

FILED

JUL 23 2012

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

No. 30725-5-III

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

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

Appellant,

v.

EASTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD, a statutory entity,

and

DAN HENDERSON, LARRY KUNZ, NEIL MEMBREY, KASI
HARVEY JARVIS, and NEIGHBORHOOD ALLIANCE OF
SPOKANE,

Respondents.

**APPELLANT SPOKANE COUNTY'S
OPENING BRIEF**

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I. INTRODUCTION

This case returns to the Court of Appeals on the assertion that the Growth Management Hearings Board lacks jurisdiction over a site specific rezone even if granted immediately upon the adoption of a Comprehensive Plan map amendment which then allows the rezone to occur.

This Court's previous decision¹ recognizes that Respondents' challenge to Spokane County's action in adopting the Comprehensive Plan Map amendment and then the concurrent zone change in this case, raised only issues related to GMA compliance and was not a challenge to the rezone which is under the sole jurisdiction of the superior court pursuant to the Land Use Petition Act (LUPA). On remand, the Superior Court below affirmed the Growth Management Hearings Board's decision on the GMA issues, and then ruled that the Eastern Washington Growth Management Hearings Board had jurisdiction to review not only the Comprehensive Plan map amendment but also to determine the lawfulness of the site specific rezone that was adopted immediately after the Comprehensive Plan

¹ *Spokane County v. Eastern Washington Growth Management Hearings Board*, 160 Wn. App. 274, 250 P.3d 1050 (2011).

Amendment allowing the rezone. CP² 393–396.

Spokane County asserts that the site specific rezone of the property was not properly appealed for review under the LUPA, and to allow the Growth Management Hearings Board to review the site specific rezone was error and outside of the jurisdiction of the Growth Management Hearings Board under the GMA.

II. ASSIGNMENTS OF ERROR

1. The Eastern Washington Growth Management Hearings Board erroneously assumed jurisdiction over the site specific rezone done concurrently with the Comprehensive Plan Map amendment.

2. The Eastern Washington Growth Management Hearings Board erred in finding that the Comprehensive Plan Map amendment by Spokane County failed to comply with the Growth Management Act.

² Reference in the body of this brief to the Clerk's Papers in the Spokane County Superior Court is identified as "CP".

III. ISSUES RELATED TO ASSIGNMENTS OF ERROR

The issues raised in this action relative to the assignments of error are as follows:

1. Whether a site specific rezoning, initiated by the property owner, adopted by Spokane County during the same hearing and deliberations immediately following the adoption of a Comprehensive Plan Map amendment authorizing the zone change, is a land use action reviewable solely by the Superior Court under the jurisdiction of the Land Use Petition Act, RCW 36.70C?

2. Whether the broad discretion granted to by the legislature to local jurisdictions and the deference required to be granted by the Growth Management Hearings Board to local jurisdictions pursuant to RCW 36.70A.3201 controls when the local jurisdiction is challenged for its interpretation and application of its own GMA compliant Comprehensive Plan?

3. Whether the Growth Management Act requires that a local jurisdiction's interpretation and application of its own GMA compliant Comprehensive Plan to a specific parcel strictly comply with each applicable goal and policy of the Comprehensive Plan?

4. Whether the adoption of Comprehensive Plan amendment, 07-CPA-05 complies with the requirements of the GMA?

IV. STATEMENT OF THE CASE

On December 21, 2007, the Spokane County Board of County Commissioners adopted Resolution 2007-1096, containing a number of subparts each of which was separately voted on by the Commissioners and passed or denied on its own merits. AR³ 20-21. McGlades, LLC, initiated both a Comprehensive Plan Map amendment and a site specific zone change so that the market and restaurant existing on the property (hereinafter referred to as the “McGlades’ Property”) could be expanded to a bistro and wine bar. AR 20. Appropriate notice of the consideration of both the proposed Comprehensive Plan Map Amendments and of the concurrent zone changes was given. AR 11. The Notice of Public Hearing before the Spokane County Planning Commission indicates that the actions to be considered are both a Comprehensive Plan change and Zoning Map change. The same notice also indicates the current Comprehensive Plan Map designation of the property and the proposed

³ Reference in the body of this brief to the Agency Record created by the Eastern Washington Growth Management Hearings Board is identified as “AR”.

Comprehensive Plan Map designation along with the current Zoning and the proposed Zoning for the property. Appendix I⁴.

Following the adoption of Resolution 2007-1096, Respondents filed a petition for review with the Eastern Washington Growth Management Hearings Board challenging only the Comprehensive Plan map amendment and rezone granted to McGlades, LLC. AR 01-07.

In a previous decision regarding this matter, this Court declared that the Growth Management Hearings Board has jurisdiction to review a Comprehensive Plan Map amendment for compliance with the GMA regardless of whether the challenged action was “site specific”, involving a single parcel, or several. *Spokane County v. Eastern Washington Growth Management Hearings Board*, 160 Wn. App. 274, 281–282, 250 P.3d 1050 (2011). On remand Spokane County brought a motion for summary judgment in the Superior Court challenging the jurisdiction of the Eastern Washington Growth Management Hearings Board to review the site specific rezone. CP 35-60. The motion for summary judgment was denied. CP 185-194. The

⁴ Appendix I: Exhibit A to the Hearing on the Merits Brief of Spokane County before the Eastern Washington Growth Management Hearings Board, p. P3670. See, reference to this Exhibit and document at AR 775.

Spokane County Superior Court affirmed the Final Decision and Order of the Eastern Washington Growth Management Hearings Board regarding both the Comprehensive Plan Map amendment and the subsequent site specific rezone. CP 185-194.

At no time have the Respondents or any other individual, group, or entity challenged the site specific rezone of the McGlades Property as adopted by Resolution 07-1096 pursuant to the Land Use Petition Act Chapter 36.70A RCW. Because the rezone of the McGlades Property has not been timely challenged under the LUPA, the zoning of the McGlades Property that was adopted by Spokane County in Resolution 07-1096 can no longer be challenged under LUPA being time barred thereby. RCW 36.70A.040(3).

V. ARGUMENT

A. STANDARD OF REVIEW.

Judicial review of the Final Decision and Order (FDO) of the Eastern Washington Growth Management Hearings Board in Case No. 08-1-0002 is reviewed under the Administrative Procedures Act (APA). RCW 34.05.570(3); *Feil v. Eastern Washington Growth Management Hearings Board*, 172 Wn.2d 367, 376, 259 P.3d 227

(2012).

Spokane County challenges the Growth Management Hearings Board's decision under RCW 34.05.570(3)(b), (c), (d), and (e) which read in pertinent part as follows:

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

(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;

B. THE COMPREHENSIVE PLAN MAP AMENDMENT AND THE SITE SPECIFIC REZONE ARE TWO SEPARATE ACTIONS THE APPEAL OF EACH OF WHICH IS CONTROLLED BY SEPARATE STATUES.

The Courts have repeatedly affirmed that challenges to actions taken under the Growth Management Act (GMA) are reviewed upon petition to the Growth Management Hearings Boards

pursuant to RCW 36.70A.280. *Feil v. Eastern Washington Growth Management Hearings Board*, 172 Wn.2d 367, 377-380, 259 P.3d 227 (2012); *Spokane County v. Eastern Washington Growth Management Hearings Board*, 160 Wn. App. 274, 281-282, 250 P.3d 1050 (2011); *Coffey v. City of Walla Walla*, 145 Wn. App. 435, 441, 187 P.3d 272 (2008); *Wenatchee Sportsman Association v. Chelan County*, 141 Wn.2d 169, 178, 4 P.3d 123 (2000). Likewise, the sole jurisdiction of the Superior Court pursuant to LUPA, RCW 36.70C.030, over the review of a site specific rezone as a project permit has also been emphasized by the Courts. *Feil v. Eastern Washington Growth Management Hearings Board*, *supra* at 377-380; *Spokane County v. Eastern Washington Growth Management Hearings Board*, *supra* at 281-282; *Coffey v. City of Walla Walla*, *supra*, at 440; *Woods v. Kittitas County*, 162 Wn.2d 597, 612-616, 174 P.3d 25 (2007); *Wenatchee Sportsman Association v. Chelan County*, *supra* at 178-179. Adoption of a site specific rezone as part of a resolution or ordinance of the legislative body of the county does not divest the Superior Court of its sole jurisdiction for review of the adopted rezone. *Wenatchee Sportsman Association v. Chelan*

County, supra at 178; See also, *Woods v. Kittitas County, supra* at 616.

Uses to which any specific parcel of real property may be put are controlled by two separate though related documents or maps. The first is the Comprehensive Plan Map wherein one of several categories is assigned to large areas of property contained within Spokane County such that all of the real property in Spokane County falls into one of the identified categories. See, Appendix II⁵. All real property located within any given category is eligible to be classified as being assigned a zone designation (identified on the Spokane County zoning map) that is permitted within the Comprehensive Plan map category within which the property lies. See, Appendix III⁶.

Spokane County Zoning Code (SCZC) 14.604.500⁷ governs the site-specific zone reclassification of properties on the Spokane County zoning map and limits zone reclassifications to those that are

⁵ Appendix II: Spokane County Comprehensive Plan, Chapter 1 – Introduction, p. I-1, Chapter 2 – Urban Land Use, p. UL-1, and Spokane County Comprehensive Plan Map.

⁶ Appendix III: SCZC 14.604.500 and Figure 604-1 Zone Reclassification Applications.

⁷ Appendix III: SCZC 14.604.500. Zone Reclassification Applications.

Applications for amendments to the Spokane County zoning map for site-specific zone reclassifications shall be limited to reclassifications that are consistent with the comprehensive plan category and associated implementing zone as provided in the table below.

consistent with the comprehensive plan category and associated implementing zone as provided in the table immediately following that code section. Appendix III. For the zone classification of the McGlades' property to be changed to Limited Development Area Commercial, as McGlades requested, the assigned Comprehensive Plan category for the property (on the Comprehensive Plan map) must be "Limited Development Area Commercial". Appendix III.

The procedure for obtaining a Zoning Map reclassification, if the desired zone is not consistent with the comprehensive plan map category for the specific property, is to first obtain a Comprehensive Plan map amendment so that the desired Comprehensive Plan map category is assigned to the property and then the zone classification for the property can/will be changed to be consistent with the comprehensive plan map category. SCZC 14.402.100(1)⁸. Regardless of whether the Comprehensive Plan Map amendment and

⁸ Appendix III: SCZC 14.402.100 Amendment Procedures – Zoning Map, Comprehensive Plan/Subarea Plan and relationship to Comprehensive Plan:

1. Applicability

This section shall apply to zoning map amendments to implement a sub-area/neighborhood plan or to implement the adoption/amendment of the Comprehensive Plan. Any changes to land use designations made in the Comprehensive Plan will be reflected in changes to the zoning map so that the zoning implements the Comprehensive Plan. Such zoning map changes will generally be come effective upon adoption by the Board of the Comprehensive Plan changes.

the reclassification of the zoning for a specific parcel are adopted in the same resolution of the Board of County Commissioners, the two actions are separate and distinct. See, *Wenatchee Sportsman Association v. Chelan County*, *supra* at 178; See also, *Woods v. Kittitas County*, *supra* at 616. The amendment of the Comprehensive Plan Map is adopted first and is illustrated on the Comprehensive Plan Map, followed by the zone reclassification which is then illustrated on the Spokane County zoning map. SCZC 14.402.100(1).

Here the property owner, McGlades, initiated the zone reclassification pursuant to SCZC 14.402.100. During the process of considering the Comprehensive Plan map amendment and the zone reclassification notice was given regarding both the comprehensive plan map amendment and the site specific zone reclassification. Appendix I. The zone reclassification of McGlades' property was a site specific rezone and as such is subject to review solely by the Superior Court under the LUPA. RCW 36.70C.030. The Eastern Washington Growth Management Hearings Board acted outside of its legal authority and jurisdiction when it reviewed the zone

reclassification and treated the zone reclassification as a Comprehensive Plan map amendment subject to review under the GMA. The Final Decision and Order of the Growth Management Hearings Board should be declared null and void relative to the zone reclassification of McGlades' property.

C. A COUNTY IS TO BE GRANTED BROAD DISCRETION WHEN INTERPRETING AND APPLYING ITS OWN GMA COMPLAINT COMPREHENSIVE PLAN.

1. The Growth Management Hearings Board Failed to Grant Spokane County the Required Broad Discretion to Plan Based Upon the Unique Circumstances Within the County.

Respondents' challenge before the Hearings Board is not a challenge of the goals and policies of the Comprehensive Plan for compliance with the GMA, but is a challenge to a specific amendment of the Comprehensive Plan Map which amendment implements and applies the goals and policies of the GMA compliant Comprehensive Plan to a specific parcel of property. AR 03.

The Growth Management Hearings Board is clearly instructed not to micro-manage local governments in how they implement their comprehensive plans that have been developed in

compliance with the GMA. RCW 36.70A.3201; *Quadrant Corp. v. State Growth Mgmt. Hearings Bd.*, 154 Wn.2d 224, 236–237, 110 P.3d 1132 (2005).

The Growth Management Hearings Board is required as a matter of law to grant deference to local governments in planning under the GMA. RCW 36.70A.3201 states:

In recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter, the legislature intends for the boards to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter.

(Emphasis added).

That statute goes on to state:

The legislature finds that while this chapter requires local planning to take place within a framework of stated goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community.

(Emphasis added).

In the case of *Quadrant Corp. v. State Growth Mgmt. Hearings Bd.*, the Supreme Court stated that the Legislature, in amending the GMA in 1997, “took the unusual additional step of

enacting into law its statement of intent in amending RCW 36.70A.320” to require greater deference to local enactments by changing the Growth Board’s standard of review from “preponderance of the evidence” to “clearly erroneous.” 154 Wn.2d at 236–237, 110 P.3d 1132 (2005); See also, RCW 36.70A.320(1), (2) and (3). So long as a county or city is planning within the parameters set by the GMA, the county or city is to be granted great deference in how they plan for growth. RCW 36.70A.3201.

The broad discretion granted to Spokane County Spokane under the GMA allows the County to reclassify the McGlades’ property such that the historical and currently existing use of the property may continue as it has evolved over more than 20 years. As will be demonstrated below, the reclassification of the McGlades’ property from Urban Reserves (UR) to Limited Development Area Commercial (LDAC) is supported by the goals and policies of Spokane County’s Comprehensive Land Use Plan⁹ and by the GMA pursuant to RCW 36.70A.020. The Growth Management Hearings Board’s fatal error is its failure to grant

⁹ Appendix II, Spokane County Comprehensive Plan, p. RL-4, Rural Residential Development, Policy RL 1.3, also p. RL-11–14, Industrial and Commercial Uses, Goal 5.a and Policy RL 5.2.

Spokane County the discretion that is mandated by the GMA.

2. The Growth Management Hearings Board Erred by Construing the Goals and Policies of the Spokane County Comprehensive Plan as if They Are Specific Requirements of the Growth Management Act.

The GMA shall not be liberally construed. *BD Lawson Partners, LP v. Central Puget Sound Growth Management Hearings Board*, 165 Wn. App. 677, 689, 269 p.3d 300 (2011) (citing, *Woods v. Kittitas County*, 162 Wn.2d 597, 603, 174 P.3d 25 (2007)). 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*, 164 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. State Growth Mgmt. Hearings Bd.*, 154 Wn.2d 224,240 n.8, 110. The Growth Management Hearings Board is clearly prohibited by statute and case law from liberally construing the GMA by extrapolating the general goals and policies of the Spokane County Comprehensive Plan into specific and rigid rules under the GMA. *BD Lawson Partners, LP v. Central Puget Sound Growth Management Hearings Board, supra.*

The Growth Management Hearings Board is required to grant Spokane County broad discretion in how it plans for growth within Spokane County, based upon unique local circumstances. RCW 36.70A.3201. The Growth Management Hearings Board must not to micro-manage local governments in how they implement their GMA compliant comprehensive plans. RCW 36.70A.3201; *Quadrant Corp. v. State Growth Mgmt. Hearings Bd.*, *supra*.

The broad planning discretion granted to Spokane County can only be disturbed if the Comprehensive Plan Map amendment challenged in this action violates a specific requirement of the GMA. *Quadrant Corp.*, 154 Wn.2d 224 at 240 n.8, 110 P.3d 1132 (2005); *King County v. Cent. Puget Sound Growth Mgmt Hearings Bd.*, 142 Wn.2d 543, 552, 14 P.3d 133 (2000) quoting, *Dep't of Ecology v. Pub. Util. Dist. No. 1*, 121 Wn.2d 179, 201, 849 P.2d 646 (1993); *Viking Properties, Inc. v. Holm*, 155 Wn.2d 112,129, 118 P.3d 322 (2005); *Manke Lumber Company, Inc. v. Central Puget Sound Growth Management Hearings Board*, 113 Wn. App. 615, 624, 53 P.3d 1011 (2002).

Respondents in this action have not challenged the goals and

policies of the GMA Compliant Comprehensive Plan. The only challenge raised by Respondents is the implementation of the Comprehensive Plan regarding the change in the Comprehensive Plan Map category of the McGlades' property. AR 03. The Comprehensive Plan goals and policies are compliant with the GMA, however they are not strict requirements of the GMA, the Comprehensive Plan is a statement of policies and goals that Spokane County has compiled in compliance with the requirements of the GMA. The Comprehensive Plan serves as direction and guidance in creating and adopting development regulations and in specific land use decisions. RCW 36.70A.030(4); *Woods v. Kittitas County*, 162 Wn.2d 597, 613, 174 P.3d 25 (2007); *Feil v. Eastern Washington Growth Management Hearings Board*, 172 Wn.2d 367, 382, 259 P.3d 227 (2012).

By attempting to impose its own interpretation of the GMA compliant Spokane County Comprehensive Plan upon Spokane County and treating the Comprehensive Plan as strict and specific requirements of the GMA, the Growth Management Hearings Board has erred requiring that its Final Decision and Order be reversed.

The specific errors in the Growth Management Hearings Board's Final Decision and Order regarding 07-CPA-05 are as follows:

First, the Growth Management Hearings Board opines that Spokane County Comprehensive Plan Goal RL.5.2¹⁰ strictly requires that the Comprehensive Plan amendment only be adopted if there is a demonstrated need for the restaurant for the rural residents in the area. AR 31. The Hearings Board then concludes that because there are several other full-service restaurants in the area there is no need for yet another one. AR 31.

This is not a requirement of the GMA and such a conclusion constitutes a liberal construction of the GMA that ignores completely the mandate of broad discretion to Spokane County in how it implements its Comprehensive Plan.

Secondly, the Growth Management Hearings Board declares its rule that notwithstanding a great deal of community support of the Comprehensive Plan map amendment such community support does not indicate a need for the existing restaurant on the McGlades'

¹⁰ Appendix II.

property. The requirement in the GMA regarding Limited Areas of More Intensive Development (LAMIRD, labeled in the Spokane County Comprehensive Plan as a Limited Development Area Commercial (LDAC) or Limited Development Area Residential (LDAR)) states that “to retain and enhance the job base in rural areas, rural communities must have flexibility to create opportunities for business development”. RCW 36.70A.011.

McGlades is an "existing business" which Spokane County desires to retain. The Growth Management Hearings Board ignores the instruction of RCW 36.70A.3201 that “implementing a county’s or city’s future rests with that community”, and that of RCW 36.70A.130(2)(a) that requires counties and cities to establish and follow public participation programs designed to obtain the input of a wide spectrum of the public regarding planning decisions.

Finally, the Growth Management Hearings Board determined that McGlades’ Property as a restaurant disrupted the rural character of the neighborhood. AR 31.

The overwhelming evidence in the file indicates that the McGlades’ Property fits quite well into the character of the

neighborhood. The McGlades' property is surrounded on all sides by urban type development, including the Respondents' own property. Directly to the south and to the east of the site are urban density subdivisions of approximately 1000 or more upper middle class homes, all of which are in an area classified as an LDAR. AR 464, 468, 472, 475, 529, 530, 538–539, 554, 557, 641, 693. Across Day Mt. Spokane Road to the south and west is a commercial binding site plan area classified as an LDAC. AR 554, 693, 695. Over the years of its existence, as the neighborhood surrounding the property became more and more urban in density and development, the building on the McGlades' Property has evolved from an agricultural storage building to the restaurant that exists there today. Appendix IV¹¹. The restaurant on the McGlades' property is a single story rambler type building on a lot that is no larger than that of the immediately surrounding residential properties owned by the Respondents to the west, north and east of the property. Appendix IV. Simply driving past the McGlades' property in any direction it is easy to see that the restaurant is the lowest and least conspicuous

¹¹ Appendix IV: Exhibit A to Spokane County's Hearing on the Merits Brief before Eastern Washington Growth Management Hearings Board, pp. P2954, P2629, P.2598, P2599, P2601, P2974, P3387, P3386, P3385, P3384, P3672.

structure in the “neighborhood”. Appendix IV (Note size comparison between McGlades’ and Kunz’s residence.) The assertion that the restaurant changes the character of the neighborhood in which the McGlades deli and bistro has existed as part of the neighborhood is inconceivable and clearly not supported by the record.

The Growth Management Hearings Board erred by imposing its judgment and interpretation of the Spokane County Comprehensive Plan upon the McGlades’ property and Spokane County while completely ignoring both the law and the facts as they exist at the property.

D. THE GROWTH MANAGEMENT HEARINGS BOARD’S DECISION IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD AS A WHOLE AND IS ARBITRARY AND CAPRICIOUS.

1. Both the Growth Management Hearings Board and Respondents Agree that Further Development of the McGlades’ Property is Unlikely Thus Removing the Need of a Duplicative SEPA Review.

Regarding the Comprehensive Plan Map amendment, 07-CPA-05, the Growth Management Hearings Board concluded that changing the Comprehensive Plan Map category for the McGlades’

Property would allow commercial development on the property and thus required a detailed environmental analysis of the likely future development on the property, which the County had allegedly not done. AR 871. Based upon this conclusion the Hearings Board found that Spokane County had failed to conduct the required SEPA analysis. AR 871.

Contrary to its finding that the SEPA analysis conducted by Spokane County had failed to consider the future commercial development of the property, based upon arguments by the Respondents (Petitioners before the Growth Management Hearings Board) the Hearings Board determined that:

... significant development has already taken place [on the McGlades' Property], so the possibility of future environmental review for the impact of 07-CPA-05 are unlikely. The impacts of the development currently in place are already being realized. Future impact from changing the zoning from UR to LDAC is speculative. The re-designation of the property by adoption of 07-CPA-05 will legitimize the restaurant use as proposed. Petitioners fear that no additional development proposals or SEPA analysis will ever be required for the use at the site, which calls into question the adequacy of the present septic system and stormwater controls for an enhanced full-service restaurant.

(Emphasis added). AR 889 – 890.

The only evidence in the record regarding the SEPA analysis indicates that Spokane County did conduct a thorough SEPA analysis that resulted in a Determination of Non-Significance. AR 231 – 256. The Growth Management Hearings Board’s conclusion regarding the inadequacy of the SEPA analysis of the non-project 07-CPA-05 is contrary to its later conclusion in the Final Decision and Order regarding the analysis of environmental impacts. The decision is unsupported by evidence in the record as clearly stated by the Hearings Board its self, the decision is arbitrary and capricious.

2. Spokane County’s Comprehensive Plan is Compliant with RCW 36.70A.070(5)(d).

The Growth Management Hearings Board’s conclusion that Spokane County failed to comply with RCW 36.70A.070(5)(d) by adopting Comprehensive Plan Map amendment 07-CPA-05 is unsupported in the evidence and arbitrary and capricious.

RCW 36.70A.070(5)(d) in pertinent part reads:

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), *the rural element may allow for limited areas of more intensive rural development*, including necessary public facilities and public services to serve the limited area as

follow: . . .

(Emphasis added).

The Final Decision and Order of the Growth Management Hearings Board acknowledges that the rural element of the Spokane County Comprehensive Plan does in fact allow for limited areas of more intensive rural development consistent with the direction RCW 36.70A.070(5). AR 881¹². Respondents have not challenged the Spokane County Comprehensive Plan Rural Element of a policy allowing LAMIRDs within Spokane County. As discussed above, the adoption of 07-CPA-05 is in compliance with the policies and goals of the GMA compliant Spokane County Comprehensive Plan and thus must also be in compliance with the GMA.

