

MEMORANDUM

SPOKANE COUNTY, WASHINGTON DRAFT COMPREHENSIVE PLAN

May 26, 2000

CONFIDENTIAL: The Information and analysis contained in this memorandum was developed and provided to NAR by Robinson & Cole LLP pursuant to the NAR Land Use Initiative program. Users of this information and analysis are specifically reminded that the One Realtor Place license agreement, to which all users agree as a condition of gaining access to One Realtor Place, limits the use of content provided by others, including that contained here, as follows: Users may download only one copy of such content for their own personal, non-commercial use, and such content may not be copied, reproduced, republished, updated, posted, transmitted, or distributed in any way with out expressed permission of NAR. Users who have any legal questions concerning the information or analysis in this database should consult with their attorneys before relying or acting upon any such information or analysis.

SUMMARY OF REQUEST

NAR has requested review and comment on the draft Spokane County Comprehensive Plan Update (“Plan”). The Spokane Association of Realtors[®] (“SAR”) has asked for analysis that it can use during the comment process for the draft Plan. Based on the request received, we have focused our review on the *urban land use*, *rural land use*, and *housing* elements of the Plan. Our comments address issues of concern from the perspective of real estate professionals, developers, and individual property owners.

EXECUTIVE SUMMARY

Under the Washington Growth Management Act¹ (“GMA”), Spokane County (“county”) must prepare an updated comprehensive growth management plan that incorporates specified elements, including a land use element, a rural element, and a housing element, among others.² In addition, the Plan must designate final urban growth areas (“UGAs”), in which urban growth must be encouraged and outside of which growth that is “urban in nature” may not occur.³ The county currently has in place Countywide Planning Policies, which function as a countywide framework from which county and city comprehensive plans are developed, as required by the GMA.⁴ The Countywide Planning Policies are meant to ensure consistency between city and county comprehensive plans.⁵

Within the urban, rural, and housing elements we identified a number of issues that we believe should be addressed through revisions to the Plan. We concentrated on identifying issues over and above those already identified by SAR, although we comment as well on concerns raised by SAR where we can provide elaboration or articulate a different perspective or argument that SAR should anticipate being made by the county or other proponents of the draft Plan.

In the **urban element**, our principal concern is with provisions that undercut the Plan’s predictability and that could lead to inconsistent and possibly undesired results. For example, the Plan incorporates neighborhood planning processes for the purpose of identifying “neighborhood centers” and areas where mixed residential densities may be established. This introduces substantial uncertainty into the development process and may result in arbitrary decision-making that undermines Plan goals. Similarly, the Plan provides for an undefined community-based design review process, which increases the chances of arbitrary and inconsistent results, creates an additional layer of regulatory review, and lengthens the approval process, all of which are likely to drive up development and housing costs. In addition, the Plan fails to require market and economic analyses in support of future UGA boundary adjustments, which could result in an improperly sized UGA and a shortage of marketable housing units.

With respect to the Plan’s **rural element**, we identify two primary issues. First, the Plan is not consistent in the way it attempts to encourage cluster development in rural land use categories, even though the Plan does explicitly recognize the value of clustering for the preservation of

¹ Rev. Code Wash. §§ 36.70A.010 - .902.

² Rev. Code Wash. § 36.70A.070.

³ Rev. Code Wash. § 36.70A.110.

⁴ Rev. Code Wash. § 36.70A.210.

⁵ *Id.*

rural activities and open spaces. Second, the Plan fails to encourage economic opportunity in rural areas by prohibiting the development of isolated small-scale businesses, unless they are related to tourism, recreation, or principally serve rural residents, except in areas designated as “limited rural development” areas. This provision has the potential to seriously and negatively impact economic opportunities that have traditionally been available to rural residents.

In the **housing element** three principal concerns are identified. First, community-based design review, also discussed in the urban element, is likely to impede the Plan’s goal of reducing barriers to the provision of adequate and affordable housing. Second, the Plan fails to describe appropriate incentives that should be used to support its goals and policies regarding the provision of adequate and affordable housing. Third, the Plan presents insufficient data and analysis to support its housing supply projection, which may result in an inadequate supply of marketable housing over time.

