasks associated with development of the comprehensive plan, implementing regulations, or the amendment of either.

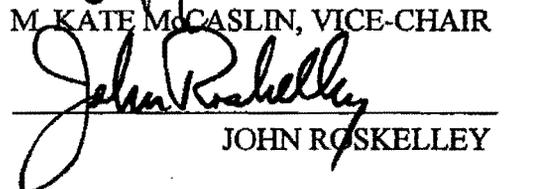
BE IT FURTHER RESOLVED, that the Board adopts all recitals herein as findings of fact in support of this action.

APPROVED BY THE BOARD this 29th day of September, 1998.

BOARD OF COUNTY COMMISSIONERS OF
SPOKANE COUNTY, WASHINGTON




PHILIP D. HARRIS, CHAIR

M. KATE McCASLIN, VICE-CHAIR

JOHN ROSKELLEY

ATTEST: WILLIAM E. DONAHUE
CLERK OF THE BOARD

BY:


DANIELA ERICKSON



Growth Management Act (GMA)

PUBLIC PARTICIPATION PROGRAM GUIDELINES

ORIGINAL ADOPTION: BOCC Resolution #98-0144 February 24, 1998
AMENDED: BOCC Resolution # _____ September 29, 1998
98 0788

Introduction

One cornerstone for the success of the Growth Management Act (GMA) is citizen participation. That concept is first articulated in the GMA planning goals, specifically RCW 36.70A.020(11), which states that jurisdictions shall "...encourage the involvement of citizens in the planning process."

Other provisions of the GMA expand upon that public participation planning goal. Spokane County must establish

"...procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans."

[RCW 36.70A.140 and WAC 365-195-600]

That early and continuous mandate sets a standard for 'enhanced' public participation to be used continuously throughout the local planning processes. The enhanced procedures augment the minimum legal public notification requirements found in Chapter 36.70 RCW - the Planning Enabling Act and Chapter 36.70A - Growth Management Planning by Selected Counties and Cities and supplements the Open Public Meetings Act. Methods to get the public to participate are not specified in the GMA laws. The development, adoption, and implementation of a local public participation program is left to Spokane County's own determination pursuant to the requirements of RCW 36.70A.140, RCW 36.70A.035, and WAC 365-195-600.

Spokane County's *Growth Management Act (GMA) Public Participation Program Guidelines* form the basic framework for achieving an interactive dialogue between local decision-makers, the staff, and the public. These guidelines apply throughout the local planning process leading to adoption of the comprehensive plan, development regulations to implement the plan, and amendments to either. Specific public participation programs should be implemented consistent with the guidelines established here.

Various county bodies have certain responsibilities under the requirements of GMA and in terms of these public participation guidelines. Three bodies have major roles in the local planning process:

- **Spokane County Board of County Commissioners (BOCC)**
- **Spokane County Public Works Department - Division of Long Range Planning**
- **Spokane County Planning Commission**

All three share the responsibility for following these guidelines, implementing specific public participation programs based upon these guidelines, and employing any other methods that bring the public actively into the local GMA planning process. Ultimately, it is the Board of County Commissioners who decide on the direction and content of policy documents or regulations that they find to be in the community's best interest.

The guidelines that follow are intended to guide and form the basis for public participation programs related to GMA and Spokane County's local planning process. Spokane County intends to comply with these guidelines as appropriate to a situation. However, it should be noted that legitimate deviations from the guidelines may be warranted, given specific circumstances. The GMA, specifically RCW 36.70A.140, states that

"... errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed."

Public Participation Guidelines

1. Communication programs and information services

Spokane County will develop, implement, and maintain communication programs and information services for the purpose of involving the broadest cross-section of the community in the planning process.

To ensure the overall success of the GMA planning process, Spokane County must take steps to involve the public in a meaningful manner. To accomplish that, there are several things that must occur. First, the public should understand the basic concepts of GMA, the local planning process, and how their own participation can affect local plans and regulations. Secondly, the public needs to know how and when to get involved. And finally, they need to understand how their input is used.

Spokane County will inform the public through various techniques including, but not limited to, the following.