The Growth Management Hearings Board's conclusion that Spokane County violated RCW 36.70A.070(5)(d) by adoption of 07-CPA-05 is without support in the evidence or law, the conclusion is arbitrary and capricious.

3. Adoption of 07-CPA-05 is the Designation of a LAMIRD and is thus an Exception to the Growth Management Act's General Prohibition of Development in Rural Areas.

¹² "As mentioned under Issue No. 2, the County's CP Rural Lands Policy, RL.5.2 is Spokane County's LAMIRD policy ..."

RCW 36.70A.070(5)(d) specifically allows for more intensive rural development when a comprehensive plan that is compliant with the requirements of the GMA allows for such development. As discussed above the Spokane County Comprehensive Plan, that is compliant with RCW 36.70A.070(5)(d), allows for more intensive development in rural areas when the plan policies are met. 07-CPA-05 has been demonstrated to comply with the Spokane County Comprehensive Plan and thus is an exception to the prohibition of development in rural areas. For the Growth Management Hearings Board to find otherwise is unsupported in fact or in law. Such a conclusion is arbitrary and capricious.

4. Spokane County Has Adopted Comprehensive Plan Policies and Development Regulations in Compliance with RCW 36.70A.020(10).

In finding that Spokane County's adoption of 07-CPA-05 is a violation of RCW 36.70A.020(10), the Growth Management Hearings Board ignores the fact in its own record and the clear language of the Spokane County Comprehensive Plan and development regulations.

RCW 36.70A.020(10) reads:

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040. ...

(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(Emphasis added).

As with the other issues raised before the Growth Management Hearings Board in this matter, the Respondents did not challenge the policies of the Spokane County Comprehensive Plan or the Spokane County development regulations that have been enacted by Spokane County in compliance with RCW 36.70A.020(10) and the GMA generally. The policies of the Spokane County Comprehensive Plan and Spokane County's development regulations are in compliance with the requirements of the GMA.

The alleged violation by Spokane County of RCW 36.70A.020(10) is that Spokane County has failed to enforce its development regulations against the development that already exists on the McGlades' Property. AR 886–892. The Growth

Management Hearings Board acknowledges that the development that has occurred on the McGlades' Property was subjected to building permits and challenge before the Spokane County Hearing Examiner. CP 267; AR 890. Building permits were required prior to the construction of each building including the restaurant that exists on the McGlades' Property, application for said permits was made, each of which required an environmental analysis, and the required permits were granted. AR 682–689, 861. Respondents' challenge to the propriety of the building permits issued for the construction of the various stages of evolution of the McGlades' Property, culminating in the construction of the restaurant, must have been brought at the time of the issuance of the building permits and is time barred at this point in time. RCW 36.70C.040(3); See also *Chelan County v. Nykreim*, 146 Wn.2d 904, 932, 52 P.3d 1 (2002).

The conclusion that 07-CPA-05 violates RCW 36.70A.020(10) is unsupported by any facts in the record before the Growth Management Hearings Board, is contrary to the clear fact of the existence of Comprehensive Plan policies and

development regulations in compliance with RCW 36.70A.020(10), and is thus arbitrary and capricious.

5. 07-CPA-05 Being in Compliance with the GMA the Determination of Invalidity by the Growth Management Hearings Board is Error.

“A board may determine that part or all of a comprehensive plan or development regulation are invalid if the board:

(a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300.” RCW 36.70A.302.

As discussed above, the Growth Management Hearings Board erred in finding that 07-CPA-05 was noncompliant with the GMA as alleged by Respondents in their Petition for Review before the Hearings Board. The finding of noncompliance having been made in error, the determination of invalidity can not stand. RCW 36.70A.302.

VI. CONCLUSION

There is no dispute that Respondents do not challenge the compliance of the policies of the Spokane County Comprehensive Plan with the GMA. Respondents’ sole objection before the Eastern Washington Growth Management Hearings Board is that the

Comprehensive Plan Map amendment, 07-CPA-05, is non-compliant with the GMA and with the policies of the Spokane County Comprehensive Plan. Lacking a timely challenge to the Comprehensive Plan, the Plan is deemed to be GMA compliant.

Two of Respondents' issues can be dealt with summarily. First the SEPA challenge. Respondents' challenge to Spokane County's SEPA analysis is that Spokane County failed to consider the possible future impacts by further development of the property. Both the Growth Management Hearings Board and Respondents assert that there is very little likelihood that further development will occur at the property. Thus, consideration of further development is unnecessary.

Secondly, Respondents argue that 07-CPA-05 is non-compliant with RCW 36.70A.070(5)(d) regarding the creation of a LAMIRD. However, because the GMA compliant Spokane County Comprehensive Plan allows for the creation of a LAMIRD, there would be no violation of RCW 36.70A.070(5)(d) so long as the Comprehensive Plan policies are met. Since the Comprehensive Plan policies regarding a LAMIRD are not challenged, RCW 36.70A.070(5)(d) provides no reference for consideration of 07-CPA-

05.

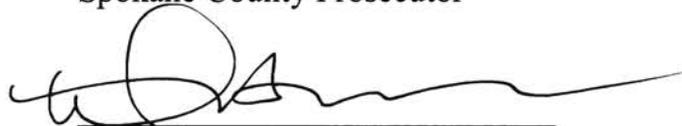
The facts in the record before the Eastern Washington Growth Management Hearings Board support the compliance of 07-CPA-05 with the Comprehensive Plan policies and with the GMA where applicable. Respondents failed to provide any evidence to the contrary and thus 07-CPA-05 must be found compliant and valid.

The Final Decision and Order of the Growth Management Hearings Board is not supported by evidence in the record or by the applicable law and is contradictory of its self, it is thus it is arbitrary and capricious.

Spokane County respectfully requests that this Court reverse the Final Decision and Order of the Eastern Washington Growth Management Hearings Board and remand this matter to the Hearings Board for an order consistent with such reversal.

Respectfully submitted this 23rd day of July 2012.

STEVEN J. TUCKER
Spokane County Prosecutor

A handwritten signature in black ink, appearing to read 'David W. Hubert', written over a horizontal line.

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 23rd day of July, 2012, I caused to be served a true and correct copy of the Respondent Spokane County's Opening Brief by the method indicated below, and addressed to the following:

Richard K. Eichstaedt	<input type="checkbox"/>	Personal Service
Center for Justice	<input checked="" type="checkbox"/>	U.S. Mail
35 West Main, Suite 300	<input type="checkbox"/>	Hand-Delivered
Spokane, WA 99201	<input type="checkbox"/>	Overnight Mail
	<input type="checkbox"/>	Facsimile

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

Jerald R. Anderson	<input type="checkbox"/>	Personal Service
Assistant Attorney General	<input checked="" type="checkbox"/>	U.S. Mail
P.O. Box 40110	<input type="checkbox"/>	Hand-Delivered
Olympia, WA 98504	<input type="checkbox"/>	Overnight Mail
	<input type="checkbox"/>	Facsimile

DATED this 23rd day of July, 2012 in Spokane, Washington.


Donna Monroe

No. 30725-5-III

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

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

Appellant,

v.

EASTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD, a statutory entity,

and

DAN HENDERSON, LARRY KUNZ, NEIL MEMBREY, KASI
HARVEY JARVIS, and NEIGHBORHOOD ALLIANCE OF
SPOKANE,

Respondents.

APPENDIX I

Exhibit A to Spokane County's Hearing on the Merits Brief before
the Eastern Washington Growth Management Hearings Board; p.
P3670, Notice of Public Hearing before the Spokane County
Planning Commission



**COMPREHENSIVE PLAN/ZONING MAP CHANGE
NOTICE OF PUBLIC HEARING BEFORE THE
SPOKANE COUNTY PLANNING COMMISSION**

TO: All interested persons, and owners/taxpayers within four hundred (400) feet of the periphery of the proposal if located inside the Urban Growth Boundary (UGA) or one thousand (1000) feet if located outside the UGA.

**YOU ARE HEREBY NOTIFIED THAT A PUBLIC HEARING WILL BE HELD ON THE
COMPREHENSIVE PLAN/ZONING MAP CHANGE LISTED BELOW, AS FOLLOWS:**

A public hearing will be held in the Commissioners Assembly Room, Lower Level, Spokane County Public Works Building, 1026 West Broadway, Spokane, Washington on October 11, 2007, beginning at 9:00 a.m., and concluding with the last speaker, or at 5:00 p.m., whichever comes first. If necessary, the hearing may be continued.

Agent: Dwight Hume
9101 N. Mt View Lane
Spokane, WA 99218

Owner(s): McGlades L.L.C. (Shawn Gabel)
N 26715 Ptarmigan Drive
Colbert, WA 99218

Application File: 07-CPA-05 (AC-32)

Amendment Location: Generally located north of the Mead area, on the northeast corner of Yale Road and Day Mt. Spokane Road, situated in the SW ¼ of Section 26, Township 27 North, Range 43 EWM, Spokane County, WA.

Parcel Number(s): 37263.9025

Size: approximately 4.46 acres

Existing Comprehensive Plan Designation:
Urban Reserve

Proposed Comprehensive Plan Designation:
Limited Development Area (Commercial)

Existing zone:
Urban Reserve (UR)

Proposed Zoning:
Limited Development Area (Commercial) (LDAC)

Environmental Determination: An environmental determination issued under the State Environmental Policy Act (SEPA) by the lead agency, Spokane County Department of Building & Planning, on September 20, 2007. The comment and appeal period will end on October 5, 2007.

Agency Review: Additional review may be necessary for the application to be processed.

Long-Range Planning Staff:
Paul Jensen, Senior Planner (509) 477-7213

PLANNING COMMISSION PROCEDURES

Hearing Process and Recommendation: All interested persons may testify at the public hearings, and may submit written comments and documents before or at the hearings. Written comments will be accepted until 4:00 p.m. on October 10, 2007; the Planning Commission reserves the right to extend the written comment period. Send written comments to the Spokane County Long-Range Planning, 1026 W. Broadway, Spokane, WA 99260-0220. The Planning Commission may limit the time given to speakers.

Following the hearing(s), the Planning Commission will make a recommendation to the Board of County Commissioners (Board). The Board may adopt the Planning Commission's recommendation or hold their own hearing(s) before making a final decision on Comprehensive Plan amendments. All hearings will be conducted in facilities that are accessible to persons with physical disabilities. Information with regard to the accessibility of the public works building, commissioners Assembly Room, or notification of an ADA accommodation should be made to Daniela Erickson, Clerk of the Board at (509) 477-2265.

Inspection of File, Copies of Documents: A Staff Report will generally be available for inspection before the hearing. The Staff Report and application file may be inspected at the Spokane County Department of Building and Planning, 1st Floor Permit Center, Public Works Building, 1026 W. Broadway, Spokane, WA 99260-0220, between 7:30 a.m. and 4:00 p.m., weekdays, M-F, except holidays. Copies of documents will be available to the public for the cost of reproduction.

If you have any questions, please call the Department at (509) 477-3675.

No. 30725-5-III

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

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

Appellant,

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EASTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD, a statutory entity,

and

DAN HENDERSON, LARRY KUNZ, NEIL MEMBREY, KASI
HARVEY JARVIS, and NEIGHBORHOOD ALLIANCE OF
SPOKANE,

Respondents.

APPENDIX II

*Spokane County Comprehensive Plan; Chapter 1 – Introduction,
Chapter 2 – Urban Land Use, Chapter 3 – Rural Land Use, and
Comprehensive Plan Map.*

*Spokane County
Department of Building and Planning*



COMPREHENSIVE PLAN



Chapter 1 Introduction

Chapter 1 Introduction



Chapter 1 - Introduction

Purpose

Spokane County residents have expressed a vision for the future that includes a healthy environment, family wage jobs, convenient transportation, affordable housing, excellent schools, and abundant parks and open spaces. Spokane County's Comprehensive Plan serves as the blueprint for making this vision a reality.

The Comprehensive Plan is a set of goals, policies, maps, illustrations and implementation strategies that states how the County should grow physically, socially, and economically. The plan emphasizes innovative and flexible strategies to guide growth and development. One of the central themes of the Plan is the promotion of economic development that occurs in harmony with environmental protection and preservation of natural resources. The Plan recognizes the interests of the entire community and promotes cultural and ethnic diversity.

The Comprehensive Plan establishes a pattern of land uses to shape the future in desirable ways. Map designations include residential, commercial, industrial and mixed-use areas. Identifying and defining these land use categories ensures compatibility among uses, protection of property values, and efficient provision of infrastructure and services. The Plan's land use map also identifies urban growth area (UGA) boundaries. UGAs are intended to reduce sprawl and provide a clear separation between urban and rural areas.



The benefits to Spokane County of developing and implementing a comprehensive plan include

1. Identifying the major trends and issues that will affect the County's future form, livability, and overall health;
2. Assuring the protection and enhancement of the County's natural resources, environmental systems and neighborhood and community character in the midst of anticipated growth and change;
3. Using capital improvements, regulatory programs and incentives to guide new development and encourage appropriate redevelopment; and
4. Acting strategically to improve the County's economic future and its ability to attract and retain well-paying jobs.

The Growth Management Act

Rapid population growth in the late 80s and early 90s made planning under the Growth Management Act (GMA) mandatory for Spokane County and its cities. GMA comprehensive plans for each jurisdiction are required to accommodate a proportionate share of the state's projected 20-year population growth. The plans must include elements addressing land use, transportation, housing, capital facilities and utilities. Spokane County's Comprehensive Plan includes the required elements as well as optional elements addressing parks, the natural environment, natural resource lands, cultural resources and subarea planning.

The GMA was originally passed by the Legislature in 1990 and later amended on numerous occasions. The GMA has changed Washington planning law in several ways:

1. Local governments must develop comprehensive plans and adopt regulations that are consistent with the plan. This changes the historic position in this state that the plan is to serve only as a "guide" to decision-making.
2. Land use authorized by the plan must be supported by adequate public facilities and services.
3. Local plans must comply with state planning goals and regulations and countywide planning policies. Plans that are not consistent with these requirements may be appealed. Penalties, imposed by the state, may be applied to communities whose plans do not conform to the state and regional requirements.
4. Urban Growth Areas (UGAs) must be designated. The UGAs are intended to direct growth to areas with adequate facilities and services, to reduce sprawl and to provide a distinct boundary between urban and rural areas.
5. A process is required to accommodate essential public facilities (e.g. prisons, wastewater plants, etc.).

GMA Planning Goals

The GMA identifies thirteen broad goals to guide local governments in the planning process. Local plans must implement these goals in a balanced manner. The goals include:

1. Encouragement of development in urban areas with existing or planned public facilities and services;
2. Reduction of urban sprawl;
3. Adequate provision of efficient multi-modal transportation systems;
4. Promotion of economic opportunity;
5. Respect for private property rights;
6. Predictability and timeliness of permit review processes;



7. Conservation of natural resources;
8. Retention of open space and provision of recreational opportunities;
9. Protection and enhancement of the environment;
10. Citizen participation in the planning process;
11. Adequate provision of necessary public facilities and services; and
12. Preservation of historic and archaeological resources.

Coordination and Consistency

Spokane County's Comprehensive Plan is required to have internal consistency among the plan's various elements. The Plan must also be coordinated and consistent with the plans of adjacent jurisdictions. The GMA directs local governments to attempt to resolve conflicts through consultation and negotiation.

Perhaps the most far reaching of the GMA's impacts is the legal status it gives Spokane County's Comprehensive Plan. Until now, plans have largely been advisory and had less legal standing than regulations. Once the Plan is adopted, all new codes and programs subsequently adopted and implemented must be consistent with it.



Countywide Planning Policies

The development of countywide planning policies (CWPPs) is required by the Growth Management Act to ensure a coordinated and regional approach in the development of comprehensive plans. CWPPs provide an overall framework of policies within which each local government jurisdiction will develop or update its comprehensive plan. The policies also guide how jurisdictions should interact with one another regarding specific issues.

Developing the Countywide Planning Policies was coordinated by the Steering Committee of Elected Officials which consists of officials from Spokane County and its eleven cities and towns, along with representatives from water, school and fire districts, utility companies and the public. The Steering Committee had the difficult task of balancing often-conflicting ideas with developing policies which provide the greatest benefit for Spokane County and its citizens. The Countywide Planning Policies focused on the following areas:

1. Implementation of Urban Growth Areas (UGAs).
2. Promotion of contiguous and orderly development of urban services.
3. Siting of countywide or statewide public capital facilities.

Chapter 2 – Urban Land Use

The Urban Land Use Chapter provides policy guidance for the development of Spokane County's unincorporated urban areas. The policies in this chapter strive to improve quality of life, provide opportunities for innovative approaches to land use and protect our community character. The policies work in tandem with the Comprehensive Plan map, which illustrates the location of various land use categories. The Comprehensive Plan map illustrating the urbanized areas in Spokane County is located on page 15.

Planning Principles

The following planning principles, developed through citizen participation efforts, form the basis for development of the Urban Land Use Chapter.

- Compact urban forms should be encouraged that create a greater sense of “community,” with pedestrian/bicycle-friendly settlement patterns.
- Neighborhood character should be preserved and protected.
- Jobs, housing, services and other activities should be within easy walking distance and shorter commute times of each other.
- Communities should have a center focus that combines commercial, civic, cultural and recreational uses.
- Streets, pedestrian paths and bike paths should contribute to a system of fully connected routes.
- Communities should have a diversity of housing and job types that enable residents from a wide range of economic levels and age groups to work and reside within their boundaries.

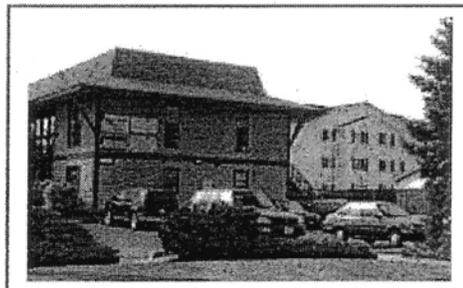
General Goals

- UL.1a Provide a healthful, safe and sustainable urban environment that offers a variety of opportunities for affordable housing and employment.**
- UL.1b Create a future rich in cultural and ethnic diversity that embraces family and community values and recognizes the interests of the whole community.**

Urban Land Use Categories

Residential Categories

Three separate categories for residential use are established, ranging from low to high density. Low density residential includes a density range of 1 to and including 6 dwelling units per acre, medium density residential includes a range of greater than 6 to and including 15 dwelling units per acre and high density residential shall be greater than 15 dwelling units per acre. Design standards ensure neighborhood character and compatibility with adjacent uses. Commercial uses, with the exception of office use in high-density residential areas and neighborhood centers associated with traditional neighborhood developments, would only be permitted through changing the land use category with a comprehensive plan amendment or through a neighborhood planning process.





Chapter 2 Urban Land Use

Valley Homes

Chapter 2 Urban Land Use

Mixed-use Categories

Mixed-use areas include “centers” and “corridors.” Urban centers and corridors provide focus points to the design of urban areas. Urban centers distributed spatially throughout the urban area provide for retail sales, services, government and business offices, recreation facilities, higher-density residences and other high-intensity uses to serve the needs of surrounding residential areas. The Comprehensive Plan provides for three types of mixed-use centers, Neighborhood, Community and Urban Activity. The three types of centers are distinguished by scale and intensity. Neighborhood Centers are the smallest and least intensive and Urban Activity Centers are the largest, most intensely developed and provide for the widest range of uses. Mixed-use categories include the following:

Neighborhood Centers – Mixed-use centers for neighborhoods will ideally have identified neighborhood centers containing a civic green or park, a transit stop, neighborhood businesses and services, a day care center and perhaps a church or school. These centers will be identified and defined through neighborhood planning efforts.

Community Centers - Community centers are higher-intensity mixed-use areas designed to serve two or more neighborhoods. Community centers will generally serve an area equivalent to a junior high or high school attendance area and may have a mix of uses, including commercial, civic, high-density residential and recreational uses.

Urban Activity Centers - Urban activity centers are planned residential and commercial areas. The boundaries of an urban activity center are generally sized with a one-quarter-mile radius so that the entire center is walkable. Convenient bus and/or light rail service and pedestrian/bicycle paths are important transportation features of urban activity centers. Residential types found in urban activity centers include single-family homes on small lots, duplexes, apartments and condominiums. Housing densities are generally higher than the community average. Residential populations in urban activity centers will generally range from 2,500 to 5,000 people. Offices, recreational and cultural facilities, shopping and services are all found in urban activity centers.

Mixed-use Area – Mixed-use areas are intended to enhance travel options, encourage development of locally serving commercial uses, medium-density apartments and offices along transportation corridors identified on the Land Use Plan Map. Mixed-use areas discourage low-intensity, auto-dependent uses and focus on a pedestrian orientation with an emphasis on aesthetics and design.

Commercial Categories

Three distinct categories for urban commercial use include the following:

Regional Commercial - The Regional Commercial classification designates intensive commercial areas intended to draw customers from the County-at-large and outlying areas. Regional shopping centers and major commercial areas will be designated with this classification. Residences in conjunction with business and/or multifamily developments may be allowed, with performance



standards that ensure compatibility. Small-scale industrial areas may be allowed in this category, provided neighborhood concerns are addressed through a public hearing process.

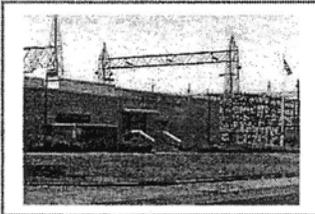
Community Commercial - The Community Commercial classification designates areas for retail, service and office establishments intended to serve several neighborhoods. Community business areas should be located as business clusters rather than arterial strip commercial development. Community business centers may be designated through the adoption of the Comprehensive Plan, Comprehensive Plan amendments or subarea planning. Residences in conjunction with business and/or multi-family developments may be allowed, with performance standards that ensure compatibility.



Neighborhood Commercial - The Neighborhood Commercial classification designates areas for small-scale, neighborhood-serving retail and office uses. Neighborhood business areas should be located as business clusters rather than arterial strip commercial development. Neighborhood business centers may be designated through the adoption of the Comprehensive Plan, Comprehensive Plan amendments or through neighborhood plans.

Industrial Categories

Categories for industrial use include the following.



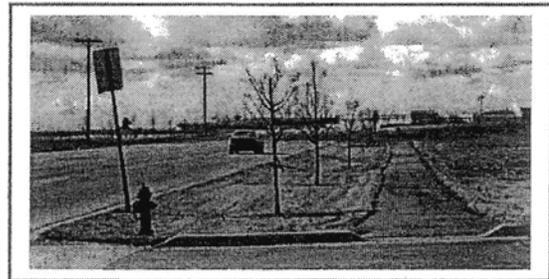
Heavy Industry - Heavy industry is characterized by intense industrial activities that may have significant impacts to surrounding areas, including, but not limited to noise, odor or aesthetic impacts.

Light Industry - The Light Industry category is intended for industrial areas that have a special emphasis and attention given to aesthetics, landscaping and internal and community compatibility. Light Industrial areas are comprised of predominantly industrial uses but may incorporate office and

commercial uses that support and complement the industrial area.

Aesthetic Corridors

Aesthetic corridors are intended to protect the visual appeal of the Spokane area along major transportation routes entering and exiting the County's urban areas. Aesthetic corridors provide special design standards for aesthetics along major transportation routes to help maintain a quality image of the Spokane Area.



Comprehensive Land Use Map

Urban Character and Design

The design of our urban environment has a significant effect on community identity. Well-designed communities contribute to a healthful, safe and sustainable environment that offers a variety of opportunities for affordable housing and employment. The Urban Character and Design section provides the goals and policies to preserve and enhance neighborhood character. Some of the concepts considered here include:

- Community appearance, including signs and placement of utilities;
- Neighborhood considerations in the review of development projects;
- Integration of neighborhoods, including bicycle and pedestrian orientation;
- The effect of traffic patterns and parking on neighborhood character;
- Encouragement of exemplary development through planned unit developments; and
- Considerations for public art.