ANALYSIS

We have reviewed the materials provided by NAR, including notes on the draft Plan prepared by SAR, hereinafter referred to as SAR Urban, SAR Rural, or SAR Housing Notes, as appropriate (attached). Those notes express a variety of legitimate concerns about the ultimate effects of the proposed Plan’s urban, rural, and housing elements. Rather than repeating each note received from SAR, we focus our comments on additional issues identified by our review and on those SAR notes where we can provide meaningful elaboration or articulate a different perspective or argument that SAR should anticipate being made by the county or other proponents of the draft Plan.⁶ In general, our comments are organized sequentially with respect to the structure of the Plan.

The Plan presents three land use alternatives in its urban and rural land use elements: a “conventional scenario,” a “focused scenario,” and the “Planning Commission’s recommended scenario.”⁷ For purposes of our review and comment, we focus on the Planning Commission’s recommended scenario, which appears to generally draw on elements from the other two alternatives.

In presenting our comments, we caution that we are not Washington attorneys and our analysis of these issues does not purport to be a legal opinion as to the interpretation and effect of Washington law. Rather, it reflects our experience with land use laws and regulations generally. We encourage NAR and/or SAR to consult with local counsel to the extent that they require a legal opinion on the issues discussed in this memorandum.

URBAN LAND USE ELEMENT

The “neighborhood planning process” envisioned for “neighborhood centers” introduces uncertainty and could lead to additional development costs.

The Focused Growth Land Use Alternative provides that, “[n]eighborhood centers would need to be part of a neighborhood planning process, most likely following the adoption of the

⁶ We have numbered the SAR Notes for reference in our comments. *See* Attachment.

⁷ Plan at UL-14.

Comprehensive Plan.” Plan at UL-15. This approach seems to be the one favored by the Planning Commission as well. The Urban Land Use Element envisions mixed-use centers in neighborhoods, where “retail sales, services, government and business offices, recreation facilities, higher-density residences and other high-intensity uses [would] . . . serve the needs of surrounding residential areas.” (Plan at UL-19). These “neighborhood centers,” however, are not specifically identified in the Plan, nor are there specific guidelines for their creation. The Plan provides simply that they “will be identified and defined through neighborhood planning efforts.” (Plan at UL-19; *see also* Policy UL.9.3).

The Plan does include a detailed description of the neighborhood or subarea planning process, for the stated purpose of establishing “a standardized process in order to provide consistency between the various subarea plans.” (Plan, Chapter 14, Subarea Planning). The level of detail provided on the subarea planning process is helpful in achieving a measure of predictability. However, because the Plan lacks standards or guidelines to govern the creation of neighborhood centers, there is uncertainty as to where mixed-use neighborhood centers will eventually be located. This locational uncertainty will make it difficult for developers and their financial sources to make investment decisions. In addition, the lack of standards could lead to the arbitrary imposition of requirements that would increase development, and ultimately housing, costs.

“Community-based design review” imposes an additional regulatory layer that will increase uncertainty and development costs and foster arbitrary decision-making.

As a means of achieving Goal UL.2, to “[m]aintain and enhance the quality of life in Spokane county through urban design standards,” the Plan includes Policy UL.2.3, which envisions creating a “community-based design review process that promotes flexibility and creativity but is prescriptive enough to achieve community standards and values.” However, the Plan does not define “community-based design review.” The Plan also includes Policy UL.2.5 that envisions development of “neighborhood, subarea, and community plans with specific design standards that reflect and preserve community character.” Developing community-specific design standards generally helps ensure predictable, compatible development. But, imposing an undefined community-level design review reduces that predictability and lengthens the development process, thereby increasing development costs and ultimately housing costs.

The Plan should encourage the preparation of clear, but flexible design criteria that can be used as a basis for county planning staff evaluation of proposed projects. Regulatory standards that lack specificity may be deemed impermissibly vague and, as a result, void under the law. The *void for vagueness doctrine* is derived from the constitutional right to notice under the due process clause of the Fourteenth Amendment. The purpose of this due process right is to limit the arbitrary implementation of the law by decision makers. Design criteria or guidelines, therefore, must be sufficiently clear and specific so as to ensure that they will be consistently applied. Clear design guidelines, developed and enforced at the county level, will help ensure that development remains compatible with neighborhoods and that design standards are consistently implemented countywide. [SAR Urban Notes 16, 18].

The high-density residential category should include limited retail uses, in addition to office uses.