- a. Produce and circulate, on a regular basis, a Spokane County newsletter regarding GMA, local planning issues, and meeting or hearing notices.
- b. Develop and maintain a World Wide Web Internet site containing information from various agencies concerning the local GMA planning process, meeting and hearing notices, summaries, documents, or maps.
- c. Establish, advertise, and maintain a call-in telephone line which announces GMA meetings and hearings and the availability of documents.
- d. Compile, on an ongoing basis, a list of parties interested in GMA and local planning issues. Names should come from meeting and hearing sign-in sheets, written correspondence, and known community groups, as well as specific requests to be included. The list should be used for newsletter circulation, special mailings, and notices as appropriate.

- e. Issue press releases, public service announcements, and media packets as appropriate to inform the public about GMA issues, local planning activities, availability of documents, or meeting and hearing dates.
- f. Establish a 'speakers bureau' consisting of a variety of staff and officials with GMA expertise who are willing to explain, as well as facilitate public discussions about, growth management and local planning issues.
- g. Design, display, and distribute printed and visual material to inform the public about the local planning process and engage them in relevant discussions.

2. Broad dissemination of proposals and alternatives

Spokane County will distribute documents so that they are readily available in a timely fashion to all who want to review them.

Documents that contain or describe proposed plans, policies, maps, regulations, or the amendment of those should be readily available. Supporting documents such as reports, analyses, recommendations, or environmental reviews should also be easily accessible. Documents must be available for review well in advance of opportunities for public discussion or testimony.

Spokane County will take the following steps to ensure that pertinent documents are available in a timely manner to those who want or need them.

- a. Proposals or alternatives should be published and available 10 days prior to a public meeting or hearing scheduled for their discussion or a decision.
- b. When scheduled for discussion or decision, proposals or alternatives should be available as follows:
 - i. Electronic versions accessible through the World Wide Web Internet site.
 - ii. A hard copy will be sent to Spokane County Library District Branches and City of Spokane Libraries as appropriate. The likely geographic area to be affected by a proposal should be the basis on which branch libraries receive documents. Proposals or alternatives of a countywide nature should be sent to all branches.
 - iii. Hard copies for checkout or in-office review at the Division of Long Range Planning and, as appropriate, through other divisions or agencies.
 - iv. Copies available for the cost of reproduction through the Division of Long Range Planning or, as appropriate, through other divisions or agencies.
- c. Meeting and hearing notices should state the availability and location of documents describing proposals and alternatives or other supporting documents being considered.
- d. The public participation requirements shall include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, and organizations of proposed amendments to the comprehensive plan and

development regulations. Reasonable notice procedures may include as appropriate:

- i. posting the property for site-specific proposals;
- ii. publishing notice in a newspaper of general circulation in the general area where the proposal is located or that will be affected by the proposal;
- iii. notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- iv. placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and
- v. publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

3. Public meetings after effective notice

Spokane County will publicize public meetings and hearings to ensure that the broadest cross-section of the community is made aware of the opportunities to become involved in the planning process.

At a minimum, the requirements of RCW 36.70 and RCW 36.70A pertaining to public hearings and notification will always be met. However, Spokane County will go beyond the legal minimums to ensure the public is aware of meetings or hearings and of their opportunity to be involved in local planning efforts.

Public meetings (that include activities such as workshops, open houses, or design studios) are opportunities for open discussion between the public, staff, and decision-makers. Meetings do not normally involve public testimony. On the other hand, public hearings are more formalized, legal proceedings where public testimony is presented to a decision-maker for consideration. The result of a public hearing generally consists of an official recommendation in the case of the Planning Commission or a legislative decision by the Board of County Commissioners.

The following guidelines provide direction regarding the number, location, and notification of meetings or hearings relative to the local GMA planning process.

- a. At least one public hearing will be conducted prior to making either a recommendation or an official decision on a comprehensive plan, a development regulation implementing the plan, or an amendment to either.
- b. As appropriate, given the specific proposal, public meetings should be hosted prior to the public hearing(s) as a means to involve and educate the public and solicit their opinions, reactions, or suggestions. The number of meetings should be based upon the specific circumstances of the case.
- c. If a proposed plan, regulation, or amendment pertains to only a portion or subarea of the county, then meetings should be held at a public facility within that area or in close proximity to the area.
- d. Public meetings for proposed plans, regulations, or amendments which are applicable countywide should be held at a public location central and convenient to the public. Meetings at public facilities within each of the

county commissioner districts (or some other logical subarea scheme) would be preferable in these instances.