Goals

UL.2 Maintain and enhance the quality of life in Spokane County through urban design standards.

Policies

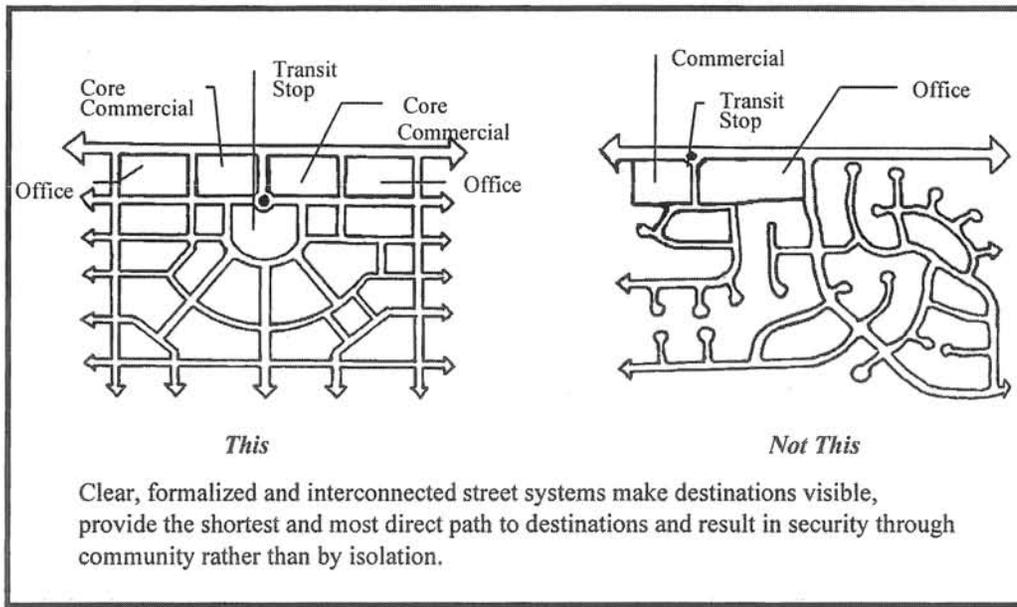
- UL.2.1 Establish minimum performance standards within the zoning code for nuisances such as noise, vibration, smoke, particulate matter, odors, heat and glare and other aspects as appropriate to ensure compatibility with adjacent land uses and neighborhoods.
- UL.2.2 The design of development proposals should accommodate and complement environmental features and conditions, and preserve and protect significant cultural resources.
- UL.2.3 Create an administrative design review process that promotes flexibility and creativity but is prescriptive enough to achieve community standards and values. The design review process should provide for administrative review by staff for proposals of small scale and complexity. Larger, more complex developments should require review by a design review board.
- UL.2.4 ~~Establish a design review board consisting of members from designated professional groups (architects, engineers, planners, developers, etc.), community representatives, and a representative from each of the affected neighborhoods or neighborhood associations.—~~ *Removed per Resolution No. 7-0208 3/13/07*
- UL.2.5 Design review may be required for the following developments:
- Developments within designated mixed-use areas
 - Planned unit developments
 - Government buildings intended for public entry and use (post office, libraries, etc.)
 - Aesthetic corridors
 - Large scale commercial and industrial developments

- UL.2.18 Establish development requirements that encourage quality design within multifamily development areas.
- UL.2.19 Develop standards that prescribe maximum building heights and other building design features to give a residential scale and identity to multifamily developments.

Traffic Patterns and Parking

Street design can have a significant impact on community character. Closed development patterns, which often include dead-end and cul-de-sac roads, tend to isolate communities and make travel difficult. Integrated neighborhoods provide connected streets and paths and often include a central focal point, such as a park or neighborhood business. Integrated development patterns promote a sense of community and allow for ease of pedestrian/bicycle movement. The illustration below contrasts an integrated, as compared to a closed, development pattern. Integration does not necessarily mean development in grids. Rather, roads should connect and provide for ease of circulation regardless of the layout.

Integrated as Compared to Closed-development Pattern



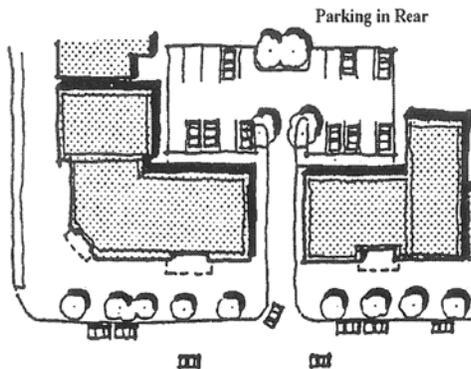
- UL.2.20 Encourage new developments, including multifamily projects, to be arranged in a pattern of connecting streets and blocks to allow people to get around easily by foot, bicycle, bus or car. Cul-de-sacs or other closed street systems may be appropriate under certain circumstances including, but not limited to, topography and other physical limitations which make connecting systems impractical.

Traffic Calming

Traffic calming can be defined as measures that physically alter the operational characteristics of the roadway in an attempt to slow down traffic and reduce the negative effects of the automobile. The theory behind traffic calming is that roads should be multiuse spaces encouraging social links within a community and the harmonious interaction of various modes of travel (i.e., walking, cycling, auto, transit).

UL.2.21 Consider techniques to slow vehicle traffic and reduce the volume of traffic in residential neighborhoods giving due consideration to traffic safety, pedestrian safety, mobility and conforming to the goals set forth in Goal T.4a of this plan.

UL.2.22 Develop street, pedestrian path and bike path standards that contribute to a system of fully connected routes.



UL.2.23 Encourage locating parking lots to the rear or side of buildings to enhance streetscapes and promote pedestrian access.

UL.2.24 Establish reduced number of parking space standards to encourage alternative transportation use and more efficient use of land, where appropriate.

UL.2.25 Establish shared parking space standards to promote the efficient use of land.

Buffering

UL.2.26 Require effective landscape buffers and/or transitional uses (e.g., pedestrian plazas or low-intensity offices) between incompatible industrial, commercial and residential uses to mitigate noise, glare and other impacts associated with the uses.

Planned Unit Developments

Building flexibility into the subdivision process is important to allow for new concepts and creative design. Planned unit developments provide a mechanism for allowing this flexibility while ensuring a design that meets health and safety standards and is consistent with neighborhood character. Planned unit developments allow deviations from the typical standards of the zone in exchange for designs that protect the environment, provide usable open space and exhibit exceptional quality and design.

Goal

UL.3 Encourage exemplary developments by providing for flexibility and innovative design through planned unit commercial/industrial and residential developments.

Policies

UL.3.1 Provide flexibility with regulations and other incentives for planned unit commercial, industrial and residential developments.



- UL.3.2 Develop criteria to evaluate planned unit developments for approval of development incentives. Criteria shall be based on the following considerations:
- a) Creative, efficient uses of land.
 - b) Exceptional quality and design.
 - c) Preservation of usable open space and natural landscape features.
 - d) Environmentally sensitive design.
 - e) Efficient utilization of public facilities and services.
 - f) Community improvements (i.e., contributions to culture, recreation, tourism, public improvements, business incubator facilities, etc.).
 - g) The project's ability to create living-wage jobs.
 - h) Development of street, pedestrian and bicycle paths that contribute to a system of fully connected routes.
- UL.3.3 Incentives for planned unit developments, which are consistent with adopted criteria, may include:
- a) Bonus density;
 - b) Increase in floor-to-area ratios; and
 - c) Greater flexibility in design standards (e.g., setbacks, frontage, building height, lot area, street design, landscaping, etc.).

Performance Standards

Performance standards spell out the desired end result (for instance, "on-site parking should not be visible from the public street") but allow flexibility in the particular means or approach for achieving that objective (underground parking, landscaping, berming or change in topography could be used to accomplish this objective). Performance standards generally require a more detailed review of projects.

Goal

UL.4 Encourage exemplary developments and creative design through the use of performance standards.

Policy

UL.4.1 Allow flexibility and innovative design through the use of performance standards which emphasize outcomes.



Viewscapes

An attractive urban landscape is an asset to the community. Aesthetically pleasing areas instill a sense of pride in the community and serve as a magnet for attracting new business. Signage regulations, landscaping requirements, building design standards and the preservation of natural and cultural viewscapes are methods to achieve an attractive urban landscape.

Goal

UL.5 Provide for an aesthetically pleasing urban environment and encourage the maintenance and enhancement of natural and cultural views.

Public Art Goal

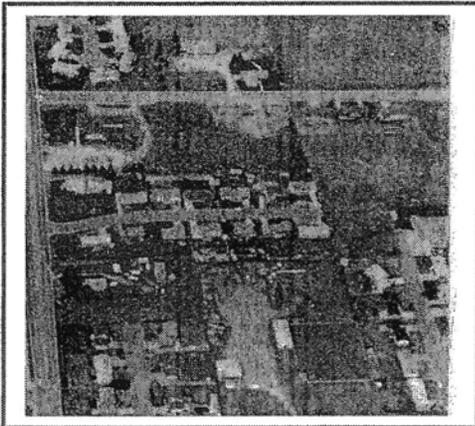
UL.6 Recognize that the arts contribute to the character of the physical, mental, social and economic well being of the community and encourage public and private commitment and investment.

Policies

- UL.6.1** Provide incentives such as bonus densities or increases in floor-to-area ratio and lot coverage to encourage the use of public art and open space in commercial, industrial and mixed-use developments.
- UL.6.2** Encourage permanent displays of art in new construction of County facilities intended for public entry.

Residential Land Use

Residential land use ranges from low-density, single-family neighborhoods to group homes and high-density multifamily apartments. The challenge to the community is to provide for this range of uses and affordable housing consistent with goals for protection of neighborhood character. Community involvement in design and a greater level of planning detail within the Comprehensive Plan are methods to achieve these objectives. Additionally, subarea and neighborhood planning can offer further opportunities for achieving residential goals.



Goal

UL.7 Guide efficient development patterns by locating residential development in areas where facilities and services can be provided in a cost-effective and timely fashion.

Policies

- UL.7.1** Identify and designate land areas for residential use, including categories for low-, medium- and high-density areas.
- UL.7.2** Coordinate housing and economic development strategies to ensure that sufficient land is provided for affordable housing in locations readily accessible to employment centers.
- UL.7.3** New urban development must be located within the Urban Growth Area (UGA) boundary.
- UL.7.4** Allow zero lot line housing and detached single-family housing on small lots with minimal setbacks and yards, where appropriate.
- UL.7.5** Provide for bonus densities, zero lot line housing, auxiliary structures, accessory dwellings or similar methods to promote infill development, where appropriate.

Residential Density

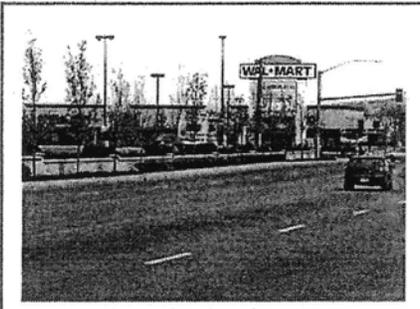
Goal

- UL.9a** Create a variety of residential densities within the Urban Growth Area with an emphasis on compact mixed-use development in designated centers and corridors.
- UL.9b** Create efficient use of land and resources by reducing the conversion of land to sprawling, low density development.

Policies

- UL.9.1** Establish low, medium, and high density residential categories to achieve population and economic growth objectives. Low density residential areas shall range from 1 to and including 6 dwelling units per acre, medium density residential shall range from greater than 6 to and including 15 dwelling units per acre and high density residential shall be greater than 15.0 residential units per acre. Mixed residential densities may be established through community-based neighborhood planning, subarea planning, or approval of traditional neighborhood developments.
- UL.9.2** Spokane County shall seek to achieve an average residential density in new development of at least 4 dwelling units per net acre in the Urban Growth Area through a mix of densities and housing types.

Urban Centers



Urban centers provide focus to the design of urban areas. Urban centers distributed spatially throughout the urban area provide for retail sales, services, government and business offices, recreation facilities, higher-density residences and other high-intensity uses to serve the needs of surrounding residential areas. These centers provide a mix of uses and are sized according to the size and other characteristics of the market they serve. Accordingly, they vary from small neighborhood centers providing primarily convenience goods and services to urban activity centers offering a broad range of retail shopping, professional and personal services. Urban

centers create focal points which establish an identity and sense of place, while providing opportunities for people to live where they work. To be successful, urban center development requires detailed professional and community-based planning and quality market research.

Neighborhood and Community Centers

Neighborhood Centers

Neighborhoods are small residential areas with distinctive characteristics. They generally range in size from one-half to one square mile, with planned populations ranging from 3,500 to 8,000 people. Neighborhoods are often defined by elementary school boundaries. Ideally, neighborhoods will have identified neighborhood centers containing a civic green or park, a transit stop, neighborhood businesses and services, a day care center and perhaps a church or school.

Community Centers

Community centers are higher-intensity, mixed-use areas designed to serve two or more neighborhoods. Community centers will generally serve an area equivalent to a junior high or high

school attendance area and may have a mix of uses, including commercial, civic, high density residential and recreational uses. Community centers provide a focal point and contribute to community identity.

Goal

UL.10 Encourage the development of mixed-use neighborhood and community centers that maintain or improve neighborhood character and livability.

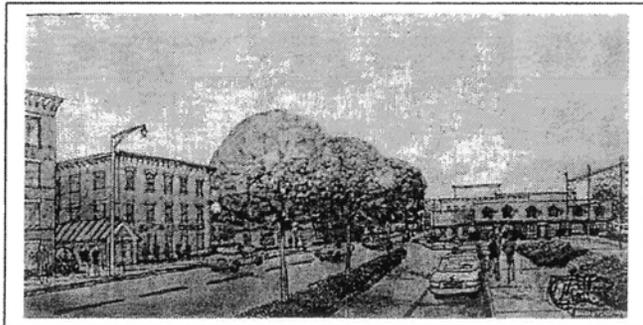
Policies

- UL.10.1 Mixed-use neighborhood and community centers that serve local residents and decrease the reliance on automobiles may be identified and designated through neighborhood and subarea planning.
- UL.10.2 Develop and maintain design standards and a design review process to ensure that neighborhood and community centers are developed with minimal impact on surrounding land uses, are consistent with community character and assure pedestrian and vehicular access.
- UL.10.3 Neighborhood and community centers may contain a mix of uses ranging from residential to commercial to office/industrial area. Neighborhood and/or subarea planning may be used to determine appropriate uses within a specific neighborhood.
- UL.10.4 The boundaries of a mixed-use center shall not be changed without a comprehensive plan amendment and study that addresses the relationship of the entire center to its surrounding uses and supporting public services.
- UL.10.5 Neighborhood and community mixed-use centers may utilize a subarea plan that involves design professionals, government service providers, business people and community residents.

Urban Activity Centers

Urban activity centers are planned residential and commercial areas. The boundaries of an urban activity center are generally sized with a one-quarter-mile radius so that the entire center is walkable. Convenient bus and/or light rail service and pedestrian/bicycle paths are important transportation features of urban activity centers. Residential types found in urban activity centers include single-family homes on small lots, duplexes, apartments and condominiums.

Housing densities are generally higher than the community average. Residential populations in urban activity centers will generally range from 2,500 to 5,000 people. Offices, recreation and cultural facilities, shopping and services are all found in urban activity centers.



Goal

- UL.11** Encourage the development of urban activity centers that foster community identity and reduce reliance on automobiles.

Policies

- UL.11.1 The specific size and boundaries of urban activity centers and the mix of uses within them shall be established through comprehensive plan amendments and/or future subarea planning efforts, based on regional and local needs and constraints.
- UL.11.2 Identify and designate urban activity centers that support mixed-use, high-density development. Establish urban activity centers as a land use category in the Comprehensive Plan.
- UL.11.3 Urban activity centers may be located at or adjacent to high-capacity transit stations and will serve as hubs for less intensely developed neighborhoods.

Design Guidelines for Neighborhood, Community, and Urban Activity Centers

UL.11.11 Provide design standards and land use plans for neighborhood, community, and urban activity centers that are based on the following principles:

- a) Centers should be compact to encourage transit, bicycle and pedestrian travel. Multistory construction, structured parking and other techniques to use land efficiently should be encouraged.
- b) Urban activity centers should be designed to reduce conflicts among uses and to increase convenience for businesses, employees, users and pedestrians.
- c) Aesthetic quality and compatibility among land uses within and adjacent to centers should be enhanced through landscaping, building orientation and setbacks, traffic control and other measures to reduce potential conflicts. Distinctive or historical local character and natural features should be reflected in development design to provide variety within centers.
- d) Unsightly views, such as heavy machinery, storage areas, loading docks and parking areas, should be screened from the view of adjacent uses and from arterials.
- e) Signs should be regulated to reduce glare and other adverse visual impacts on nearby residents without limiting their potential contribution to the color and character of the center.
- f) Routes for pedestrian, auto, bicycle, transit and truck travel within centers should have convenient access to each major destination. Buildings should be close to sidewalks to promote walking and browsing, with parking areas located on the side or rear of buildings.
- g) Commercial development in centers should provide or contribute to public spaces such as plazas, parks, and building atriums to enhance the appearance of the center and to provide amenities for employees and shoppers.
- h) The amount of land designated for retail development in neighborhood and community centers should be based on the amount of residential development planned for the surrounding area.
- i) Off-street parking areas should be designed to enhance pedestrian and handicapped access to commercial uses. The required off-street parking area may be reduced in areas where transit service is frequent or where parking is shared or communal. Structured and underground parking should be encouraged through density bonuses, intensification incentives or reduced parking requirements.

Mixed-Use Areas

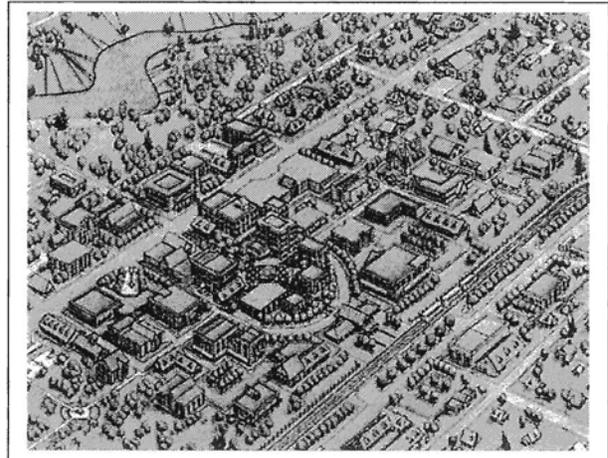
Mixed-use areas are intended to enhance travel options, encourage development of commercial uses, higher-density residences, office, recreation and other uses. To be successful, mixed-use areas require detailed professional and community-based planning and quality market research. Neighborhood and subarea planning programs that involve design professionals, government service providers, business people and community residents may be necessary to design successful mixed-use areas.

Goal

UL.12 Encourage the development of mixed-use areas that foster community identity and are designed to support pedestrian, bicycle, and transit transportation.

Policies

UL.12.1 The specific size and boundaries of mixed-use areas shall be established through comprehensive plan adoption, comprehensive plan amendments and/or future subarea planning efforts, based on regional and local needs and constraints.



UL.12.2 Identify and designate mixed-use areas that support mixed-use, high-density development. Establish mixed-use areas as a land use category in the Comprehensive Plan.

UL.12.3 The characteristics of a mixed-use area include:

- a) Housing and employment densities to support frequent transit service;
- b) Public transit connections to other Centers and Corridors;
- c) Safe, attractive bus stops and pedestrian and bicycle ways;
- d) Buildings which front on wide sidewalks with attractive landscaping, benches and frequent transit stops;
- e) Multi-story buildings oriented to the street rather than parking lots; and
- f) Parking spaces located behind, or to the side of buildings or under/over structures.

UL.12.4 The mix of land use in a mixed-use area includes:

- a) A variety of housing styles—apartments, condominiums, row houses, two-family and single-family houses on small lots;
- b) There could be a full range of retail goods and services—grocery stores serving several neighborhoods, theaters and restaurants, drycleaners, hardware stores and specialty shops;
- c) A mix of residence types in close proximity to commercial uses and business and government offices;
- d) An emphasis on community-serving rather than regional-serving commercial uses.
- e) Commercial uses that require large land areas but have low employment density and are auto-dependent (lumber yards, nurseries, warehouses, auto dealerships, etc.) are prohibited; and
- f) Residential density within a mixed-use area shall range from 6 units per acre to 30 units per acre.

UL.12.5 Mixed-use areas may utilize a subarea planning process that involves design professionals, government service providers, business people and community residents.

Commercial Land Use

Regional Commercial

The regional commercial classification designates intensive commercial areas intended to draw customers from the County at large and other outlying areas. Regional shopping centers and major commercial areas will be designated with this classification. Residences in conjunction with business and/or multifamily developments may be allowed, with performance standards that ensure compatibility. Small-scale industrial areas may be allowed in this category, provided neighborhood concerns are addressed through a public hearing process.

Community Commercial

The community commercial classification designates areas for retail, service and office establishments intended to serve several neighborhoods. Community business areas should be located as business clusters rather than arterial strip commercial development. Community business centers may be designated through the adoption of the Comprehensive Plan, Comprehensive Plan amendments or through subarea planning. Residences in conjunction with business and/or multifamily developments may be allowed with performance standards that ensure compatibility.

Neighborhood Commercial

The neighborhood commercial classification designates areas for small-scale neighborhood-serving retail and office uses. Neighborhood business areas should be located as business clusters rather than arterial strip commercial development. Neighborhood business centers may be designated through the adoption of the Comprehensive Plan, Comprehensive Plan amendments or through neighborhood plans.

Goal

UL.13 Provide adequate commercial land within urban growth areas to conveniently serve the local and regional trade areas.

Policies

Location/Use

- UL.13.1 Designate a variety of strategically located commercial areas that will be accessible from roadways of major arterial classification or higher, served with utilities and free of major environmental constraints.
- UL.13.2 Allow incentives to encourage the development of residences in conjunction with commercial districts.

Commercial Land Quantity

- UL.13.3 The initial quantity of commercial land uses within the UGA is based on methodologies established by the Growth Management Steering Committee of Elected Officials (March 15, 1996). Future commercial land quantity analysis shall consider Growth Management Steering Committee methods, but may use other methodologies.

Design Standards

- UL.13.4 Develop and maintain comprehensive design standards and a design review process to ensure that commercial projects are developed with minimal impact on the environment, are complementary and compatible with related community appearance and design and assure pedestrian as well as vehicular access.

- UL.13.5 Establish specific development standards relating to setbacks, landscaping, physical buffers, screening, access, signs, building heights and design review for commercial development.
- UL.13.6 Zoning and other land use regulations shall provide the following improvements for commercial development:
 - a) Paved streets
 - b) Sidewalks and bicycle lanes in commercial and retail areas
 - c) Parking, bike racks and transit facilities for employees and customers (some facilities may be communal)
 - d) Landscaping along streets, sidewalks and parking areas to provide an attractive appearance
 - e) Adequate stormwater control, including curbs, gutters and stormwater management facilities
 - f) Public sewer and water supply
 - g) Controlled traffic access to arterials and intersections

Industrial Land Use

Providing for industrial land is important for the economic health of Spokane County. Industrial businesses help drive the local economy and create an economic multiplier effect throughout the region. Providing an adequate supply of usable land with minimal environmental constraints and infrastructure in place helps ensure that Spokane County will be an attractive place for industrial businesses to locate and prosper. (See Chapter 8, Economic Development, for additional policies that encourage recruitment and retention of industrial business.)



Goal

- UL.14a **Provide for the development of well-planned industrial areas that create higher-income jobs, provide economic growth and improve the overall tax base of Spokane County.**
- UL.14b **Ensure the long-term holding of appropriate land in parcel sizes adequate to allow for future development as industrial uses.**

Policies

- UL.14.1 Identify and designate industrial land areas for heavy industry and light industry.
- UL.14.2 Industrial land designations within the UGA shall be based on criteria established by the Growth Management Steering Committee of Elected Officials (March 15, 1996).
- UL.14.3 Encourage intensification and revitalization of existing industrial areas.
- UL.14.4 Consider capital facility expenditures to facilitate the development of lands designated for industrial uses.
- UL.14.5 Encourage industries with low energy consumption and industries that recycle resources to locate in Spokane County.