The Plan states that “[c]ommercial uses, with the exception of office use in high-density residential areas, would only be permitted through . . . a comprehensive plan amendment or neighborhood planning process.” (Plan at UL-30). By including office uses in high-density residential neighborhoods, the Plan recognizes that some non-residential uses are appropriate in these areas. The Plan, however, curiously draws the line at office use, when many retail uses would be equally appropriate and desirable. High-density residential areas are typically those in which convenient access to retail and personal services is highly desirable. Residents in these areas often desire basic goods and services that are easily accessed on foot. Providing these within high-density neighborhoods is not only a typically expected convenience, it helps avoid exacerbating traffic issues common to densely populated neighborhoods. The Plan should be revised to allow limited retail uses, particularly those serving the basic needs of residents, in high-density residential areas. Alternatively, the Plan could provide that certain retail uses would be allowed as “special uses” within these areas, thereby eliminating the need for a Plan amendment or a neighborhood planning process. [SAR Urban Note 31].

Areas of mixed residential densities within the UGA are left undefined pending possible neighborhood or subarea planning, thereby reducing the likelihood that any mixed residential density neighborhoods will be established.

Plan Policy UL.9.3 includes the statement that, “[m]ixed residential densities may be established through community based neighborhood or subarea planning.” While the Plan establishes three distinct residential density categories, mixed residential density areas will be created as a result of neighborhood or subarea planning. This policy provides each community with flexibility and may enable them to respond to unique neighborhood conditions. However, it may also result in the failure to provide any mixed density residential neighborhoods within urban areas. Mixed residential density neighborhoods should be defined at the county level in order to improve planning and development predictability and to increase the likelihood that mixed neighborhoods will be developed to meet a broad range of housing needs.

Alternatively, mixed density developments should be “encouraged” by the Plan, rather than just authorized. Policy UL.2.6 provides that, “[m]ixed use or mixed density developments may be considered where they would be compatible with neighborhood character.” At a minimum, this policy should be revised to promote the development of mixed density neighborhoods. [SAR Urban Note 19].

The Plan Policy of requiring contributions of commercial developments in urban activity centers for parks and public spaces should reflect well established legal limitations.

Plan Policy UL.11.10.7 provides in part that, “[c]ommercial development in [urban activity] centers should provide or contribute to parks and public spaces such as plazas and building atriums to enhance the appearance of the center and to provide amenities for employees and shoppers.” Whether a particular contribution requirement, or exaction, imposed as a condition of development approval is legally permissible, however, depends on several factors.⁸ If the

⁸ See, e.g., *Ehrlich v. City of Culver City*, 50 Cal. Rptr. 2d 242 (1996) (Holding that monetary exactions imposed as conditions of development approval must meet the essential nexus and rough proportionality tests applied by the U.S. Supreme Court to dedications).

contribution requirement is implemented so as to require developers to provide or contribute to public spaces to an extent that is out of proportion to the development proposal's anticipated impact, for example, then imposition of the contribution requirement may result in an unconstitutional "taking" of private property without compensation. Under the "takings" test developed by the U. S. Supreme Court, conditions of approval must satisfy three criteria:

1. The condition must advance an articulated and legitimate government interest;
2. There must be an "essential nexus" between the condition and the articulated government interest, such that the interest is sufficiently connected to and substantially advanced by the condition;⁹ and
3. The condition must be "roughly proportional" to the project's expected impact.¹⁰

It is likely that the contribution requirement addressing the provision of parks and public spaces would satisfy the first two prongs of the Constitutional test. If the county attempts to require developers to provide funding for public spaces that is largely disproportionate to the project's impact on the area, however, then implementation of the contribution requirement might be deemed an unconstitutional taking under the third prong of the test. In order to reduce the possibility that this could happen in the implementation of Plan Policy UL.11.10.7, the policy should be revised to read:

Commercial development in [urban activity] centers should provide or contribute to parks and public spaces such as plazas and building atriums to enhance the appearance of the center and to provide amenities for employees and shoppers in proportion to the development's actual impact on the surrounding area.

[SAR Urban Note 35].

The procedures for evaluating adjustments to the UGA boundary should be specifically required to consider local market factors and to utilize a land market monitoring system.