- e. A variety of notification techniques should be used to advertise meetings and hearings. The following list, while not exhaustive, represents those that Spokane County will generally employ. Ultimately, the specifics of the proposal may dictate the best technique or combination of techniques to be used. Additional advertising methods may be identified and used as warranted by the circumstances.
 - i. Legal notices as required by applicable statutes.
 - ii. Notices in the GMA newsletter.
 - iii. Posting on Spokane County's World Wide Web Internet site.
 - iv. Announcements on the GMA call-in telephone line.
 - v. Mailings to the compiled list of interested parties.
 - vi. Media releases.
 - vii. Commercial display advertisements, as appropriate, in countywide or regional newspapers.
 - viii. Notices in community or neighborhood newsletters as appropriate or available.
- f. Public meetings or hearings should be advertised at least 10 days before the scheduled date.
- g. Working subgroup meetings may deviate from these guidelines at times due to the unique circumstances associated with their function. These include the rapid, high volume, recurring meetings of technical committees, subcommittees, or work groups which focus their efforts on specific issues or limited supporting tasks (as opposed to meetings of a quorum of the Planning Commission or Board of County Commissioners in which they consider complete draft plans, regulations, or amendment proposals meant to result in a formal recommendation or official decision). In all cases, the work program for subgroups should be guided by #3a thru #3f above as applicable as well as the Open Public Meetings Act as applicable and will include at least the following elements.
 - i. The initial meeting(s) of the group should be widely advertised through the most appropriate method(s) in #3e above.

- ii. Sign-in sheets should be used at each meeting to develop a specific mailing list for the group itself, as well as adding to the compiled list of parties interested in GMA and local planning issues.
- iii. Meeting summaries should be prepared and available as soon as possible after the meeting.

4. Provision for open discussion

Spokane County will ensure that public meetings allow for an open discussion of the relevant issues and that hearings allow for appropriate public testimony.

When public meetings or hearings are conducted, Spokane County will ensure that those who choose to participate in the planning process have the opportunity to actually take part and have their opinions heard. Towards that end, the following actions will be implemented.

- a. Establish an agenda that clearly defines the purpose of the meeting or hearing, the items to be considered, and actions that may be taken. If available early, the agenda should be included or summarized in the notice(s).
- b. The scheduled date, time, and place should be convenient so as to encourage the greatest number of people to attend.
- c. A clearly identifiable facilitator or chair will conduct the meeting or hearing in an orderly fashion to ensure that all attendees have an opportunity to discuss issues, offer comments, or provide testimony.
- d. The facilitator or chair should provide introductory remarks outlining the purpose of the meeting or hearing and describing how the attendees can best participate and how their input may be used.
- e. As appropriate, provide a brief overview of any documents or proposals to be considered.
- f. All persons desiring to participate should be allowed to do so. However, specific factors, such as the purpose of the meeting, size of attendance, time factors, or other opportunities to participate, may suggest some appropriate constraints to be applied. Rules of order for the meeting or hearing should be set forth clearly by the chair or facilitator.
- g. All attendees will be encouraged to identify themselves on sign-in sheets.

- h. All meetings and hearings should be tape recorded.
- i. Summaries should be prepared and available as soon as possible following a meeting or hearing. As appropriate, summaries should include a listing of relevant issues, comments, or responses. In the case of public hearings, the findings and decision document should serve as the actual summary.
- j. Special arrangements for meetings or hearings will be made under the provisions of the Americans with Disabilities Act (ADA) with advance notice.
- k. If the Board of County Commissioners (BOCC) choose to consider a change to an amendment to the comprehensive plan or development regulations, and the change is proposed after the opportunity for review and comment has passed under the county's procedures, an opportunity for public review and comment on the proposed change shall be provided before the BOCC votes on the proposed change. An additional opportunity for public review and comment is not required if:
 - i. an environmental impact statement has been prepared under Chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;
 - ii. the proposed change is within the scope of the alternatives available for public comment;
 - iii. the proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;
 - iv. the proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or
 - v. the proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

5. Opportunity for written comments

Spokane County will encourage submission of written comments or written testimony throughout the planning process.