UL.14.6 Encourage low-polluting industries to locate in Spokane County.

UL.14.7 Encourage shared-use parking, pedestrian access and transit incentive programs in industrial development projects.

Heavy Industry

Heavy industry is characterized by intense industrial activities which may have significant impacts to surrounding areas, including, but not limited to, noise, odor, or aesthetic impacts.

Commercial, residential and recreational uses should not be allowed in areas designated for heavy industry, except for small-scale ancillary uses serving the industrial area. The conversion of designated industrial lands to other uses should be strictly limited. Limiting incompatible uses ensures a competitive advantage in business recruitment by providing adequate industrial land supply, reducing land use conflicts and preventing inflation of land prices.



Goal

UL.15 A variety of strategically located heavy industrial areas should be designated and protected from conflicting land uses.

Policies

UL.15.1 Identify and designate land areas for heavy industry.

UL.15.2 Areas designated for heavy industry may include a variety of industrial, mining and transportation uses.

UL.15.3 Commercial, residential and recreational uses shall not be allowed in areas designated for heavy industry, except for small-scale ancillary commercial and recreational uses which serve the industrial area.

UL.15.4 Conversion of designated industrial lands to other uses shall be strictly limited in order to ensure adequate land supply and prevent inflation of land prices.

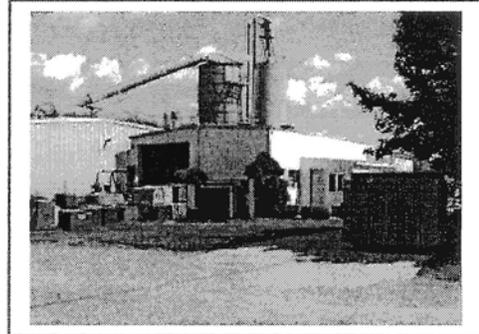
UL.15.5 Interim uses of heavy industrial property such as agriculture, animal raising and training, recreation including off road vehicle parks and miniature golf/driving ranges should be allowed to occupy undeveloped property pending more intensive utilization.

UL.15.6 Carefully consider the designation of comprehensive plan categories adjacent to heavy industrial areas to ensure compatibility between uses and limit land use conflicts.

Light Industry

The Light Industry category is intended for industrial areas that have a special emphasis and attention given to aesthetics, landscaping and internal and community compatibility. Light Industry areas are comprised of predominantly industrial uses but may incorporate office and commercial uses that support and compliment the industrial area.

The Light Industry category may serve as a transitional category between heavy industrial areas and other less intensive land use categories. The category may also serve as a visual buffer for heavy industrial areas adjacent to aesthetic corridors.



Incompatible Uses in Designated Light Industrial Areas

Residential uses should not be allowed in lands designated for Light Industry except for master planned industrial developments that provide residences intended to house employees for the planned industrial use.

Goal

UL.16 A variety of strategically located light industry areas should be designated and protected.

Policies - Light Industry

- UL.16.1 Identify and designate land areas for light industry.
- UL.16.2 Light Industrial areas shall be comprised of predominantly industrial uses but may incorporate office and commercial uses that support and compliment the industrial area. Residential use will not be allowed except for master planned industrial developments that provide residences intended to house employees for the planned industrial use.
- UL.16.3 Industrial uses may be appropriate in mixed-use developments of residential, commercial and light industrial, provided there is adequate mitigation of land use conflicts and community character and property values are preserved.
- UL.16.4 Light industrial areas shall include sidewalks, bike lanes on arterial streets and landscaping to provide a safe and attractive working environment. Pathways for pedestrians and bikes may be substituted for sidewalks on local access streets.

Standards and Regulations for all Industrial Areas

Goal

- UL.17 Establish and maintain land use regulations for industrial areas that protect their use into the future and prevent land use conflicts.**

Policies

- UL.17.1 Industrial developments within the Urban Growth Area shall provide the following improvements:
- a) Paved streets
 - b) Adequate parking for employees and business users (parking may be shared or communal)
 - c) Adequate stormwater control, including curbs, gutters and stormwater management facilities
 - d) Public sewer and water supply
 - e) Controlled traffic access to arterials and intersections
- UL.17.2 Access points should be combined and limited in number to allow smooth traffic flow on arterials. Access through residential areas should be avoided.
- UL.17.3 Standards for setbacks, landscaping and noise barriers shall be developed to mitigate impacts between industrial developments and adjacent land uses.

Urban Growth Area

The Growth Management Act mandates the establishment of urban growth areas (UGAs). The urban growth area (UGA) boundary identifies areas where future urban growth should occur and establishes a clear separation between urban and rural development. The intent of establishing a UGA is that urban growth should occur first in areas with existing public services and facilities that have sufficient capacity to serve development and second in areas where urban services can be economically extended. With adjustments for environmentally sensitive land which is unsuitable for development and reasonable market factors to avoid constraining the land supply, the UGA is sized to accommodate the projected 20-year population. A primary basis for the UGA requirement is the economical and efficient provision of public services. The urban land supply should be closely monitored and adjustments to the UGA made when necessary to ensure that land prices are not artificially inflated.

Goal

- UL.18 Maintain an Urban Growth Area (UGA) that provides a distinct boundary between urban and rural land uses and provides adequate land to accommodate anticipated growth.**

Policies

- UL.18.1 Review and evaluate Urban Growth Area boundaries, at a minimum every five years, as required by the Countywide Planning Policies (topic 1, policy 18) and the Revised Code of Washington.

- UL.18.2 The determination of UGA boundaries shall include consideration of environmental features, topography, jurisdictional boundaries and special purpose districts. When the boundary follows a utility line, consideration should be given to including adjacent parcels on both sides of the line to allow efficient use of the utility and provide fairness to property owners.
- UL.18.3 Urban Growth Area boundaries shall follow parcel boundaries to avoid splitting an existing parcel of record, except when the inclusion of the entire parcel creates an irregular or illogical boundary.
- UL.18.4 Consistent with availability of facilities and services, development to urban densities will be encouraged in and up to the Urban Growth Area boundaries.



Chapter 3 Rural Land Use

Farm near Mica

Chapter 3 Rural Land Use

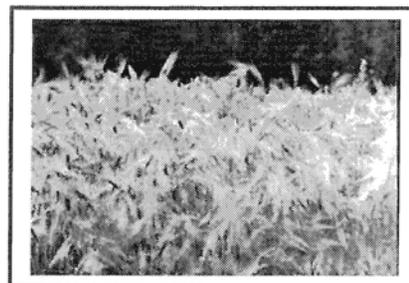
Chapter 3 – Rural Land Use

Rural lands are lands located outside the Urban Growth Area and outside of designated agricultural, forest and mineral lands. Typically, rural areas have received their identity from a rural way of life rooted in history and resource-based industries, including farming and forestry. More recently, recreation and open space uses have played an increasing role in rural areas. Small towns and unincorporated communities provide services for surrounding rural areas and the traveling public.

Rural Character

Defining rural character is essential for development of rural goals and policies. Counties are required to include measures in the rural chapter that protect rural character. Through visioning and other citizen-participation efforts, the following principles for defining and preserving rural character have evolved:

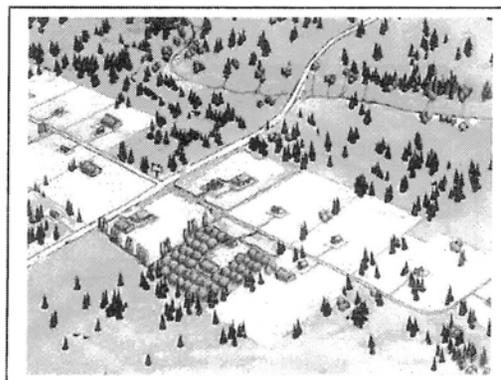
- The rural landscape should reflect a traditional development setting with low population density.
- Interconnected open spaces and natural areas should be provided through clustering and other innovative techniques.
- Rural residents should be self-sufficient and accept a traditional lifestyle with low levels of governmental services.
- Rural towns and centers should provide a community focal point and offer opportunities for shopping and other services.
- Scenic roadways and vistas should be preserved by prohibiting billboards and strip commercial development.
- Agriculture and forestry uses within the Rural category should be accepted as being consistent with rural area lifestyles.
- Land use practices should be conducted in a way that protects the environment, providing for clean air and water.
- Rural lands should have low population densities, allowing much of the area to be retained in a natural state, providing wildlife habitat and the preservation of natural systems.



Rural Land Use Categories

Rural Traditional

Rural lands in this category will include large-lot residential uses and resource-based industries, including ranching, farming, mining and forestry operations. Industrial uses will be limited to industries directly related to and dependent on natural resources. New non-resource-related industry would be allowed, provided it meets the requirement for a major industrial development outside the UGA (see policy RL.5.1 and RCW 36.70A.365). Rural-oriented recreation uses will also play a role in this category. Rural residential clustering is allowed in this category.



Density

The density of the Rural Traditional category is 1 dwelling unit per 10 acres.

Rural Residential-5

The Rural Residential-5 category would allow a 1 dwelling unit per 5-acre density in areas that have an existing 5-acre or smaller subdivision lot pattern. The provision of public water service may be appropriate for these areas. Rural residential clustering is allowed in this category.

Density

The density of the Rural Residential-5 category is 1 dwelling unit per 5 acres.

Rural Conservation

The Rural Conservation category applies to environmentally sensitive areas, including critical areas and wildlife corridors. Criteria to designate boundaries for this category were developed from Spokane County's Critical Areas program and a study by the University of Washington titled, *Wildlife Corridors and Landscape Linkages, An Approach to Biodiversity Planning for Spokane County, Washington*. The category will encourage low-impact uses and utilize clustering and/or other open space techniques to protect sensitive areas and preserve open space.

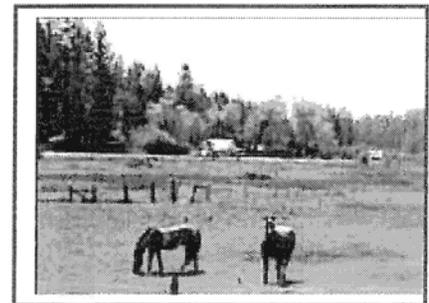


Density

The density of the Rural Conservation category is 1 dwelling unit per 20 acres, with a bonus density of 1 dwelling unit per 10 acres for preserving open space and environmentally sensitive areas through clustered housing.

Urban Reserve

The Urban Reserve Area category includes lands outside the Urban Growth Area that are considered for growth within a 40-year planning horizon. These areas are given special consideration, such as low-density, large-lot development, so that land uses established in the near future do not preclude their eventual conversion to urban densities. For example, a 1-acre to 5-acre per lot subdivision pattern in these areas would create parcels that would be difficult to divide to urban densities. Innovative techniques such as residential clustering may be used to allow residential development rights and ensure that these areas will be available in the future. The use of public water systems or community wells is encouraged. Community drainfields may also be appropriate in the Urban Reserve category.

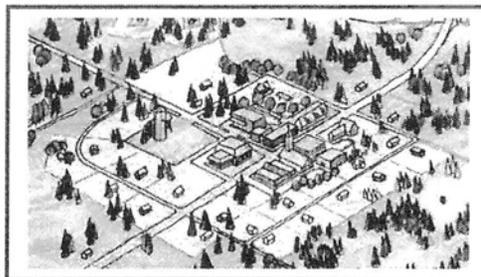


Density

The density of the Urban Reserve category is 1 dwelling unit per 20 acres, which may be increased to 1 dwelling unit per 5 acres for clustered housing. Within a cluster subdivision, the remainder lot must be reserved for future urban use. The minimum lot size in a cluster subdivision could be as low as 10,000 sq. ft; the maximum lot size is 1 acre.

Rural Activity Centers

The Rural Activity Center (RAC) category identifies rural residential centers supported with limited commercial and community services. RACs consist of compact development with a defined boundary that is readily distinguishable from surrounding undeveloped lands. RACs often form at crossroads and develop around some focal point, which may be a general store or post office. Other typical uses might include a church, school, restaurant, gas station or other small shops. Commercial uses are intended to serve the surrounding rural area or in some instances the traveling public. RACs must have an identified boundary established on the Comprehensive Plan map.



Density

The maximum residential density in a Rural Activity Center category is 4 dwelling units per acre.

Limited Development Areas

This category identifies commercial, industrial and residential areas that were established prior to July 1, 1993 (the year Spokane County was mandated into Growth Management planning) but are not consistent with the criteria for designation as a Rural Activity Center. Limited infill and expansion of these designated areas may be appropriate. Any lands identified by this category must have adopted boundaries delineated on the Comprehensive Plan map. Limited Development Areas consist of two subcategories, a Commercial/Industrial category and a Residential category.



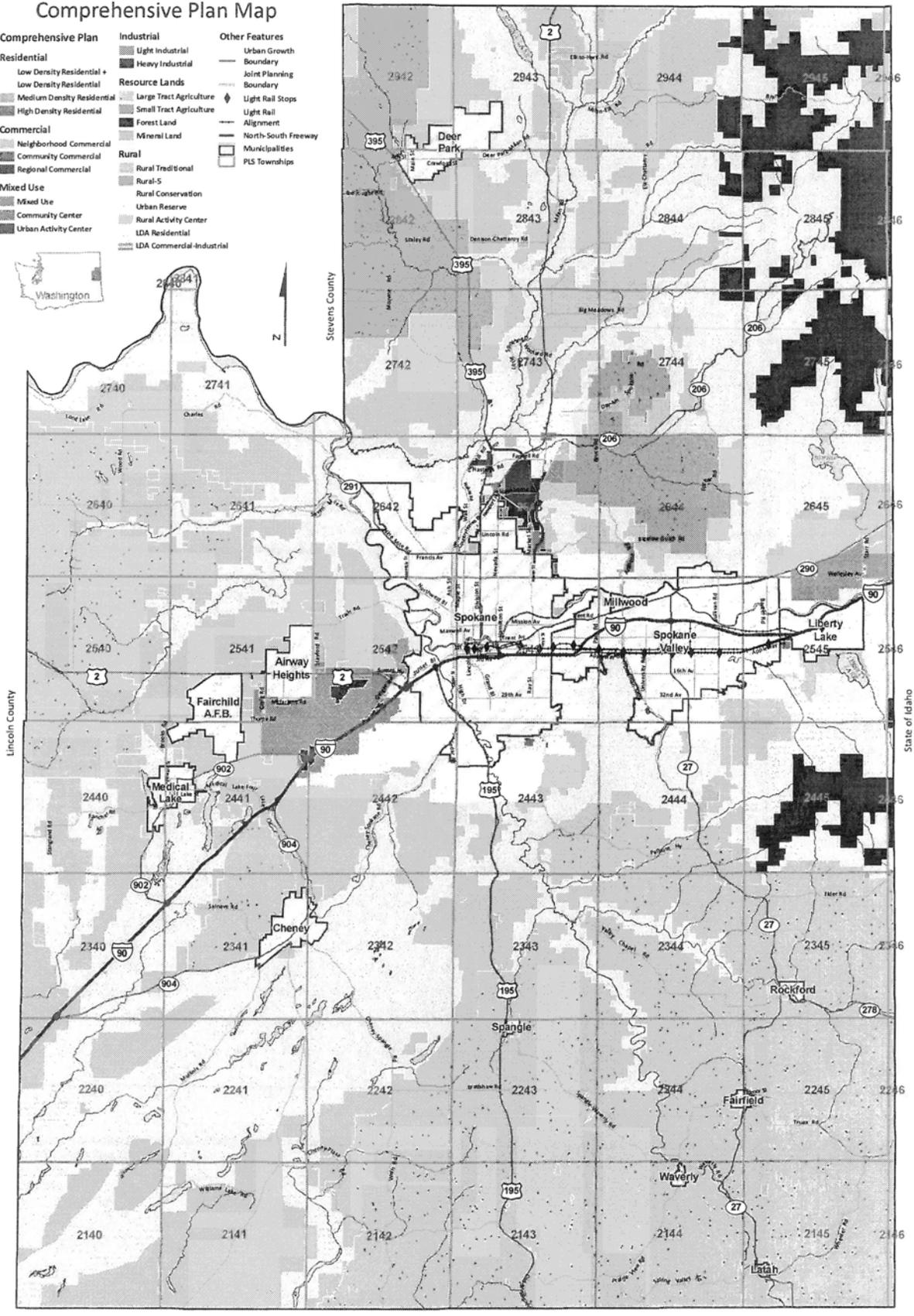
Master Planned Resort

The Master Planned Resort (MPR) category allows self-contained, fully integrated planned unit developments in a setting of significant natural amenities with primary focus on destination resort facilities. They consist of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities. With the exception of employee housing, new MPRs do not include full-time residential uses.

Comprehensive Plan Map

Pend Oreille County

- | | | |
|----------------------------|---------------------------|-------------------------|
| Comprehensive Plan | Industrial | Other Features |
| Residential | Light Industrial | Urban Growth Boundary |
| Low Density Residential + | Heavy Industrial | Joint Planning Boundary |
| Low Density Residential | Resource Lands | Light Rail Stops |
| Medium Density Residential | Large Tract Agriculture | Light Rail Alignment |
| High Density Residential | Small Tract Agriculture | North-South Freeway |
| Commercial | Forest Land | Municipalities |
| Neighborhood Commercial | Mineral Land | PLS Townships |
| Community Commercial | Rural | |
| Regional Commercial | Rural Traditional | |
| Mixed Use | Rural-S | |
| Mixed Use | Rural Conservation | |
| Community Center | Urban Reserve | |
| Urban Activity Center | Rural Activity Center | |
| | LDA Residential | |
| | LDA Commercial-Industrial | |



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Spokane County Building and Planning



Rural Residential Development

The Rural Residential section provides for development of a variety of residential uses consistent with maintaining rural character. Large lot development patterns and innovative techniques, such as clustering, are included as options for rural development.

Goal

RL.1 Provide for rural residential development consistent with traditional rural lifestyles and rural character.

Policies

- RL.1.1 Unplatted property cannot be allowed to be developed to urban densities unless, and until, located within an Urban Growth Area (UGA) boundary designated as a master planned resort, rural activity center, limited development area or new, fully contained community.
- RL.1.2 Designated rural lands shall have low densities which can be sustained by minimal infrastructure improvements such as septic systems, individual wells and rural roads without significantly changing the rural character, degrading the environment or creating the necessity for urban levels of service.

Residential Limited Development Areas

Some scattered areas of urban residential development exist outside the County's Urban Growth Area. In these areas it may be appropriate to designate these lands as Limited Development Areas and allow infill consistent with the existing pattern. Infill areas should be restricted to well-defined boundaries and not include large expanses of undeveloped land.

- RL.1.3 The infill of urban-type residential development within rural areas may be allowed consistent with the following guidelines:
- a) The area is designated and mapped within the Limited Rural Development category and is contained by logical boundaries, outside of which urban-type development shall not occur. These boundaries shall be illustrated on the Comprehensive Plan map.
 - b) In developing a logical boundary, physical considerations such as bodies of water, streets and highways, and land forms and contours should be considered. Abnormally irregular boundaries should be avoided.
 - c) The character of rural neighborhoods and communities is maintained.
 - d) Public services and public facilities can be provided in a manner that does not permit low-density sprawl.
 - e) The boundary is based on urban-type development that was established prior to July 1, 1993.
 - f) Infill development shall be limited to small areas generally surrounded by urban-type development where conventional rural lots are not feasible.

Non-residential and accessory uses

- RL.1.4 Nonresidential and accessory uses appropriate for the rural area include farms, forestry, outdoor recreation, education and entertainment, sale of agricultural products produced on-site, home industries and home businesses. New churches and schools in the rural area are encouraged to locate in rural cities or rural activity centers, provided adequate services are available and the extension of urban services is not necessary.

Exemptions to Subdivision Regulations

- RL.1.5 Rural divisions of land shall comply with State Law pertaining to exemptions from subdivision requirements. Exemptions from the subdivision laws should not be used to circumvent the intent of subdivision and environmental protection laws.

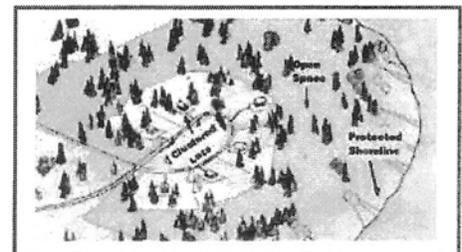
Innovative Techniques

Innovative techniques can be employed to protect environmentally sensitive areas, preserve open space and protect the character of rural areas.

- RL.1.6 Jurisdictions should work together to develop and implement regionally consistent incentive-based programs such as Transfer of Development Rights (TDR) and bonus densities to protect natural resource lands outside of Urban Growth Areas (UGAs).
- RL.1.7 Encourage the use of conservation easements through nonprofit land trust organizations and/or other organizations or similar measures to conserve and protect resource uses, open space and critical areas.
- RL.1.8 Implement strategies for the acquisition of natural areas of high scenic value through techniques such as residential clustering, conservation easements, conservation futures funding, open space zoning and other techniques.

Rural Clustering

Large-lot (10-acre) zoning has been the conventional way to minimize population density and retain rural character in Spokane County's rural areas. This method, while effective at controlling population density, has divided our rural lands with little sensitivity to the effects on rural resources and the natural environment. Large-lot zoning, combined with a lack of road standards, has also created many miles of poorly maintained private roads, making fire and emergency access difficult. Rural clustering offers an alternative to large-lot zoning. Rural clustering encourages the grouping of home sites on areas of the site that are best suited for development, while retaining the remainder of the site for open space. Clustering allows for more flexible and environmentally sensitive rural subdivisions. The Urban Reserve, Rural Residential-5, Rural Traditional, and Rural Conservation categories are designated as appropriate areas for rural clustering.



Some of the advantages of clustering include the following:

- a) Clustered homesites can significantly reduce the length of roadway necessary to serve the development.

- b) Clustered home sites can utilize a community well, thus reducing water supply costs and potential groundwater impacts.
- c) Clustered home sites improve the ability of fire departments to fight fires in rural areas.
- d) Clustered home sites provide for greater security and can help establish a sense of community.
- e) Clustered home sites can preserve open space for agriculture, forestry, wildlife habitat, recreation, and natural drainage.

Some limitations of clustering may include the following:

- a) Cluster developments may result in increased financing and costs in site planning design and engineering.
- b) Management of the "open space" in a clustered development can be a problem. Without an active open space management plan, the area could become degraded through neglect.
- c) Smaller lots in clustered subdivisions may create the expectation of urban services.
- d) Land use conflicts between clustered home sites and forestry and agricultural use can occur if care is not taken in the design of the development.

RL.1.9 Clustering of rural development may be permitted as a tool for the preservation of rural open space as long as it can be demonstrated that the rural character of the area can be maintained and that urban services are not required to serve the new development.

RL.1.10 Provisions to allow clustered housing in rural areas should adhere to the following guidelines:

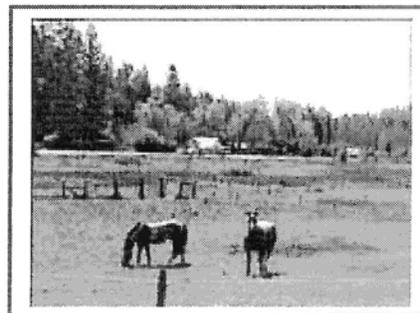
- a) Development should be limited through density requirements that protect and maintain existing rural character, open space systems and water resources and control traffic volumes and road building.
- b) Siting of cluster projects should minimize impacts on neighbors, infrastructure and the surrounding environment.
- c) Permitting procedures for rural cluster projects should be no more difficult for cluster developments than for traditional subdivisions and should include incentives to encourage their use.
- d) Standards should be established for minimum and maximum project size so projects are large enough to support viable open spaces but small enough to prevent the residential cluster development from overwhelming the surrounding area.
- e) The primary component of the project site is the open space system. The system should be a network of spaces designed to be usable for their intended purposes and permanently protected or explicitly designated for future development if located in an urban reserve area. Preparation and implementation of an open space management

plan should be required. The management plan should explicitly include details concerning ownership, taxes, liability, future use, etc.