Plan Policy UL.18.1 requires the county to "[r]eview and evaluate [UGA] Boundaries, at a minimum every five years." Policy UL.18.2 provides that, "[t]he determination of UGA boundaries shall include consideration of environmental features, topography, jurisdictional boundaries and special purpose districts." According to the Plan, designation of the UGA itself, in terms of size and general location, should be based in part on "reasonable market factors to avoid constraining the land supply." (Plan at UL-9). Furthermore, the GMA specifically authorizes consideration of a "reasonable land market supply factor" when designating a UGA.¹¹

⁹ *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987).

¹⁰ *Dolan v. City of Tigard*, 512 U.S. 374 (1994).

¹¹ Rev. Code Wash. § 36.70A.110.

The boundary adjustment provision in Policy UL.18.2, however, fails to specify that local market factors should be considered. As a result, it is not clear that future UGA boundary adjustments would be required to consider local market factors. The Plan should be revised to clarify that consideration of local market factors is required when changes are made to the UGA boundary. [SAR Urban Note 47]

In order to make appropriate adjustments to the UGA boundary, the county should design and implement a *comprehensive land market monitoring system*. The monitoring system should be designed to enable the county to continuously track how much land is in each use category, as well as where the land is with respect to moving through the development process. One method to accomplish this would be to maintain a comprehensive geographic information system (“GIS”) that includes information on the state of land at any given time, along with changes to or transactions affecting the land over time.¹² Elements that should be included in the GIS system are: (1) amount of developable land, (2) service areas and changes thereto, (3) zoning and Plan designations and changes thereto, (4) tax lots, (5) government jurisdictions, (6) building permit applications, approvals, and denials, (7) annexations, (8) subdivisions, and (9) land sales.¹³

We observe that SAR Urban Note 47 suggests that Policy UL.18.2 be further revised to specify that affordable housing and economic development be considered with respect to UGA boundary changes. Unlike the GMA’s authorization of the consideration of local market factors when setting a UGA, the GMA does not specify consideration of affordable housing and economic development with respect to the designation of UGAs.¹⁴ Both affordable housing and economic development are included among the GMA’s general planning goals, which are designed to “guide[] the development of comprehensive plans and development regulations.”¹⁵ These are, therefore, overarching goals that would affect all planning under the GMA. Although they need not be specifically cited, including them also in Policy UL.18.2 could provide appropriate emphasis.

Additional Comments on Selected SAR Urban Notes:

For the following SAR Urban Notes we believe it is important for SAR to anticipate potential *counterarguments*.

SAR Urban Note 21: The Plan requires that “separated sidewalks” be installed in all new residential subdivisions. (Policy UL.2.11a). SAR Urban Note 21 suggests that there be no mandatory requirement, but rather that sidewalks merely be “encouraged.” Sidewalks, however, are an important element for residential neighborhoods as they facilitate the use of alternative forms of transportation, which is a GMA goal. Residents need to be able to safely and conveniently navigate their neighborhoods on foot in order to access not only neighborhood stores and services, but also mass transportation. Sidewalks, therefore, are not only desirable within urban residential areas, but may be necessary to ensure consistency with the GMA goal of

¹² See, e.g., Gerrit Knaap, Traci Severe, and Stuart Meck, “Towards A Residential Land Market Monitoring System,” presented at Lincoln Institute of Land Policy, Land Market Monitoring For Smart Urban Growth Conference, March 30 – April 1, 2000.

¹³ *Id.*

¹⁴ Rev. Code Wash. § 36.70A.110.

¹⁵ Rev. Code Wash. § 36.70A.020.

encouraging “efficient multi-modal transportation systems.”¹⁶ These counterarguments are likely to apply as well to SAR Urban Note 43 regarding similar concerns for commercial developments. However, they may not be as applicable to industrial parks, where sidewalks are less likely to be necessary, as pointed out in SAR Urban Note 45.

SAR Urban Note 33: Plan Policy UL.7.11 provides that zoning and subdivision regulations must be established that require urban residential developments to provide paved streets, curbs, sidewalks, adequate parking, street lighting, storm water control, and public water and sewer. SAR Urban Note 33 suggests that these improvements should not be mandatory, but should be encouraged “when appropriate.” The SAR Urban Note also expresses concern that the Policy as written would be inconsistent with the Planning Commission’s recommendation on concurrency. We note, however, that the Policy does not address timing for the installation of the various improvements. Consequently, Policy UL.7.11 itself does not conflict with the Planning Commission’s recommendation that, in the county’s 6-year sewer program area, dry-sewer lines may be used until public sewer connections become available. (*See* Policy UL.7.12a). In addition, the improvements required by Policy UL.7.11 are those typically required in urban residential subdivisions.