In many instances, detailed, technical, or personal comments can be best expressed and understood in written format. The following steps should be taken to encourage written comments.

- a. As appropriate, notices for meetings and hearings should include the name and address of the person(s) to whom written comments should be sent, along with the deadline for submitting comments.
- b. Persons speaking or testifying should be encouraged to concisely express their comments verbally and provide specific details in written format.
- c. The deadline for submitting written comments, if allowed subsequent to a meeting or hearing, should be clearly announced by the facilitator or chair.
- d. Innovative techniques, as appropriate to a specific planning task, should be developed and implemented to solicit and document the public's concerns, suggestions, or visions for the community. Techniques may include, but are not limited to, surveys, interactive displays, or the innovative use of electronic communication technologies.

6. Consideration of and response to public comments

Spokane County will consider relevant public comments and public testimony in the decision-making process.

Various methods for informing and involving the public, publicizing proposals, and soliciting public opinion or comments have been established in guidelines #1 thru #5 above. Many of those represent the initial steps for bringing public comments into the decision-making process. Other guidelines set the stage for decision-makers to consider those comments. *(For example, tape recording meetings or hearings (#4h) and soliciting written comments (#5a and #5b) allow decision-makers the opportunity to review and consider relevant information in detail before a decision is actually made.)*

Additional steps will be taken so that comments and recommendations from the public are reviewed by the decision-makers for relevancy. Those would include the following.

- a. Time should be reserved subsequent to the close of a hearing or comment deadline and prior to an actual decision so that the decision-maker(s) can adequately review all relevant material or comments.
- b. Reconvening a hearing for the purpose of addressing comments is an option that the decision-maker(s) may use on a case-by-case basis.
- c. Substantive comments pertaining to studies, analyses, or reports, along with necessary responses, should be included in the published document itself (such as occurs in the SEPA process of developing a Draft Environmental Impact Statement (EIS) and then a Final EIS with comments and responses).
- d. The record (such as tape recordings, written comments or testimony, documents, summaries, etc.) will be compiled and maintained by the appropriate Spokane County agency(ies). That record will be made available to the decision-maker(s) for their consideration and review prior to a decision.
- e. Relevant comments or testimony should be addressed through the findings-of-fact portion of the decision-maker's written decision or recommendation.

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S P O K A N E C O U N T Y



DIVISION OF LONG RANGE PLANNING
JOHN W. MERCER, AICP,
ASSISTANT DEPUTY DIRECTOR

PUBLIC WORKS DEPARTMENT
DENNIS M. SCOTT, P.E., DIRECTOR

Memorandum

Date: September 23, 1998
To: Board of County Commissioners
From: Pat Frankovic 

Regarding: Amendment of the *Spokane County Growth Management Act (GMA) Public Participation Program Guidelines*

Commissioners:

Attached is a proposed amendment of the *Spokane County Growth Management Act (GMA) Public Participation Guidelines*. You originally adopted these on February 24, 1998 by Resolution #98-0144. The amendment is a result of recent changes in the GMA; specifically RCW 36.70A.035 - 'Public participation notice provisions'. Also included with the amended guidelines is a proposed Resolution for your action if you concur with the changes.

Three of the five changes to the guidelines merely acknowledge that our public participation processes will comply with the provisions of RCW 36.70A.035. Those changes can be found on pages 1 and 7.

The other two changes are a direct incorporation of the RCW 36.70A.035 language into the guidelines. Those substantive changes can be found at section #2d on pages 5 and 6 and at section #4k on page 11.

Section #2d contains examples of how we should notify interested parties about proposed amendments to the comprehensive plan or development regulations. In section #4k, the state law focuses on changes to a comprehensive plan or development regulation proposal after the opportunity for public review and comment has passed. In such cases, the Board is required to open up public review and comment on the changes before acting on the changes. There are several logical exceptions to that rule and those are listed in section #4k.

If you have any questions or concerns, I'd be happy to discuss them with you. Please contact me at 324-3212. Thank you.

c: John Mercer
Rob Binger