- f) There should be a pattern of cluster areas established within the project site which does not cause significant impacts on neighboring properties or interrupt the continuity of existing and planned agricultural and related uses.
- g) Lots within a rural cluster in the Rural Traditional, Rural Conservation, and Rural-5 categories shall be one acre or larger to maintain rural character and allow for rural-type lifestyles, such as animal keeping, orchards and gardening. Lots within the Urban Reserve category should range from 10,000-sq. ft. to 1 acre to preserve the area for future urbanization.
- h) The number of home sites per cluster should be limited. Within the cluster, there should be a minimum of 2 and a maximum of 8 home sites. Clusters should be visually and physically separated from one another by open-space buffers. The scenic nature of roadways should be protected by varied setbacks and/or open space buffers.
- i) Lot dimensions, building heights and setbacks should be compatible with rural character and provide the privacy, seclusion and access to open space that are normally expected in rural areas.
- j) A minimum of 70% of the site in a rural cluster development shall be preserved for open space, wildlife habitat and/or resource use; or in the case of urban reserve areas, to avoid precluding future development options.
- k) An aggregation of clustered developments cannot be so arranged that it forms the basis for a rural activity center.
- l) Clustered housing should not become the predominate pattern of development throughout the rural area.
- m) Special consideration should be given to clustered housing in Urban Reserve Areas to ensure that development does not preclude the eventual conversion to urban densities on the remainder parcel.

Urban Reserve Areas

Urban Reserve Areas (URAs) are lands outside the Urban Growth Area that are considered for growth beyond the initial 20-year planning period but within a 40-year planning horizon. These areas are given special consideration so that land uses established in the near future do not preclude their eventual conversion to urban densities. For example, a 1-acre to 5-acre per lot subdivision pattern in these areas would create parcels that would be difficult to redivide to urban densities. Innovative techniques such as residential clustering and bonus densities may be used to protect property rights and ensure that these areas will be available in the future for urban development. Development in Urban Reserve Areas should be done in such a manner as to allow the orderly and efficient extension of utilities when the area is included in the UGA.



- RL.1.11 Based on a 40-year planning horizon, the County should identify Urban Reserve areas and growth corridors; within these areas, densities and land use patterns which preclude future conversion to urban densities should be discouraged.
- RL.1.12 Development in URAs should be consistent with future urban design, including layout of buildings and roads.
- RL.1.13 Urban Reserve Areas (URAs) shall be designated on the Comprehensive Plan map based on the following considerations:
- a) Suitability of natural systems to accommodate growth. Sensitive watersheds, shoreline areas, wildlife habitat and corridors or other sensitive environmental features should not be included in URAs.
 - b) Size of existing parcels. Land that is outside of the current UGA but exhibits the land division characteristics of urban development should be considered for inclusion in the URA.
 - c) The carrying capacity of natural, infrastructure, and environmental systems.
 - d) The logical and orderly outward extension of urban services.
 - e) Population projections for a 40-year planning horizon.
- RL.1.14 Clustered developments within URAs should provide urban transportation facilities (i.e. curbs, gutters, sidewalks and drainage facilities) at the same time as construction of the development.

New Fully Contained Communities

A new fully contained community is a development proposed for location outside of the existing designated Urban Growth Areas which is characterized by urban densities, uses and services and meets the criteria of RCW 36.70A.350. New fully contained communities must receive a portion of the County's population allocation proportionate to the communities expected population.

- RL.1.15 The County may establish "new, fully-contained communities" within the rural area, as provided for by the GMA. Future revisions to the Plan should consider new fully-contained communities as an option to accommodate population growth. Clustered Developments within URAs should provide urban transportation facilities (i.e. curbs, gutters, sidewalks, and drainage facilities) at the same time as construction of the development.

Rural Activity Centers

Providing for rural services and community gathering places without promoting sprawl development is a challenge in rural areas. Rural activity centers (RACs) provide a mechanism for addressing these needs. RACs are mixed-use centers, including commercial and residential uses, and community services. RACs consist of compact development with a defined boundary that is readily distinguishable from surrounding undeveloped lands. RACs often are found at crossroads and develop around some focal point, which may be a general store or post office. Other typical uses may include a church,

school, restaurant, gas station or other small shops. Commercial uses are intended to serve the surrounding rural area or, in some instances, the traveling public.

To be classified as a Rural Activity Center, the area must have been in existence prior to July 1, 1993, which is the date Spokane County was mandated to plan under the Growth Management Act.

Goal

RL.2 Designate rural activity centers planned for a mix of residential and commercial uses to meet the needs of rural residents while retaining rural character and lifestyles.

Policies

RL.2.1 RACs shall be limited to isolated, rural communities and centers. RAC boundaries shall be defined by a logical outer boundary delineated predominantly by the built environment and the following considerations:

- a) Preservation of the character of neighborhoods and communities
- b) Preservation of natural systems and open space
- c) Physical boundaries, such as bodies of water, streets and highways and land forms and contours
- d) The ability to provide public facilities and public services in a manner that does not permit low-density sprawl
- e) Designations should be confined to built-up areas, established prior to July 1, 1993, and not include large expanses of vacant land

RL.2.2 The following unincorporated communities may be included as rural activity centers and others may be designated as appropriate, consistent with adopted policies.

- | | |
|--------------------|---------------|
| a) Elk | h) Four Lakes |
| b) Eloika Lake | i) Marshall |
| c) Riverside | j) Plaza |
| d) Chattaroy | k) Mica |
| e) Colbert | l) Valleyford |
| f) Nine Mile Falls | m) Freeman |
| g) Moab Junction | |

RL.2.3 Commercial developments within RACs should be of a scale and type to be primarily patronized by local residents and in some instances to provide support for resource industries, tourism and the traveling public.

RL.2.4 Encourage developers to work with local residents within RACs to develop plans that satisfy concerns for environmental protection, historic preservation, quality of life, property values and preservation of open space.

Rural Governmental Services

Rural character embodies a quality of life based upon traditional rural lifestyles and aesthetic values. Included within this definition is an expectation and acceptance of low levels of governmental services. Rural residents generally seek to retain their traditional self-reliance within a supporting community framework. Typically, rural areas will be served by individual wells, on-site wastewater disposal, volunteer fire departments and low levels of police protection. Extension of public water is appropriate in rural areas in some cases. Some areas of development, established prior to plan adoption, will have existing sewer services.

Goal

RL.3 Provide a level of rural governmental service consistent with maintaining rural character.

Policies

- RL.3.1 Designated rural lands shall have low densities which can be sustained by minimal infrastructure improvements, such as septic systems, individual wells and rural roads, without altering the rural character, degrading the environment or creating the necessity for urban level of services.
- RL.3.2 Extension of storm and sanitary sewer services outside of Urban Growth Areas (UGAs) should only be provided to maintain existing levels of service in existing urban-like areas or for health and safety reasons or to accommodate a major industrial development approved pursuant to RCW 36.70A.365, provided that such extensions are not an inducement to growth.
- RL.3.3 Rural governmental services shall include those public services and facilities historically and typically delivered at intensity usually found in rural areas and shall include domestic water service either through individual wells or public water service. Rural governmental services shall not include new storm and sanitary sewers except as provided for in RL.3.2.

Resource-based Uses in Rural Areas

Rural lands, by definition, do not include agricultural, forestry and mineral lands that have been classified as resource lands with "*long-term commercial significance*." Resource lands with long-term commercial significance are considered in the Natural Resource Lands Chapter. Rural lands may include, however, viable resource uses which do not fit the criteria for inclusion in the resource land designation. Resource uses, including small scale agriculture, woodlots and mining, are appropriate in rural areas and certainly contribute to rural character. The maintenance and protection of these uses is one of the purposes of this section.

Goal

RL.4 Preserve and protect agriculture and forestry activities throughout the rural area.

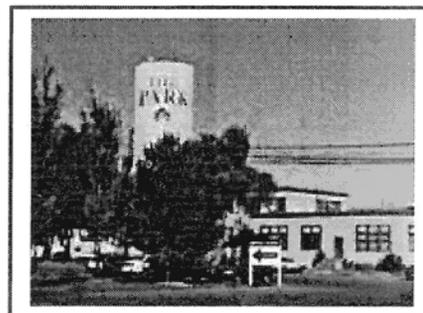


Policies

- RL.4.1 Encourage best management practices for agricultural and forestry uses to conserve the resource and protect the environment.
- RL.4.2 Agricultural and forestry management practices shall be allowed in rural areas when carried on in compliance with applicable regulations, even though they may impact nearby residences.
- RL.4.3 Encourage current-use taxation laws as an incentive to retain productive agricultural and timberlands.
- RL.4.4 Create environmental standards for agriculture that protect environmental quality, especially in relation to water and fisheries resources, without discouraging farming.
Note: See the Natural Environment Chapter for additional policies concerning environmental protection.
- RL.4.5 Airstrips and helicopter pads shall be allowed in the rural area, consistent with the preservation of rural character.

Industrial and Commercial Uses

Industrial and commercial development in rural areas will generally be limited to uses that serve the needs of rural residents or are related to natural resource activities. These uses typically will include small-scale home professions and home industries, roadside agricultural sales and small commercial establishments within designated rural activity centers. Larger industrial uses generally will be limited to industries directly related to and dependent on natural resources. In some cases, limited infill of areas with existing industrial or commercial development may be appropriate.



Goal

- RL.5a Provide for industrial and commercial uses in rural areas that serve the needs of rural residents and are consistent with maintaining rural character.
- RL.5b Ensure the availability of adequate industrial land to accommodate major industrial developments that cannot be sited in the Urban Growth Area (UGA).
- RL.5c Ensure adequate land for inert waste only disposal sites.

Major Industrial Development

Major industrial developments outside the Urban Growth Area (UGA) are allowed in certain instances (RCW 36.70A.365). These developments are intended to meet the need for industrial uses in which adequate land within the UGA is not available to accommodate the development. For instance, the development may require a parcel of land so large that no suitable parcels are available in the UGA. Upon approval of a major industrial development outside UGAs, it must be designated as a UGA.

RL.5.1 New major industrial developments shall be allowed in the rural category consistent with RCW 36.70A.365, which states as follows:

- a) "Major industrial development" means a master planned location for a specific manufacturing, industrial or commercial business that:
 - I. requires a parcel of land so large that no suitable parcels are available within an urban growth area; or
 - II. is a natural resource-based industry requiring a location near agricultural land, forestland or mineral resource land upon which it is dependent. The major industrial development shall not be for the purpose of retail commercial development or multi-tenant office parks.

- b) A major industrial development may be approved outside an urban growth area in a county that is planning under this chapter if criteria including, but not limited to, the following are met:
 - I. New infrastructure is provided for and/or applicable impact fees are paid.
 - II. Transit-oriented site planning and traffic demand management programs are implemented.
 - III. Buffers are provided between the major industrial development and adjacent non-urban areas.
 - IV. Environmental protection, including air and water quality, has been addressed and provided for.
 - V. Development regulations are established to ensure that urban growth will not occur in adjacent non-urban areas.
 - VI. Provision is made to mitigate adverse impacts on designated agricultural lands, forestlands and mineral resource lands.
 - VII. The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas.
 - VIII. An inventory of developable land has been conducted and the County has determined and entered findings that land suitable to site the major industrial development is unavailable within the urban growth area. Priority shall be given to applications for sites that are adjacent to or in close proximity to the urban growth area.

- c) Final approval of an application for a major industrial development shall be considered an adopted amendment to the Comprehensive Plan adopted pursuant to RCW 36.70A.070 designating the major industrial development site on the land use map as an urban growth area. Final approval of an application for a major industrial development shall not be considered an amendment to the Comprehensive Plan for the purposes of RCW 36.70A.130(2) and may be considered at any time.

Industrial/Commercial Limited Rural Development Areas

Some industrial and commercial developments were built in rural areas prior to development of and/or adoption of the Comprehensive Plan. These developments may be considered as limited areas of more intense development if they are designated and mapped within the Limited Rural Development category of the Comprehensive Plan. Allowing infill industrial development within these areas can contribute to the economic diversity of unincorporated areas of the County and provide employment opportunities for the nearby rural population. Any industrial and/or commercial development other than natural resource-based industry must be delineated on the Comprehensive Plan map for it to be considered as an area of more intense rural development.

RL.5.2 The intensification and infill of commercial or non-resource-related industrial areas shall be allowed in rural areas consistent with the following guidelines:

- a) The area is clearly identified and contained by logical boundaries, outside of which development shall not occur. These areas shall be designated and mapped within the Limited Rural Development category of the Comprehensive Plan map.
- b) The character of neighborhoods and communities is maintained.
- c) Public services and public facilities can be provided in a manner that does not permit or promote low-density sprawl or leapfrog development.
- d) The intensification is limited to expansion of existing uses or infill of new uses within the designated area.
- e) The area was established prior to July 1, 1993.

Commercial Development

Commercial development in rural areas should be limited to those businesses serving rural residents and supporting natural resources and tourism-related uses. Most commercial uses will be located in rural towns or in designated rural activity centers. In some instances, the intensification of established commercial areas may be allowed, provided they are consistent with policy guidelines (see RL.5.2).

RL.5.3 Strip commercial development along state and county roads shall be prohibited.

RL.5.4 Use regulations in the Rural category for tourism and recreation-oriented uses shall be developed based on the following guidelines:

- a) Resource-dependent tourism and recreation-oriented uses such as commercial horse stables, guide services, golf courses and group camps may be allowed in rural areas provided they do not adversely impact adjoining rural uses and are consistent with rural character.
- b) Tourism-related uses such as motels and restaurants serving rural and resource areas shall be located within existing rural towns or designated rural activity centers or Master Planned Resorts.

RL.5.5 Isolated non-residential uses in rural areas, which are located outside of rural activity centers or limited development areas, may be designated as conforming uses and allowed to expand or change use provided the uses were legally established on or before July 1, 1993, are consistent with rural character, and detrimental impacts to the rural area will not be increased or intensified.

Master Planned Resorts

Master planned resorts are self-contained, fully integrated planned unit developments in a setting of significant natural amenities, with primary focus on destination resort facilities. They consist of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities. Master planned resorts should not be considered as a means to develop sprawling urban or suburban residential developments. Employment of local residents should be encouraged in Master Planned Resorts.

RL.5.6 New Master Planned Resorts (MPR) may be approved in an area outside of established Urban Growth Area Boundaries providing they meet the following criteria:

- a) The land proposed is better suited and has more long-term importance for a MPR than the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as a forest or agricultural resource.
- b) MPR approval shall not be a precedent for allowing new urban or suburban land uses in the vicinity.
- c) The proposed development provides urban level public services that are strictly contained within the boundaries of the resort property by design and construction and protect health and the environment.
- d) The proposed site for the MPR is sufficient in size and configuration to provide for a full range of resort facilities while maintaining *adequate* separation from any adjacent rural or resource land uses to maintain the existing rural character.
- e) Residential uses are designed for short-term or seasonal use. Full-time residential uses should be limited to employee housing. Procedures should be developed to ensure that overnight lodging within Master Planned Resorts cannot be utilized as full-time residential units.
- f) Significant natural and cultural features of the site should be preserved and enhanced to the greatest degree possible.
- g) Preservation of wildlife corridors and open space networks should be integral to the site design.
- h) Commercial uses and activities within the MPR should be limited in size to serve the customers within the MPR and located within the project to minimize the automotive convenience trips for people using the facilities.
- i) Adequate emergency services must be available to the area to insure the health and safety of people using or likely to use the facility.
- j) Implementation of MPR sites may be allowed by conditional use permit in the rural zoning categories provided they meet the intent, standards, and criteria as prescribed in the Comprehensive Plan.

RL.5.7 Existing resorts may be considered as Master Planned Resorts providing the resort was established prior to July 1, 1990 and providing that a portion of the County's 20-year population projection is allocated to the MPR corresponding to the number of permanent residents within the MPR.

Home Professions and Home Industries

- RL.5.8 Home professions, home industries, day-care facilities and accessory uses should be allowed outright or as conditional uses throughout the rural area, provided they do not adversely affect the rural character or conflict with resource-based economic uses.
- RL.5.9 Development regulations for home professions, home industries, day-care facilities and accessory uses should protect adjacent properties from negative impacts and should be consistent with maintaining rural character.

Wildfires

Large-lot, low-density residential development in forested rural areas has dramatically increased the potential of life and property loss due to wildland fires. The problem is exemplified by the loss of 24 homes in the Hangman Valley area of Spokane County in July 1987 and by the loss of 114 dwellings in the Spokane County "fire storm" of 1991. This section provides policy direction for development of comprehensive wildfire standards.

Goal

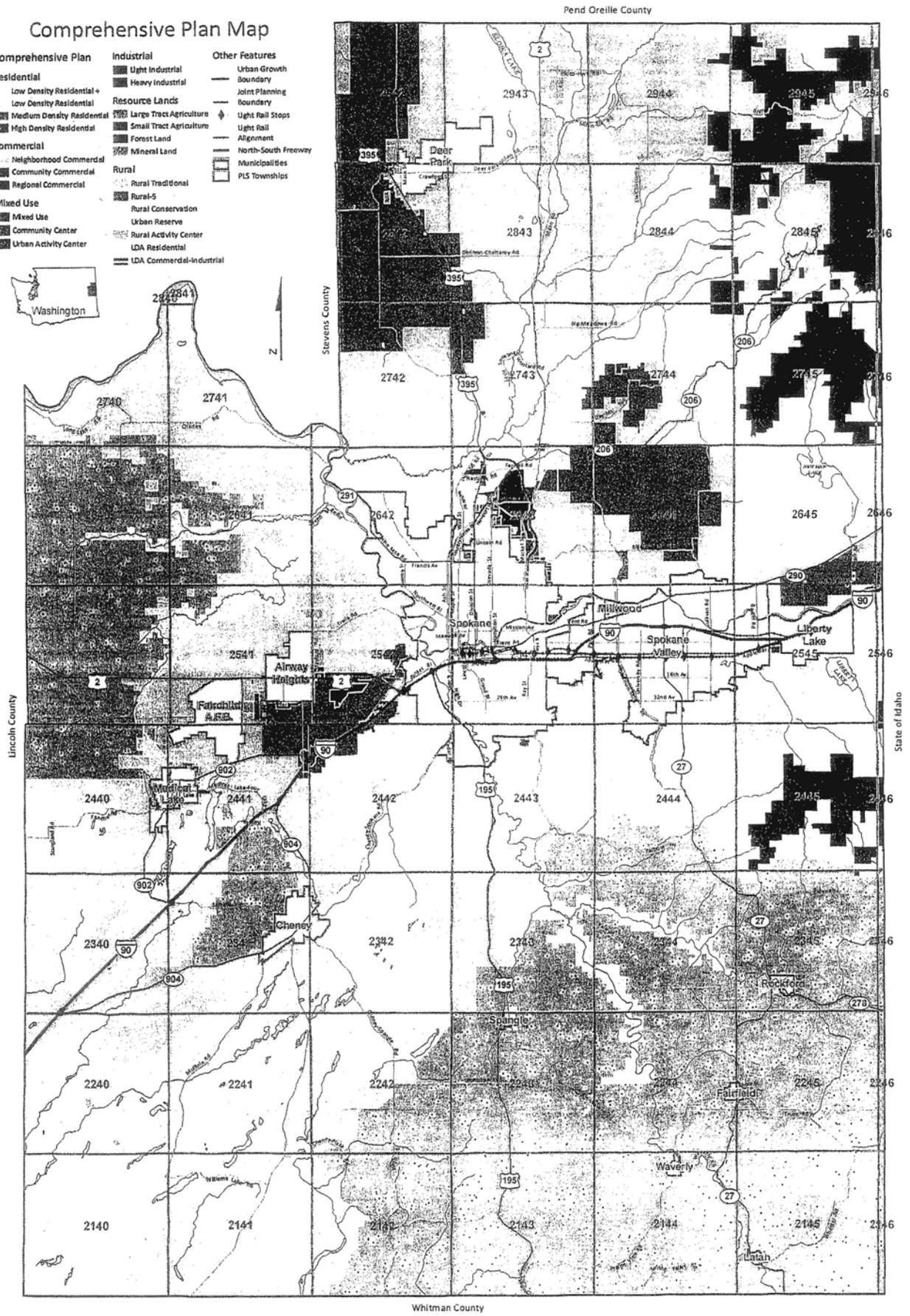
RL.6 Development in rural and natural resource land areas will be in a manner that provides for adequate fire access and fire protection.

Policy

RL.6.1 Develop comprehensive fire protection regulations consistent with recognized practice and recommendations and integrate them into zoning and other land use regulations as applicable; such regulation should include incentives to encourage development designed to mitigate wildfires.

Comprehensive Plan Map

- | | | |
|----------------------------|---------------------------|-------------------------|
| Comprehensive Plan | Industrial | Other Features |
| Residential | Light Industrial | Urban Growth Boundary |
| Low Density Residential | Heavy Industrial | Boundary |
| Low Density Residential | Resource Lands | Joint Planning Boundary |
| Medium Density Residential | Large Tract Agriculture | Light Rail Stops |
| High Density Residential | Small Tract Agriculture | Light Rail Alignment |
| Commercial | Forest Land | North-South Freeway |
| Neighborhood Commercial | Mineral Land | Municipalities |
| Community Commercial | | PLS Townships |
| Regional Commercial | | |
| Mixed Use | Rural | |
| Mixed Use | Rural Traditional | |
| Community Center | Rural-5 | |
| Urban Activity Center | Rural Conservation | |
| | Urban Reserve | |
| | Rural Activity Center | |
| | LDA Residential | |
| | LDA Commercial-Industrial | |



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Spokane County Building and Planning



Produced January 2009 by Spokane County GIS

No. 30725-5-III

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

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

Appellant,

v.

EASTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD, a statutory entity,

and

DAN HENDERSON, LARRY KUNZ, NEIL MEMBREY, KASI
HARVEY JARVIS, and NEIGHBORHOOD ALLIANCE OF
SPOKANE,

Respondents.

APPENDIX III

*Spokane County Zoning Code; Chapter 14.400 – General
Procedures, Chapter 14.600 – Zone Classifications, and Generalized
Zoning Map.*

Spokane County Zoning Code

**Chapter 14.400
General Procedures**



Chapter 14.402 Amendments

14.402.000 Purpose and Intent

The purpose and intent of this chapter to provide procedures whereby the Zoning Code (Title 14), including the official text and maps, may be amended consistent with the Comprehensive Plan.

14.402.040 Criteria for Amendment

The County may amend the Zoning Code when one of the following is found to apply.

1. The amendment is consistent with or implements the Comprehensive Plan and is not detrimental to the public welfare.
2. A change in economic, technological, or land use conditions has occurred to warrant modification of the Zoning Code.
3. An amendment is necessary to correct an error in the Zoning Code.
4. An amendment is necessary to clarify the meaning or intent of the Zoning Code.
5. An amendment is necessary to provide for a use(s) that was not previously addressed by the Zoning Code.
6. An amendment is deemed necessary by the Commission and/or Board as being in the public interest.

14.402.060 Amendment Procedures – Zoning Map, Site-Specific Zone Reclassification

1. Applicability:

The procedures in this section shall apply to zoning map amendments consisting of a site-specific zone reclassification involving a specific parcel(s), and to change of conditions to a site specific zone reclassification. This section does not apply to zoning map amendments that implement a subarea or neighborhood plan.

2. Initiation:

Site-specific zone reclassifications may be initiated by the owner(s) of the subject parcel(s), subject to such application fees as set by the Board.

3. Procedures:

A site-specific zone reclassification is subject to the procedural requirements for a Type II project permit application as set forth in Title 13 (Application Review Procedures) of the Spokane County Code. A Type II permit requires a public hearing before the Hearing Examiner.

4. Limitations:

No application for a site-specific zone reclassification or change of conditions that has been acted upon by the Hearing Examiner or Board shall be accepted for a similar reclassification or change of conditions for a period of 12 months from the final decision "Similar reclassification" for the purpose of this section is a site-specific zone reclassification for substantially the same land area, zone, land use and intensity of development as previously applied for. "Similar change of conditions" for the purpose of this section is a change of conditions for substantially the same alteration or addition to a condition of approval or site plan approved for a site-specific zone reclassification. The Director shall make the determination of similar reclassification or change of conditions as an administrative determination.