SAR Urban Note 30: Plan Policy UL.6.1 encourages the provision of public art in commercial, industrial, and mixed-use developments through a variety of incentives. Plan Policy UL.6.2 provides for “permanent displays of public art in new public construction of facilities intended for public entry and use . . .” SAR Urban Note 30 appears to interpret UL.6.2 as applying to private development. On its face, however, this policy appears to apply only to publicly funded construction projects.

RURAL LAND USE ELEMENT

Both “rural traditional” and “rural conservation” land use categories should provide for clustering incentives and should, at a minimum, specify both minimum lot size and overall maximum density.

The Plan includes a “rural traditional” category, with a specified density of 1 dwelling unit per 10 acres. (Plan at R-18). This category, however, does not allow cluster development. On the other hand, the “rural conservation” category specifically encourages clustering by granting a bonus density of 1 dwelling unit per 10 acres on land otherwise required to comply with a density of 1 dwelling unit per 20 acres. (Plan at R-18). Lands in the rural conservation category are defined as “environmentally sensitive areas, including critical areas and wildlife corridors,” whereas lands in the rural traditional category include those used for large-lot residential and resource-based industrial uses (farming, mining, and forestry). Encouraging clustering in the more environmentally sensitive rural conservation category recognizes the fact that clustering produces fewer impacts to habitat and preserves open space. It makes sense to similarly provide for and encourage environmentally sensitive development in the rural traditional category. Clustering of homes in the rural traditional category will result in larger portions of the land left in open space, which is consistent with resource-based uses. (*See also* Plan at R-23 to R-25, regarding advantages of clustering).

¹⁶ *Id.*

In order to realize its clustering goals, it is important that the Plan specify minimum lot sizes, and include guidelines for the development of maximum lot sizes and clustering patterns. Including these elements helps ensure that housing will be truly clustered on a relatively small portion of a site. Policy RL.1.10 provides general guidelines for clustered developments, including requirements that patterns for cluster areas and maximum lot sizes be developed. Since the choice of appropriate cluster pattern and maximum lot size is highly site-dependant, it makes sense for the Plan not to set these forth with particularity. Minimum lots sizes, however, should be specified in the Plan, as they are crucial to the success of clustering and generally less site-dependant. The Plan encourages cluster development in rural conservation areas and includes a density bonus, but fails to specify a minimum lot size. The Plan should be revised to clarify the minimum lot size for cluster developments in each land use category in which they are authorized, as it has done, for example, in the urban reserve category where a maximum clustered density of 1 unit per 5 acres and a minimum lot size of 10,000 square-feet are specified. (Plan at R-19).

We note that the Plan does not present market analysis to support its proposed density bonus to incentive clustering. The choice of 1 dwelling-unit per 10-acres as the overall cluster development density in rural conservation areas may not be supportable in the local real estate market. The Plan's choice of density bonus must be an economically viable one if its goal of preserving open space goal is to be achieved. [SAR Rural Note 3].

The Plan should clarify that intensification of development on lots containing isolated nonresidential uses and new development of isolated small-scale businesses that provide rural employment opportunities will be allowed.

The Rural Element's section on industrial and commercial uses should be revised to allow rural residents greater flexibility to establish businesses that, while they may not principally serve rural customers, nevertheless provide rural residents with needed employment opportunities. The Plan presents only two goals in this section:

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 which cannot be sited in the Urban Growth Area (UGA).

It is not clear whether the "needs of rural residents" referenced in RL.5a includes employment needs. A review of the Policies that follow these two goals, however, leads us to believe that employment needs have not been carefully addressed. The GMA specifically provides for consideration of rural employment needs by allowing "intensification of development on lots containing isolated nonresidential uses or *new* development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the . . . rural population .

. . . but do provide jobs opportunities for the rural residents.”¹⁷ This provision is in the GMA subsection entitled “Limited areas of more intensive rural development,” which also includes a separate provision allowing for intensification and infill in “existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.”¹⁸ The Plan incorporates the latter provision by creating a “limited rural development” designation, although it appears that only one small area has been so designated on the land use map. (Plan at R-17, R-33).