5. Criteria for approval

A site-specific zone reclassification may be approved when all of the following criteria are met.

- a. The zone reclassification bears a substantial relationship to the public health, safety, or welfare.
- b. The zone reclassification implements the Comprehensive Plan, or a substantial change in circumstances has occurred since the subject parcel was last zoned.

14.402.080 Amendment Procedures – Zoning Text

1. Initiation of the Amendment:

The Board, Commission, Division of Building and Planning and/or any interested person may initiate an amendment to the text of the Zoning Code, subject to such requirements as set by the Board.

2. Building and Planning Division Review:

Upon receipt of an amendment proposal, the Division shall process the application as follows.

- a. Notice shall be provided to the Washington State Department of Community Development of its intent to adopt development regulations. The notice shall be provided at least 60 days prior to final adoption and shall include a copy of the proposed regulation (RCW 36.70A.106).
- b. The text amendments shall be reviewed for consistency with the criteria in section 14.402.040. Once the review is complete, the proposed amendment shall be placed on the earliest available meeting agenda of the Commission. The Division shall forward a staff report to the Commission. The staff report may include alternatives other than those proposed by the applicant.

3. Planning Commission Review and Recommendation:

- a. Upon receipt of the proposed amendment, the Commission may choose to hold public workshops with the initiator to discuss, refine, or modify the original proposal.
- b. The Commission shall schedule and conduct a public hearing to consider the amendment and any appropriate alternatives.
- c. Subsequent to completion of the hearing and deliberations, the Commission shall make a recommendation on the proposal that may include approval, denial, or modification of the proposed amendment. The Division shall subsequently submit to the Board a copy of the proposed amendment, a staff report, and the recommendation of the Commission.

4. Board of County Commissioners Review and Decision:

- a. Upon receipt of the Planning Commission's recommendation, the Board shall, at its next available regular meeting, set the date for a public meeting to consider the proposed amendment.
- b. At the established public meeting the Board may do one of the following.
 - i. Adopt, make minor modifications, remand or deny the proposed recommendation.
 - ii. Establish a date for a public hearing by the Board to consider the proposed amendment
- c. Should the Board hold a public hearing on the amendment, they may then subsequently adopt, make minor modifications, remand or deny the proposed recommendation. Written findings of fact shall accompany the Board's decision.
- d. Should the Board change a recommendation from the Commission, the Board shall hold a public hearing on the change.
- e. When it initiates a zoning text amendment, the Board shall first refer the proposed amendment to the Division and Commission for report.
- f. The Division and the Commission shall provide a report on their analysis of the proposed amendment, including whether the change appears to be consistent with the Comprehensive Plan.
- g. Any report or recommendation by the Division or Commission shall be advisory only and the final determination shall rest with the Board.
- h. A notice of adoption and time frame for appeal shall be published by the Board after adoption of a proposed amendment pursuant to RCW 36.70A.290. The decision shall be forwarded to the Washington State Department of Community Development pursuant to RCW 36.70A.106.

5. Public Notice for Zoning Text Amendments:

Notice of the date, time, place, and purpose of a public hearing on an amendment to the zoning text shall be given by one publication in Spokane County's official newspaper at least 15 days before the hearing.

6. Appeal of a Zoning Text Amendment:

- a. The action of the Board on a zoning text amendment shall be final and conclusive, unless appealed to the Growth Management Hearing Board pursuant to chapter 36.70A RCW. A person with standing pursuant to RCW 36.70A.280 may file a petition within 60 days after publication of the notice of adoption.
- b. Growth Management Hearing Board actions may be appealed to Superior Court as provided by law.

14.402.100 Amendment Procedures – Zoning Map, Comprehensive Plan/Subarea Plan and relationship to Comprehensive Plan:

1. Applicability

This section shall apply to zoning map amendments to implement a sub-area/neighborhood plan or to implement the adoption/amendment of the Comprehensive Plan. Any changes to land use designations made in the Comprehensive Plan will be reflected in changes to the zoning map so that the zoning implements the Comprehensive Plan. Such zoning map changes will generally become effective upon adoption by the Board of the Comprehensive Plan changes.

2. Initiation of the Amendment:

The Board, Commission, Division of Building and Planning and/or any interested person may initiate an amendment under this section subject to such fees as may be set by the Board.

3. Building and Planning Division Review:

Upon receipt of an amendment proposal, the Division shall process the application as follows.

- a. The Division shall provide a notice to the Washington State Department of Community Development of its intent to adopt development regulations. The notice shall be provided at least 60 days prior to final adoption and shall include a copy of the proposed regulation (RCW 36.70A.106).
- b. The Division shall review the proposed amendment(s) for consistency with the criteria in section 14.402.040. Once the review is complete, the Division shall place the proposed amendment on the earliest available meeting agenda of the Commission. The Division shall forward to the Commission a staff report on the request. The staff report may include alternatives other than those proposed by the applicant.

4. Planning Commission Review and Recommendation:

- a. Upon receipt of the proposed amendment, the Commission may choose to hold public meetings or workshops to discuss, clarify, modify, or revise the submittal and include any of their changes as alternatives in the public hearing.
- b. The Commission shall schedule and conduct a public hearing to consider the amendment and any appropriate alternatives.
- c. Subsequent to completion of the hearing and deliberations, the Commission shall make a recommendation that may include approval, denial, or modification of the proposed amendment. The Division shall subsequently submit to the Board a copy of the proposed amendment, a staff report, and the recommendation of the Commission.

5. Board of County Commissioners Review and Decision:

- a. Upon receipt of the Planning Commission's recommendation, the Board shall, at its next available regular meeting, set the date for a public meeting to consider the proposed amendment and the Planning Commission's recommendation.
- b. At the established public meeting, the Board may do one of the following.
 - i. Adopt, make minor modifications, remand or deny the proposed recommendation.
 - ii. Establish a date for a public hearing by the Board to consider the proposed amendment.

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Amendment

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- c. Should the Board hold a public hearing on the amendment, it may then subsequently adopt, make minor modifications, remand or deny the proposed ~~recommendation~~. Written findings of fact shall accompany the Board's decision.
- d. Should the Board change a recommendation from the Commission, the Board shall hold a public hearing on the change
- e. When it deems it to be for the public interest, the Board may initiate a zoning map amendment. The Board shall first refer the proposed amendment to the Division and Commission for report.
- f. The Division and Commission shall provide a report on their analysis of the proposed amendment, including whether the change appears to be consistent with the Comprehensive Plan.
- g. Any report or recommendation by the Division or Commission shall be advisory only and the final determination shall rest with the Board.
- h. A notice of adoption and time frame for appeal shall be published by the Board after the decision, pursuant to RCW 36.70A.290. The decision shall be forwarded to the Washington State Department of Community Development, pursuant to RCW 36.70A.106.

6. Public Notice:

Notice of the date, time, place and purpose of public hearings on an amendment to the zoning map initiated pursuant to this section (sub-area plan, neighborhood plan, or the Comprehensive Plan and its amendments) shall be given by the following.

- a. One publication in Spokane County's official newspaper at least 15 days prior to the hearing.
- b. Notice shall also be provided by at least one or more of the following.
 - i. A notice shall be sent by bulk mail at least 15 days prior to the public hearing to those property owners of parcels within the zone reclassification area. Property owner's complete mailing addresses shall be those obtained from the Assessor's/Treasurer's current record no more than 60 days prior to the public hearing.
 - ii. Notice methods consistent with the Public Participation Program Guidelines as determined by the Board.
- c. Notice under this section shall be deemed adequate when Spokane County has endeavored in good faith to identify and mail a notice to each property owner having a complete mailing address shown on the records described above. The failure of any person to actually receive a mailed notice shall not invalidate any zone reclassification action.
- d. Notice under this section shall be deemed adequate when Spokane County has endeavored in good faith to identify and mail a notice to each property owner having a complete mailing address shown on the records described above. The failure of any person to actually receive a mailed notice shall not invalidate any zone reclassification action.

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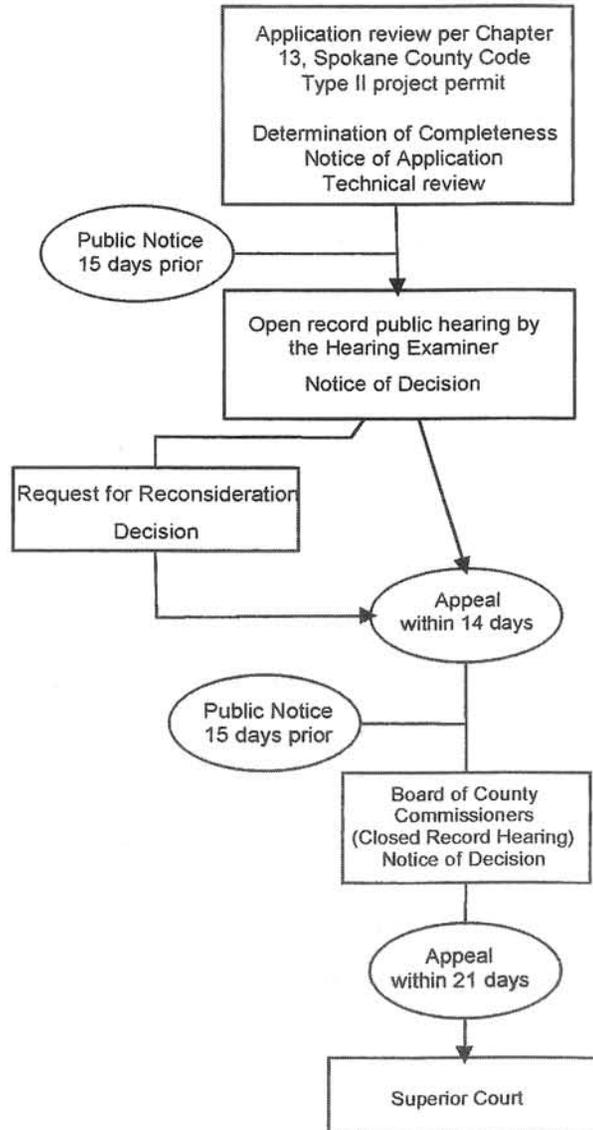
7 Appeal of a Zoning Map Amendment:

- a. The action of the Board on a zoning map amendment under this section shall be final and conclusive unless appealed to the Growth Management Hearing Board, pursuant to chapter 36.70A RCW. A person with standing pursuant to RCW 36.70A.280 may file a petition within 60 calendar days after publication of the notice of adoption (4d of this section).
- b. Growth Management Hearing Board actions may be appealed to Superior Court as provided by law.

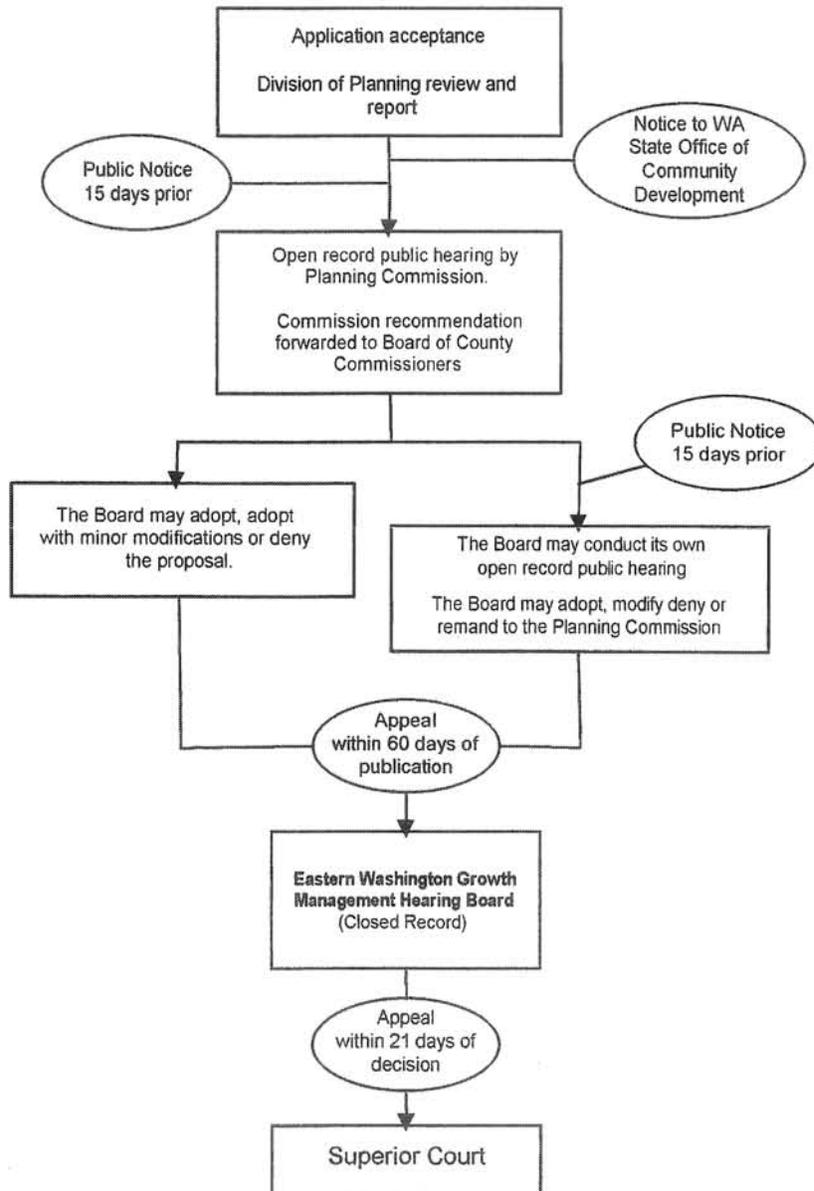
14.402.140 Flow Charts for Project Approvals

The following illustrations provide generalized flow charts of the 3 types of Zoning Code amendments. They are intended to show the various elements of an amendment in a visual format and are for illustrative purposes only. The flow chart may be modified administratively to reflect changes in official regulations without being subject to the procedures of 14.402.080. Please consult the Zoning Code text or other regulations as may apply for detailed procedural requirements.

**Site Specific
Zone Reclassification**
Chapter 14.402.060



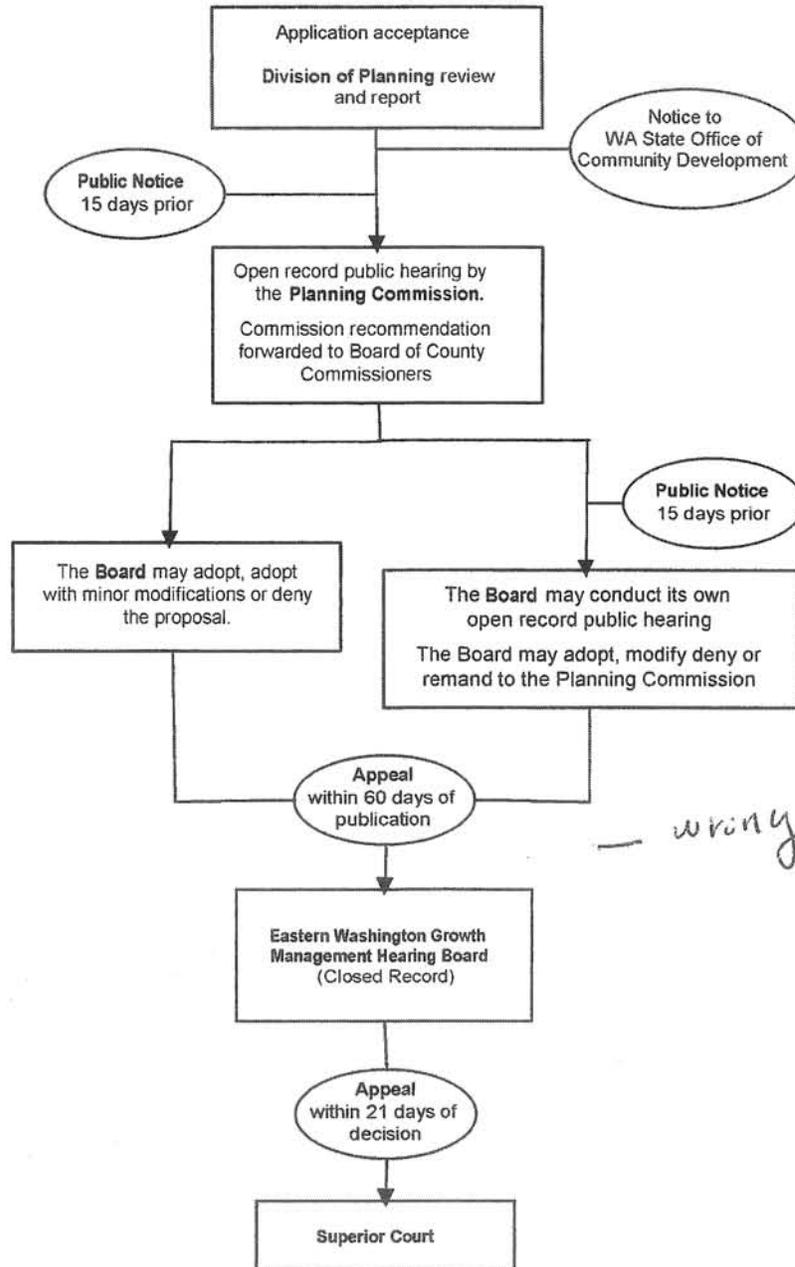
Zoning Text Amendment Chapter 14.402.080



Zoning Map Amendment

Chapter 14.402.100

Map amendments to implement a subarea/neighborhood plan, or to implement the comprehensive plan or a comprehensive plan amendment



Chapter 14.404 Conditional Use Permits

14.404.000 Purpose and Intent

The intent of a conditional use permit is to establish criteria for determining the conditions under which a conditional use(s) may be permitted in the zone. A conditional use is subject to specific review during which conditions may be imposed to assure compatibility of the use with other uses in the area and the public welfare. A request for a conditional use may be denied if the use is not compatible with other permitted uses in the area or will be materially detrimental to the public welfare.

14.404.020 Application

An application for a conditional use permit may be filed by the owner(s) of the subject property subject to such application fees as may be set by the Board.

14.404.040 Procedures

Conditional use permits are subject to the requirements for a Type II project permit application as set forth in Title 13 (Application Review Procedures) of the Spokane County Code. A Type II permit requires a public hearing before the Hearing Examiner.

14.404.100 Conditions and Requirements

1. The Hearing Examiner may approve an application for a conditional use permit if all the following criteria are met.
 - a. The special standards set forth for the conditional use in the underlying zone of the Zoning Code are met.
 - b. Adequate conditions and restrictions on the conditional use are adopted to ensure that the conditional use will be compatible with other permitted uses in the area, and will not be materially detrimental to the public health, safety or general welfare.
2. In approving a conditional use permit, the Hearing Examiner may stipulate restrictions and conditions, including but not limited to any of the following provisions.
 - a. Control of use.
 - b. Provision for front, side, or rear setbacks greater than the minimum standards of the zone in which the property is located.
 - c. Special landscaping, screening, fencing, signing, off-street parking, public transit and/or high occupancy vehicle facilities or any other general development standards.
 - d. Requirements for street dedications and/or roadway and drainage improvements necessary as a result of the proposed use.
 - e. Control of points of vehicular ingress and egress.
 - f. Control of noise, vibration, odor, glare, and other environmental contaminants.
 - g. Control of operating hours.
 - h. Duration or time limitations for certain activities.
 - i. Any other reasonable restrictions, conditions, or safeguards that will uphold the purpose and intent of the Zoning Code and the Comprehensive Plan and mitigate any adverse impact upon the adjacent properties by reason of the use, extension, construction, or alteration allowed.

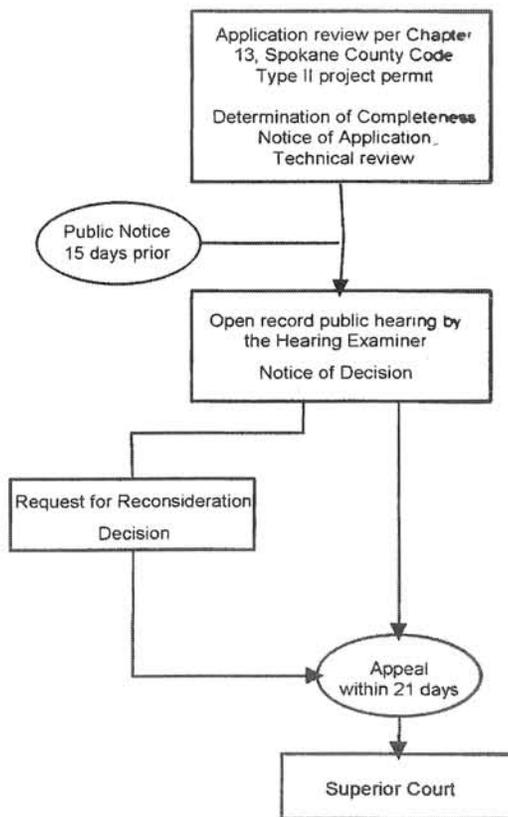
14.404.120 Revocation of a Conditional Use Permit

A conditional use permit may be suspended or revoked if, after a public hearing with notice as provided for a Type II project permit under Title 13 of the Spokane County Code, the Hearing Examiner finds that a grantee or their successors in interest failed to comply with conditions or restrictions included in the permit.

14.404.140 Flow Chart for Project Approvals

The following illustration provides a generalized flow chart of the conditional use permit process. It is intended to show the various elements of a conditional use permit in a visual format and is for illustrative purposes only. The flow chart may be modified administratively to reflect changes in official regulations without being subject to the procedures of 14.402.080. Please consult the Zoning Code text or other regulations as may apply for detailed procedural requirements.

**Conditional Use Permit
Chapter 14.404**



Chapter 14.406 Variance

14.406.000 Purpose and Intent

In some cases, strict application of the provisions of the Zoning Code may cause practical difficulties regarding the use of a property. Following demonstration by the property owner of the criteria for approval below, the Hearing Examiner may grant a variance from the provisions of the Zoning Code.

14.406.020 Application

An application for a variance may be filed by the owner(s) of the subject property subject to application fees as may be set by the Board.

14.406.040 Procedures

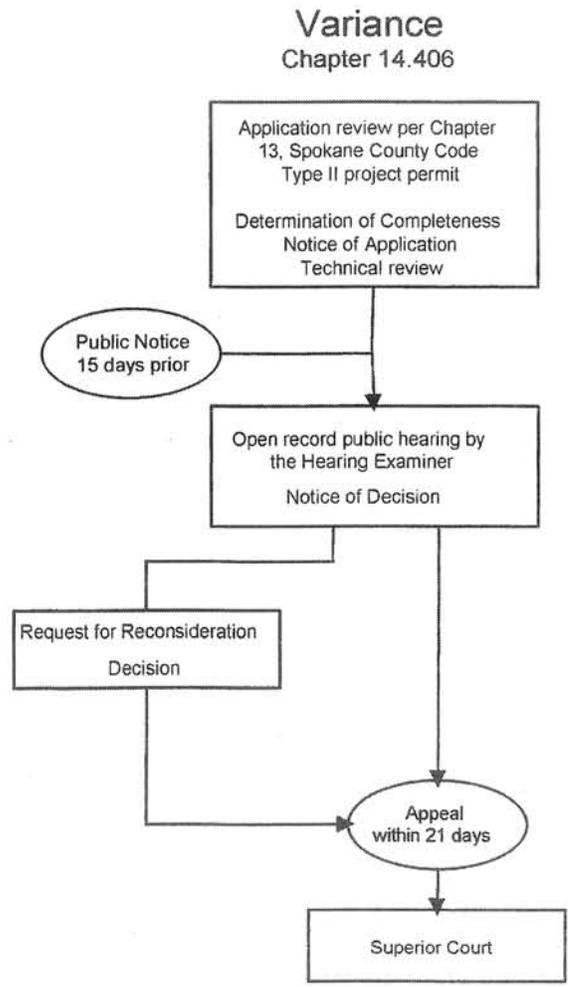
A variance is subject to the requirements for a Type II project permit application as set forth in Title 13 (Application Review Procedures) of the Spokane County Code. A Type II permit requires a public hearing before the Hearing Examiner.