The Plan does not sufficiently address rural economic needs, as it does not generally allow intensification of isolated non-residential uses or the development of new small-scale businesses, both of which would increase employment opportunities in rural areas. While the Plan does allow some commercial development in rural areas generally, it is limited to “those businesses serving rural residents and supporting natural resources and tourism-related uses.” (Plan at R-34). The GMA does not require that isolated intensification of non-residential uses or new small-scale businesses be so limited. The Plan should be revised to generally allow intensification of development on rural lots containing isolated nonresidential uses and to allow new development of isolated small-scale businesses.

Additional Comments on Selected SAR Rural Notes

For the following SAR Rural Notes we believe it is important for SAR to anticipate potential *counterarguments*.

SAR Rural Note 11: This Note questions whether there is an inconsistency in RL.5.1a(3), which describes how approval of a “new major industrial development” affects the Plan. In RL.5.1a, the Planning Commission recommends allowing new major industrial developments outside UGAs in limited situations, which is consistent with the GMA.¹⁹ In RL.5.1a(3), the Plan’s language tracks the GMA and provides that approval of a major industrial development shall be considered an amendment to the comprehensive plan, resulting in designation of the major industrial site as an urban growth area. As further provided in the GMA, RL.5.1a(3) notes that a major industrial development approval will not be considered an amendment *for the purposes of RCW 36.70A.130(2)*, which generally limits amendments to comprehensive plans to no more often than once per year. This provision, therefore, enables the county to approve a major industrial development outside the UGAs at any time, which increases planning flexibility.

HOUSING ELEMENT

Inclusion of community-based design review runs counter to the goal of reducing regulatory barriers to the provision of adequate and affordable housing.

The Housing Element includes Goal H.2: “Reduce regulatory barriers and allow greater flexibility in the housing development process.” In general, the policies enumerated in support of this goal are responsive to the need to strike a careful balance between protective regulations and the need to minimize regulatory hurdles that drive up housing costs. In particular, Policy H.2.1

¹⁷ Rev. Code Wash. § 36.70A.070(5)(d)(iii) (emphasis added).

¹⁸ Rev. Code Wash. § 36.70A.070(5)(d)(i).

¹⁹ Rev. Code Wash. § 36.70A.365.

requires the county to “[p]eriodically assess the effects of policies and regulations on housing costs and affordability and consider the balance between housing affordability and environmental quality, design quality, maintenance of community character and protection of public health, safety and general welfare.” In the interest of minimizing regulatory hurdles, the Housing Element of the Plan recognizes the need for “consistent, precise, fair and enforceable regulations.” (Policy H.2.2). Both of these policies, however, are undercut by Policy H.2.8, which creates “a community-based design review process.”

As previously discussed under the Urban Land Use Element, community-based design review introduces substantial uncertainty and delay into the development process. It is likely to produce inconsistent implementation of development standards, resulting in widely varying results countywide. Regulatory standards that lack specificity may also be subject to challenge as being unconstitutionally vague. Lack of clarity increases the possibility that the regulations will be inconsistently applied and/or that regulators will abuse their enforcement discretion. As recommended above, the Plan should be revised to require the preparation of clear, but flexible design criteria that can be used as the basis for project review by county planning staff. This will ensure that development remains compatible with neighborhoods, without introducing the uncertainties and inconsistencies inherent in a community-level design review process.

Affordable housing goals and policies should be bolstered with examples of appropriate incentives, particularly for the development of multifamily housing.

The Housing Element includes:

- Goal H.3a: Develop a variety of housing options for all economic groups; and
- Goal H.3b: Ensure that all present and future residents of Spokane County have the opportunity to obtain adequate housing.

In support of these two goals, the Plan includes several policies that “encourage,” among other things, creative housing design, multifamily residential development, development of residential accessory dwelling units, and adaptive reuse or other inventive techniques. (Plan at H-31). The Plan does not, however, provide any specific suggestions on how these developments can be “encouraged.” Revisions to these policies specifying particular incentives that would be appropriate would strengthen the Plan’s affordable housing goals. For example, incentives for the development of multifamily or other affordable residential projects could include streamlined permitting and development approval processes, reduced permitting fees, and density bonuses.

The Plan presents insufficient data and analysis in support of its projected housing supply.