14.406.100 Conditions and Requirements

1. The Hearing Examiner may approve an application for a variance if all the following criteria are met.
 - a. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Code deprives the property of rights and privileges enjoyed by other properties in the vicinity and under the same zone classification.
 - b. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated.
 - c. The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.
 - d. The granting of the variance is consistent with the Comprehensive Plan.
2. The approval of a variance should not:
 - a. Be based upon the precedent established by illegal or nonconforming circumstances.
 - b. Establish a precedent that will adversely affect the zoning concept for the land in the area or the County as a whole.
 - c. Be based upon a lack of reasonable economic return or a claim that the existing structure is too small.
 - d. Result in a de facto zone reclassification.
 - e. Permit the establishment of a use otherwise prohibited in the zone in which the property is located.
3. The Hearing Examiner may attach conditions to the variance necessary to carry out the intent and purpose of the Zoning Code and Comprehensive Plan, and to ensure that the variance will be compatible with other permitted uses in the area, and will not be materially detrimental to the public health, safety or welfare.

14.406.140 Flow Chart for Project Approvals

The following illustration provides a generalized flow chart of the variance process including appeal. It is intended to show the various elements of a variance permit in a visual format and is for illustrative purposes only. The flow chart may be modified administratively to reflect changes in official regulations without being subject to the procedures of 14.402.080. Please consult the Zoning Code text or other regulations as may apply for detailed procedural requirements.



Chapter 14.408 Enforcement

14.408.000 Purpose and Intent

It is the intent of this chapter to provide authority for, and the procedures to be used in, enforcing the provisions of the Zoning Code to the end of furthering the purposes and objectives thereof.

14.408.020 Enforcement

1. It shall be the duty of the Planning Director, except as otherwise provided herein, to interpret and enforce the provisions of the Zoning Code and conditions of approval imposed by actions of the Board of County Commissioners, Hearing Body and/or Division of Building and Planning.
2. It shall be the duty of the Building Official to enforce the provisions of the Zoning Code or conditions of approval imposed by actions of the Board or the Hearing Body as they only pertain to the licenses or permits issued or required by the Division of Building and Code Enforcement.
3. The procedures set forth in this chapter are not exclusive. These procedures shall not in any manner limit or restrict the County from remedying violations or abating violations in any manner authorized by law.

14.408.040 Violation, A Misdemeanor/Civil Violation

1. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of, any of the provisions of the Zoning Code or conditions of approval imposed by actions of the Board, Hearing Body or the Enforcement Authority shall be guilty of a misdemeanor and shall be punished by imprisonment in the County Jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000, or by both such imprisonment and fine. Each day that a violation is permitted to exist shall constitute a separate offense.
2. As an alternative to the above, as determined by the Enforcement Authority, any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of, any of the provisions of the Zoning Code or conditions of approval imposed by actions of the Board, Hearing Body or the Enforcement Authority shall be deemed to have committed a civil violation subject to the monetary penalties set forth in section 14.408.140. Each day that a violation is permitted to exist shall constitute a separate civil violation.

14.408.060 Civil Investigation Procedures

1. The Enforcement Authority may initiate an investigation of a zoning code violation in response to a signed written complaint, field observations by a public agency employee in the course of his/her official duties, or other reliable information. Written complaints may be subject to disclosure pursuant to the State Public Disclosure Law.
2. The following procedures shall apply to an investigation of a zoning code violation:
 - a. A physical inspection of the property and/or circumstances identified in the complaint or referral shall be conducted. The physical inspection must comply with legal right of entry requirements, as established by state and constitutional law.
 - b. The Enforcement Authority shall determine, based on information derived from sources such as field observations, the statements of witnesses, relevant documents and applicable County codes, whether a violation has occurred.
 - c. When a violation has been confirmed, a Notice of Investigation shall be mailed to the property owner of record and/or those person(s) who are creating or contributing to the violation. The notice shall contain those items specified in section 14.408.070.

14.408.070 Notice of Investigation - Determination of a Civil Violation

A Notice of Investigation represents a determination by the Enforcement Authority that a civil violation has been committed. The Notice of Investigation shall include the following:

1. A statement that the Notice of Investigation represents a determination by the Enforcement Authority that the person named in the notice has committed a civil violation.
2. A statement of the options provided in this chapter for responding to the Notice of Investigation and the procedures necessary to exercise these options.
 - a. A statement that the person must respond to the Notice of Investigation and show proof of compliance as provided for in this chapter within 14 days.
 - b. A statement that failure to respond to a Notice of Investigation and show proof of compliance may result in a civil violation.
 - c. A statement that a civil violation is a non-criminal offense and a violation thereof is not subject to imprisonment.
 - d. A statement of the specific civil violation for which the Notice of Investigation is being issued.
 - e. A statement of the monetary penalty established for the civil violation.

14.408.080 Civil Notice of Violation Procedures

1. The person(s) to whom a Notice of Investigation is sent, as set forth in section 14.408.060, shall have 14 days to respond or show proof of compliance. Proof of compliance includes, but is not limited to, entry into a Voluntary Compliance Agreement under section 14.408.100.
2. If proof of compliance is not received within the 14 day period, the Enforcement Authority may issue a Level I Notice of Violation and assess monetary penalties based on the schedule contained in section 14.408.140.
3. The Enforcement Authority may issue a Level II Notice of Violation and assess monetary penalties based on the schedule contained in section 14.408.140 if:
 - a. Neither a response nor proof of compliance was received within the 14 day period from the date of service of a Level I Notice of Violation; or
 - b. The terms of a Voluntary Compliance Agreement have been violated or have not been met; or
 - c. Repeat violations have occurred on the same property within an 18-month period of time.
4. For each day the violation continues to exist, after the date of service of a Level II Notice of Violation, cumulative civil penalties may be assessed under section 14.408.140.
5. The Notice of Violation shall contain:
 - a. The name and address of the owner of record and/or taxpayer or other person to whom the Notice of Violation is directed.
 - b. The street address, when available, or a legal description sufficient for identification of the building, structure, lot or land upon which the violation is occurring.
 - c. A statement that the Enforcement Authority has found that the building, structure, lot or land is being used or maintained in violation of the Zoning Code or any conditions of approval imposed by actions of the Board, Hearing Body or the Enforcement Authority and a concise description of the nature of such violation(s), including applicable Code sections.
 - d. The action required to be taken, as determined by the Enforcement Authority, and a date for correction, which shall be not less than 14 days from the date of service of the Notice of Violation, unless the Enforcement Authority has determined a violation to be immediately hazardous to the general public health or safety in which instance a time frame for correction less than 14 days may be imposed.
 - e. A statement of the civil monetary penalties imposed for failure to correct the violation(s) within the specified time frame.
 - f. A statement that the Enforcement Authority's determination of violation may be appealed to the County Hearing Examiner by filing a Notice of Appeal with the Enforcement Authority within 14 days after service of the Notice of Violation.

6. A copy of the Notice of Violation shall be served upon the person(s) to whom it is directed, either personally or in the manner provided for personal service of notices or complaints in District Court, or by mailing a copy of the Notice of Violation by certified mail, postage prepaid, return receipt requested, to such person at the person's last known address. Proof of personal service shall be made at the time of service by a written declaration under penalty of perjury executed by the person affecting service, declaring time, date and manner by which service was made.
7. The Enforcement Authority for good cause shown may extend the date for correction in the Notice of Violation, provided that such an extension shall not affect or extend the time within which an administrative appeal must be commenced.
8. A copy of all Notices of Violation may be sent to other agencies if the violation may also be a violation of other agencies' regulations.
9. The Enforcement Authority may withdraw or modify a Notice of Violation issued under this chapter if the original Notice of Violation was issued in error. Such withdrawal or modification shall identify the reasons and underlying facts.
10. A Notice of Violation shall carry a monetary penalty determined with reference to the schedule contained in section 14.408.140. The payment of monetary penalty does not relieve a person(s) responsibility for correcting a violation.
11. The Enforcement Authority may dispense with some or all of the Civil Investigative Procedures and Notice of Investigation procedures and immediately issue a Level II Notice of Violation as set forth in 14.408.080(3), or a Level I or II Notice of Violation for those violations determined to be immediately hazardous to the general public health or safety.
12. The procedures set forth in this section are not jurisdictional and failure to meet them in any particular case shall not affect the County's enforcement authority.
13. Complainants who provide a mailing address may request information regarding enforcement of a civil violation. The Enforcement Authority shall mail copies of all public records pertaining to the enforcement effort to the complainants that are subject to disclosure under the State Public Disclosure Law.

14.408.100 Voluntary Compliance Agreement

Whenever the Enforcement Authority determines that a code violation has occurred or is occurring, the Enforcement Authority shall make reasonable efforts to secure voluntary compliance from the person responsible for the violation. A Voluntary Compliance Agreement may be entered into any time after a Notice of Investigation has been sent to the violator.

The agreement shall include as a minimum the following:

1. The name and address of the person responsible for correction of the code violation.
2. The address or other identification of the location of the violation.
3. A description of the violation and a reference to the codes, ordinances, and regulations that have been violated.
4. A description of the necessary corrective action to be taken and the date or time by which compliance must be completed.
5. The amount of monetary penalties that will be imposed if the Voluntary Compliance Agreement is not satisfied.
6. An acknowledgement that if the Enforcement Authority determines that the terms of the Voluntary Compliance Agreement have not been met, it may impose any remedy, retroactive to the date the agreement was signed, as authorized by this chapter.

14.408.120 Collection of Civil Violation Monetary Penalty

1. The Enforcement Authority, on behalf of Spokane County, and/or the Prosecuting Attorney, is authorized to collect the monetary penalties by any and all appropriate legal means including, but not limited to, commencing appropriate legal proceedings in the Spokane County District Court Small Claims Department. No further action in an open meeting by the Board is necessary to authorize initiation of any legal action.
2. The monetary penalty is due and payable on the later of:
 - a. Fourteen days after the service of the Notice of Violation; or
 - b. Fourteen days after the service of the Notice of Decision on any appeals.
3. The assessment or payment of monetary penalties does not relieve a person(s) responsible for code compliance of his or her duty to correct the violation, nor does it prevent the assessment of additional monetary penalties so long as the violation continues to exist.

14.408.140 Monetary Penalties

1. Monetary penalties shall be assessed for each violation identified in a Notice of Violation pursuant to the following schedule:

Level I Notice of Violation	\$200
Level II Notice of Violation	\$500
Additional penalties may be added in the following amounts for violations where there is:	
Cumulative Monetary Penalties	+\$50 per day violation exists
Public health risk	+\$100 to \$500
Environmental damage	+\$100 to \$500
Damage to property	+\$100 to \$500
History of similar violations (less than three)	+\$200
History of similar violations (three or more)	+\$500

2. The Enforcement Authority may suspend monetary penalties if the person responsible for correcting the code violation has entered into a Voluntary Compliance Agreement. Penalties shall begin to accrue again pursuant to the terms of the Voluntary Compliance Agreement if any necessary permits applied for are denied, canceled or not pursued, or if corrective action identified in the Voluntary Compliance Agreement is not completed as specified.
3. Person(s) responsible for correcting a code violation(s) have a duty to notify the Enforcement Authority of any actions taken to achieve compliance with the Zoning Code. For purposes of assessing monetary penalties, a violation shall be considered ongoing until the person responsible for code compliance has come into compliance with County codes, regulations and ordinances.
4. Person(s) responsible for correcting code violation(s) that occur in critical areas, shoreline areas or other sensitive areas identified by the Spokane County's Critical Area Ordinance, Shoreline Master Program, other ordinances, or state law shall be required to restore damaged areas, insofar as that is possible and beneficial.

14.408.150 Appeals

The following apply to an appeal of a Civil Notice of Violation.

1. The issuance of a Notice of Violation shall be considered a final determination by the Enforcement Authority that the person(s) cited has committed a civil violation and is subject to the monetary penalties stated in the notice. The person cited may appeal such determination to the County Hearing Examiner by filing a notice of appeal with the Enforcement Authority within fourteen (14) days of service of one of the following:
 - a. A Level I Notice of Violation; or
 - b. A Level II Notice of Violation, when issued as the first citation under section 14.408.080(3).
2. The notice of appeal shall be accompanied by a fee, as determined by the Board, to cover normal processing and legal advertising costs. The notice of appeal must contain all of the following information:
 - a. The appellant's name and address.
 - b. A daytime telephone number.
 - c. A copy of the Level I Notice of Violation, or Level II Notice of Violation being appealed.
 - d. A brief statement why the determination is being appealed.
 - e. A clear, separate, and concise statement of each error alleged to have been committed.
 - f. A clear and concise statement of the facts upon which the appellant relies to sustain the statement(s) of error.
 - g. A statement, signed by the appellant, attesting that the content of the appeal is true.
3. The Hearing Examiner shall hold a public hearing on any timely appeal. The appellant must appear and present his/her case at the public hearing. The burden of proof shall be borne by Spokane County in such proceeding. Notice of the public hearing shall be provided by the Enforcement Authority at least 15 days prior to the date of the public hearing, by the following means:
 - a. Sent by certified mail to the appellant.
 - b. Sent by regular mail to any interested person(s) who requested in writing notice of the appeal from the Enforcement Authority.
4. The Hearing Examiner shall enter a written decision supported by findings of fact and conclusions of law. The Hearing Examiner's decision on the appeal, or regarding any request for reconsideration, shall be mailed by certified mail to the applicant, and by first class mail to other parties of record.
5. The Hearing Examiner's decision on any appeal shall be final and conclusive, and given the effect of a final decision by the Board of County Commissioners on the violation, unless a party with standing files a land use petition in superior court within 21 days from the issuance of the Hearing Examiner's decision pursuant to chapter 36.70C RCW.
6. The appellant may request reconsideration of the Hearing Examiner's decision by filing a written request with the Hearing Examiner's Office no more than 10 days from the date of the Hearing Examiner's decision pursuant to chapter 36.70C RCW.
 - a. Filing a request for reconsideration modifies the time for filing an appeal as follows:
 - i. If the request is denied, the time from the date it is filed to the date the written denial is signed is not counted in the 21 days given to file an appeal.
 - ii. If the request is granted and upon reconsideration the operative portion of the decision is unchanged, the time from the date the request is filed to the date the written decision following the reconsideration is signed is not counted in the 21 days given to file an appeal.
 - iii. If the request is granted and upon reconsideration the operative portion of the decision is changed, the appeal period shall start anew from the date of the new written decision on the reconsideration is signed.
7. The Hearing Examiner's authority to reconsider a decision shall be limited to exceptional circumstances, such as correcting clerical errors, fraud, obvious ambiguity, or clear error of law or fact.

14.408.160 Judicial Enforcement

In addition to any other remedy provided for herein, the Prosecuting Attorney, on behalf of Spokane County, may seek enforcement of any provisions of the Zoning Code by filing an appropriate legal action.

Chapter 14.410 Building Permit Review

14.410.000 Purpose and Intent

The purpose of building permit review is to document compliance of the design of a project with all aspects of the Zoning Code and any conditions imposed by approving a zone change, variance, conditional use, division of land, binding site plan, or site development plan.

14.410.020 Criteria

Before issuing a building permit, it must be demonstrated by the applicant that the proposal complies with the following:

1. The proposal conforms in all respects to the provisions of this Code, including the use provisions and development standards.
2. The proposal conforms in all respects to the provisions of any special conditions required by the Board, Hearing Body, and/or Division.

Spokane County Zoning Code

**Chapter 14.600
Zone Classifications**



Chapter 14.604 Zone Classifications

14.604.100 Purpose and Intent

The intent of zone classifications is to establish a framework whereby development will be carried out in a manner consistent with the use and density characteristics expressed for different areas in the Comprehensive Plan. Zone classifications are provided in sufficient number and diversity to permit an even greater breakdown of land uses and densities than depicted in the more generalized Comprehensive Plan. The purpose to be accomplished by the various zones is set forth in an intent statement in the regulations for each zone.

14.604.210 Residential Zones

Low Density Residential Plus	LDR-P
Low Density Residential	LDR
Medium Density Residential	MDR
High Density Residential	HDR

14.604.220 Commercial Zones

Neighborhood Commercial	NC
Community Commercial	CC
Regional Commercial	RC
Limited Development Area Commercial	LDAC

14.604.230 Industrial Zones

Light Industrial	LI
Heavy Industrial	HI

14.604.240 Resource Lands Zones

Large Tract Agricultural	LTA
Small Tract Agricultural	STA
Forest Land	F

14.604.250 Rural Zones

Rural Traditional	RT
Rural-5	R-5
Rural Activity Center	RAC
Rural Conservation	RCV
Urban Reserve	UR

14.604.260 Mineral Lands Zone

Mineral Lands	M
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14.604.270 Centers and Mixed Use Areas

Mixed Use Zone	MU
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14.604.280 Overlay Zones

Airport Overlay	AO
Planned Unit Development	PUD
Aesthetic Corridor Overlay	ACO

14.604.300 Zoning Matrix-General

1. Uses are permitted within the various zones as depicted by the matrices in Chapters 14.606, 14.608, 14.610, 14.612, 14.614, 14.616, 14.618, and 14.620, and as otherwise provided for in the individual zone classifications.
2. It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the matrices. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this code and the individual zones classification it shall be considered as a permitted/nonpermitted use within a general zone classification, matrix or zone, subject to the development standards for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a matrix, it may be permitted as determined by an amendment to this code pursuant to chapter 14.402.

14.604.400 Incorporation of Zoning Maps

The location and boundaries of the zones established by this code are shown upon the zoning maps, which are hereby incorporated into the provisions of this Code. The said zoning maps in their entirety, including all amendments thereto, shall be as much a part of this Code as if fully set forth and described herein.

14.604.500. Zone Reclassification Applications.

Applications for amendments to the Spokane County zoning map for site-specific zone reclassifications shall be limited to reclassifications that are consistent with the comprehensive plan category and associated implementing zone as provided in the table below.

Table 604-1, Zone Reclassification Applications

Comprehensive Plan Category	Implementing Zone Spokane County Zoning Code
Low Density Residential Plus	Low Density Residential Plus (LDR-P)
Low Density Residential	Low Density Residential (LDR)
Medium Density Residential	Medium Density Residential (MDR)
High Density Residential	High Density Residential (HDR)
Mixed Use, Community Center, Neighborhood Center	Neighborhood Commercial Low Density Residential Mixed Use
Urban Activity Center	Mixed Use Zone (MU)
Regional Commercial	Regional Commercial (RC)
Community Commercial	Community Commercial (CC)
Neighborhood Commercial	Neighborhood Commercial (NC)
Light Industrial	Light Industrial (LI)
Heavy Industrial	Heavy Industrial (HI)
Rural Traditional	Rural Traditional (RT)
Rural-5	Rural-5 (R-5)
Rural Conservation	Rural Conservation (RCV)
Small Tract Agriculture	Small Tract Agricultural (STA) Mineral Land (M)
Large Tract Agriculture	Large Tract Agricultural (LTA) Small Tract Agricultural (STA)* Mineral Land (M)
Forest Land	Forest Land (F) Mineral Land (M)
Mineral Land	Mineral Land (M)
Limited Development Area (Commercial)	Limited Development Area Commercial (LDAC)
Limited Development Area (Residential)	Low Density Residential (LDR)
Rural Activity Centers	Rural Activity Centers (RAC)
Urban Reserve	Urban Reserve (UR)

*The reclassification shall be subject to the criteria under Section 14.616.410

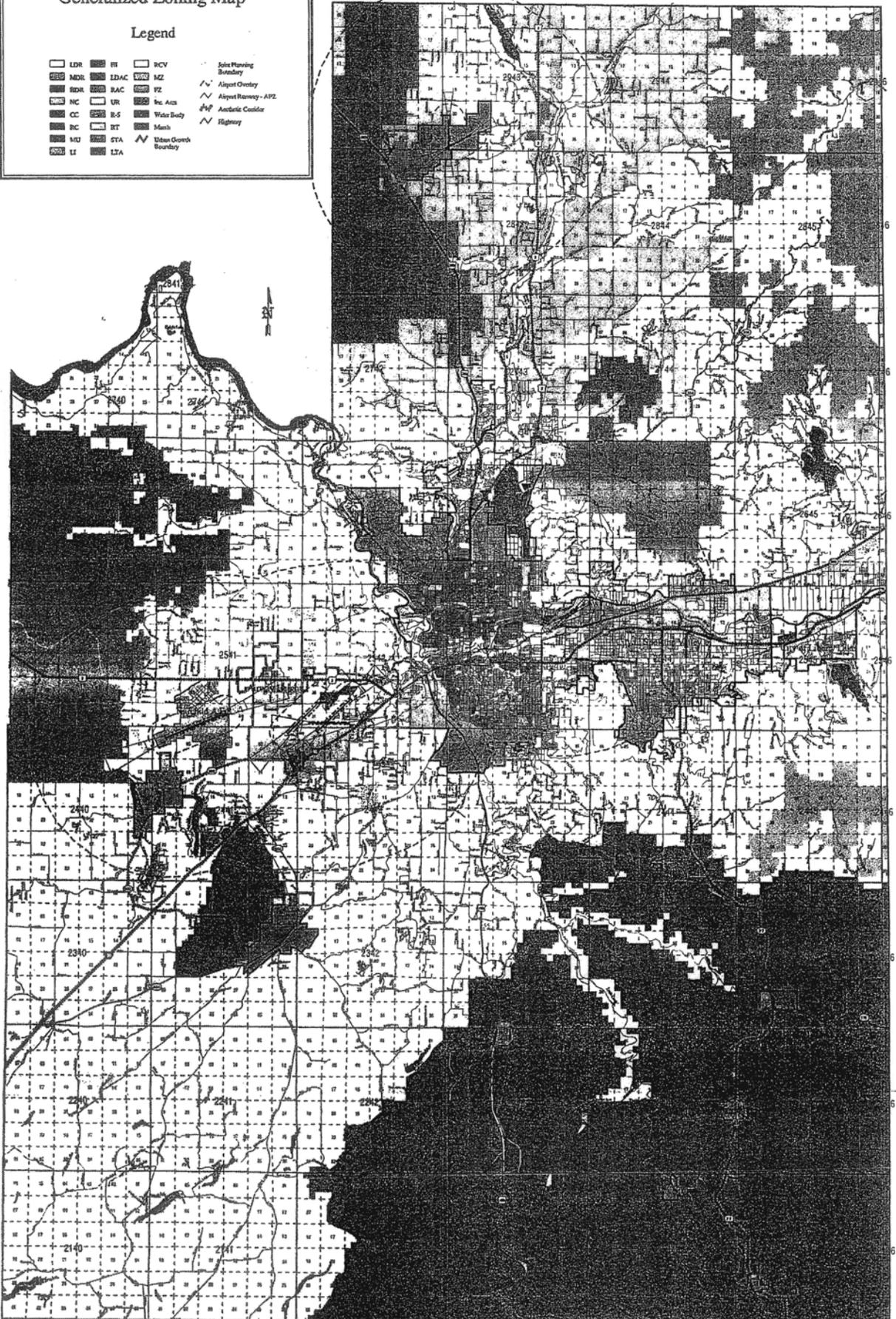
1

www.ck12.org

2

Generalized Zoning Map

Legend



This map was prepared by the Spokane County Department of Building and Planning as a general planning tool. Due to the differing quality of source documents, the Department cannot accept responsibility for errors or omissions, and therefore, there are no warranties which accompany this product.



Production Date: May 24, 2005

Spokane County Building & Planning

No. 30725-5-III

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

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

Appellant,

v.

EASTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD, a statutory entity,

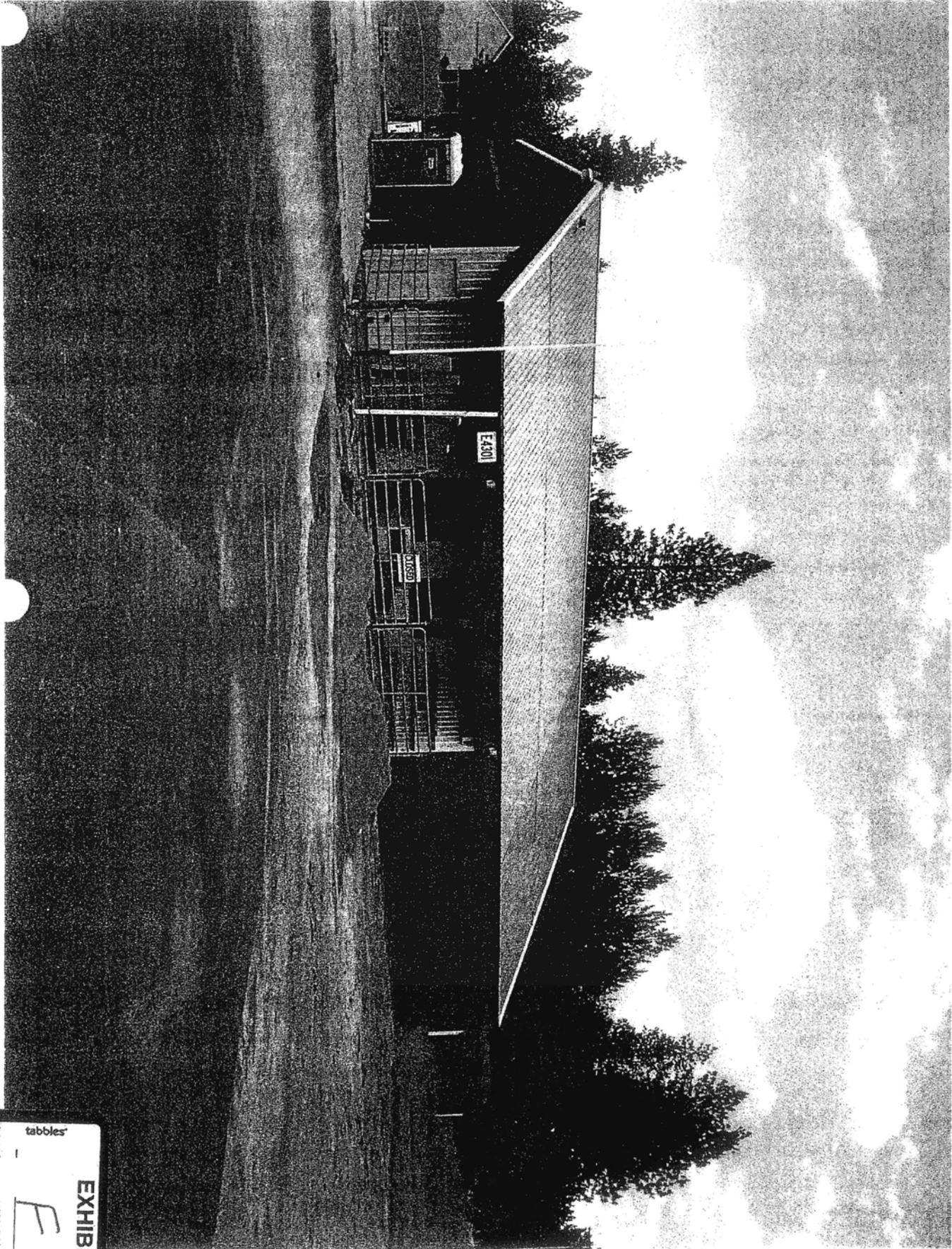
and

DAN HENDERSON, LARRY KUNZ, NEIL MEMBREY, KASI
HARVEY JARVIS, and NEIGHBORHOOD ALLIANCE OF
SPOKANE,

Respondents.

APPENDIX IV

Exhibit A to Spokane County's Hearing on the Merits Brief before
the Eastern Washington Growth Management Hearings Board; p.
P2954, P3629, P2598, P2599, P2601, P2974, P3387, P3386, P3385,
P3384, P3672

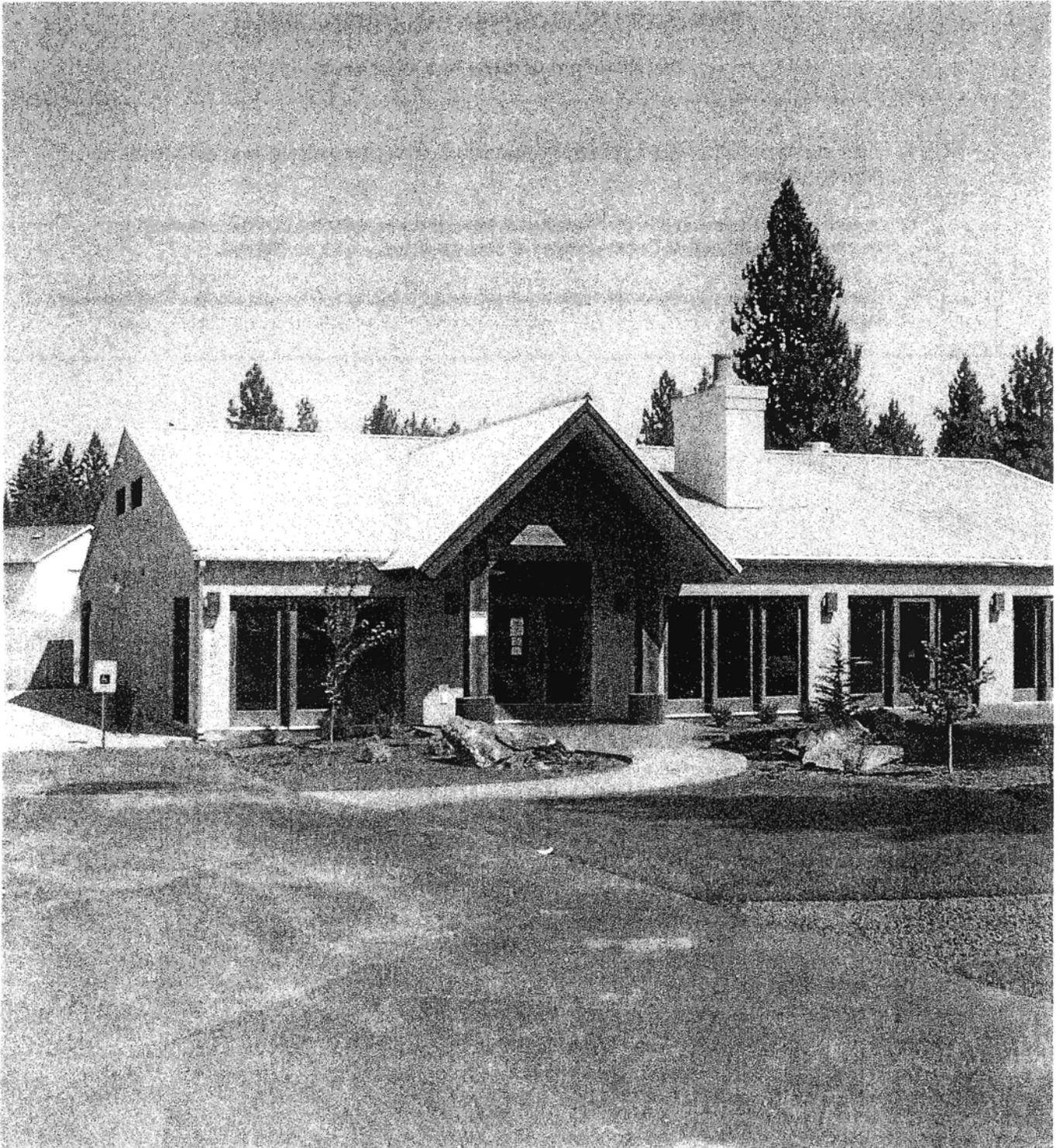


E-4301

06310

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EXHIBIT
E
P2954

000302



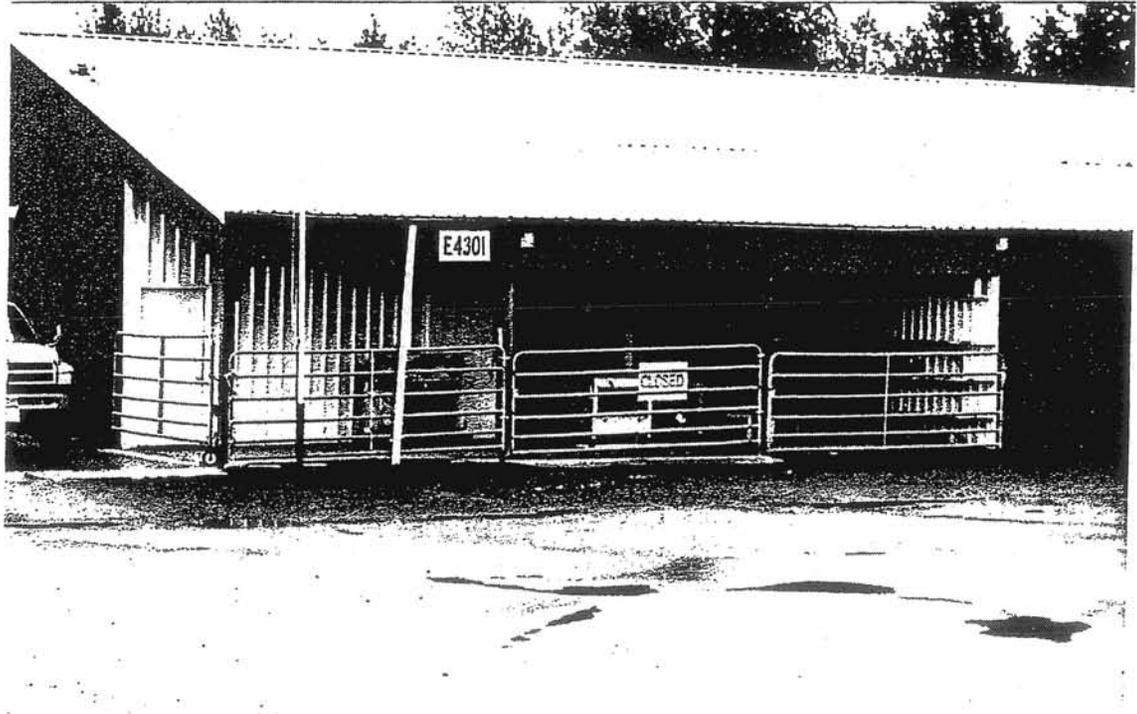
122

Mt. GARD ROAD - JUNE
BEFORE

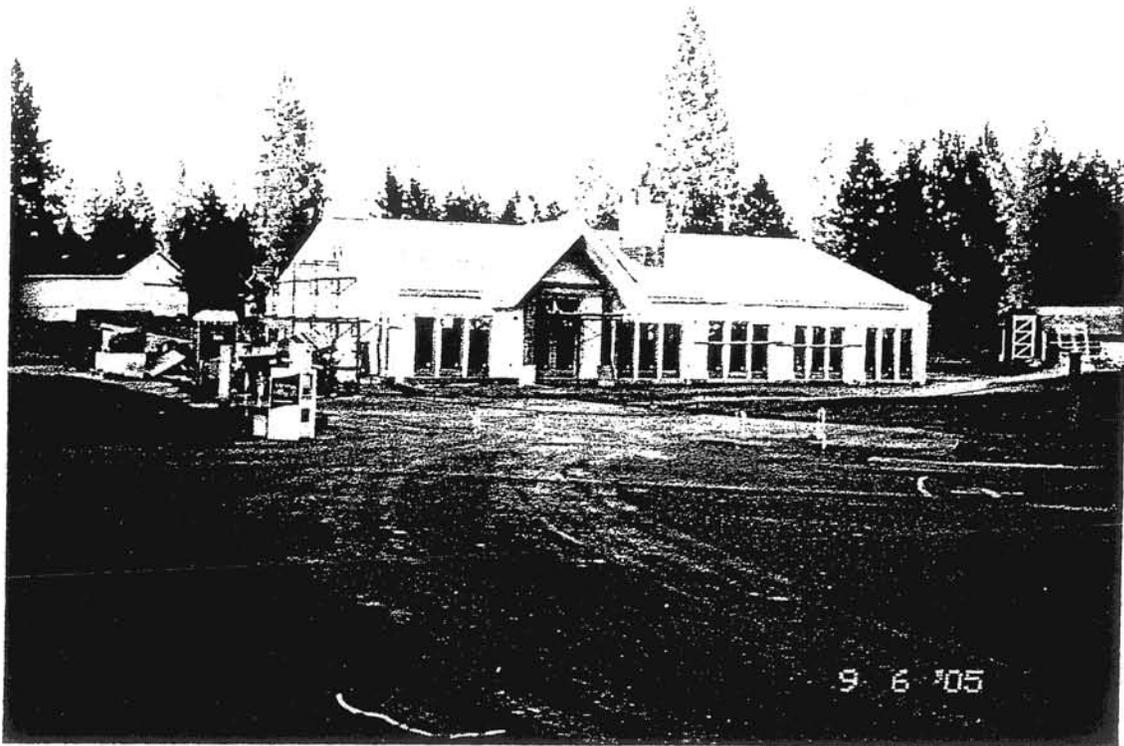
During
construction
→



before
construction

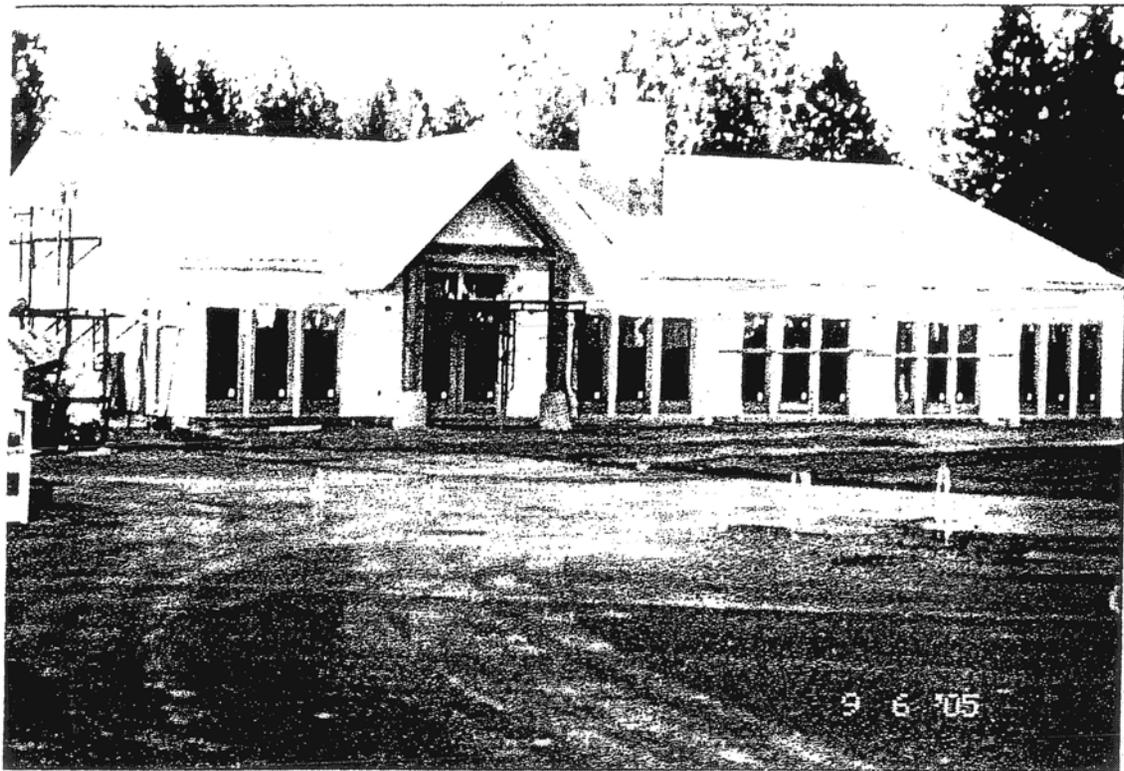


McGlad's AFTER
INTERIOR REMODIE PERMIT P



During construction

AFTER REMODIE
P





000318



2001 (No outdoor sitting)

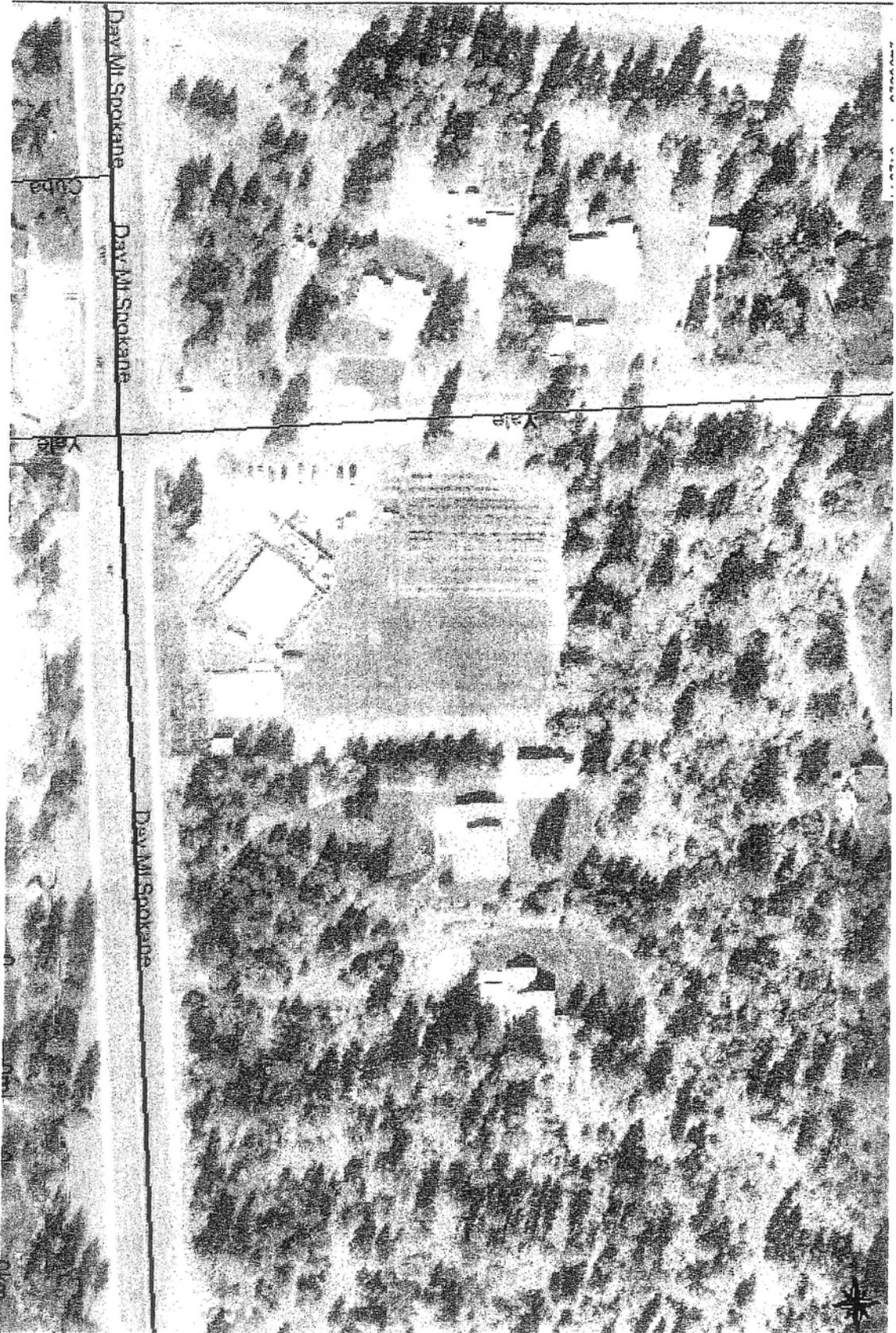
000041

2002

000040



2003



Shows existing parking & use of site

Bushes seating/umbrellas

Thursday,

6, 2006 04:55 PM

000039



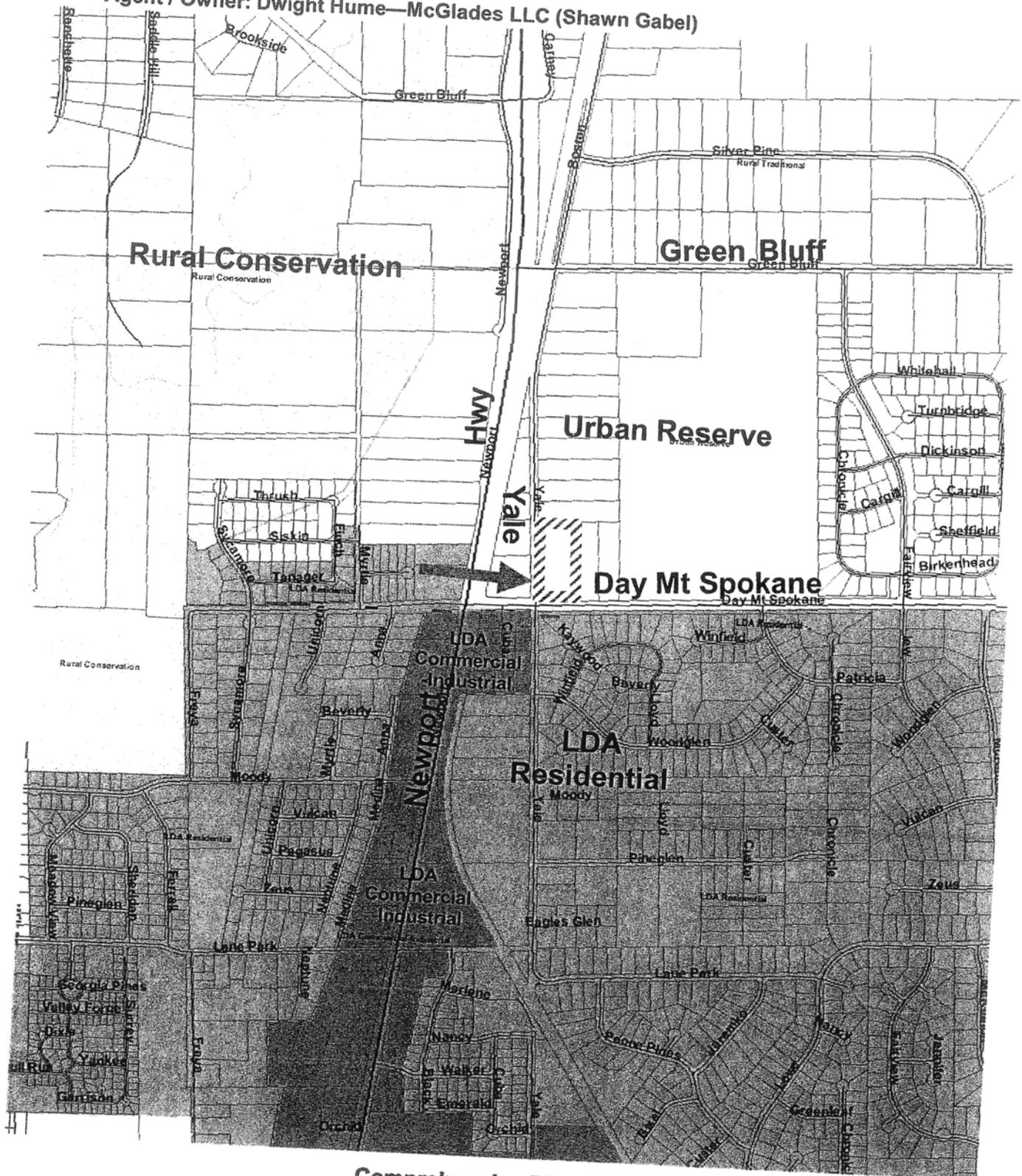
000038

Thursday, Feb 16, 2006 03:35 PM

2006

Comprehensive Plan Amendment 07-CPA-05 (AC-32)

Agent / Owner: Dwight Hume—McGlades LLC (Shawn Gabel)



Comprehensive Plan Map

Proposed Change Comprehensive Plan: Urban Reserve to Limited Development Area (Commercial-Industrial)
 Zoning: Urban Reserve to Limited Development Area (Commercial)