The Plan appears to rely on several unsupported assumptions in arriving at its conclusions regarding number and type of housing units needed by the year 2020. Despite the fact that the average number of people living in each housing unit has been consistently decreasing since at least 1980, the Plan relies on the 1999 average of 2.5 persons per household as a basis for its housing needs projection over the next 20 years. (Plan at H-10). Since no information is

presented to indicate that the downward trend will not continue, using the 2.5 figure for a twenty-year projection is not justifiable. On the contrary, the Plan notes an increasing elderly population, a fact that would tend to suggest a continued decline in the average number of people per household. (Plan at H-17). Based on the limited information presented in the Plan, it is likely that a lower figure would provide a more accurate prediction of long-range housing needs. It appears, therefore, that the Plan may seriously underestimate the number of housing units that will be needed in Spokane County over the next 20 years. [SAR Housing Notes 4, 18].

According to the Planning Commission's recommended alternative, the percentage of multifamily housing units will be substantially increased from approximately 24% currently to 42% in 2020. (Plan at H-11, H-35). Single-family units will have a corresponding decrease from the current 67% to 58% in 2020. (Plan at H-11, H-35). The Plan, however, presents no market trend analysis to support these projections. Rather the Plan shows that multifamily units have remained fairly static in terms of percent of housing stock since at least 1960. (Plan at H-11). Increasing the availability of affordable, multifamily units may be consistent with the Plan's affordable housing goals. However, insufficient analysis has been presented in the Plan's Housing Element to support such a significant change in the multi- to single-family unit ratio. The Plan needs to provide market analysis to support the assumption that demand for *single-family* housing can be adequately met using these projections. It cannot successfully provide for the diverse housing needs and preferences of county residents if it fails to identify and incorporate market realities. As noted in the Plan itself, "[i]f affordable housing and/or a desired lifestyle . . . is not available in Spokane County, some households will likely seek to locate in other communities that offer what they need or desire." (Plan at H-36) [SAR Housing Notes 5, 12, 18, 19, 20].

Chapter 4

Urban Land use Notes

1. Pg. 4
Intro item 3 should include ...within easy walking and shorter commute distance...
2. Pg. 5
In paragraph following item number 8, there should be reference to GMA's goal of:
3. 9. Recognize importance of providing affordable housing to all elements of the community and
4. 10. Recognize the need to balance land use planning with preservation of economic development.
5. In the final paragraph, after the note about the Eastern Washington Hearings Board not specifically having addressed the density issue to date, there should read:
Due to circumstances unique to the Eastern portion of the state, and Spokane County specifically, the Comprehensive Plan should provide a regional approach to planning and decisions with regard to establishing density requirement as allowed for in The GMA.
6. Pg. 6
At the end of the first sentence there should read:
These development regulations shall provide the necessary certainty and be streamlined and coordinated in an effort to minimize their impact on the cost of housing, as required by RCW 36.70B.
7. Pg. 7
In chapter titled Residential Categories, the second sentence should read
Design standards are established to ensure certainty and ensure neighborhood...
(NOTE: language addressing the certainty and/or predictability should be referenced in a separate section describing design standards, as should the need to balance these standards with increased cost of development or construction, and the need to preserve the intent of the standards against influence from subarea or neighborhood planning. It is the unpredictability of weak standards that causes hardship and increases housing costs.)
8. The following sentence should be omitted, beginning with "Commercial", or modified to read:
, would only be permitted where an appropriate blend can occur that meets design review standards and upholds the integrity of the neighborhood. strike the remainder of the sentence. (NOTE: this is necessary to provide needed flexibility, encourage in-fill and provide the mixed use necessary to cut automobile traffic and sprawl.)
9. In the last sentence on this page it should include:
government service providers, builders, real estate developers, business people and...

**Spokane Association of Realtors®
Urban Land Use Notes**

(NOTE: these participants are integral to the process that designs their future and should be specifically included.)

10. Pg. 8
In the third paragraph under Mixed use corridors, the sentence should end:
...prohibited, provided those uses are allowed in nearby zoning so as to not limit economic vitality or encourage undue commutes.
11. In the next section titled Commercial Land Use, there should be additional language expounding on the necessity to encourage commercial land use as a catalyst for sustained economic vitality.
12. In the Industrial Land Use section the following sentence should be added:
Regulations should encourage use of Industry Clusters strategies, whereby anchor tenants can be attracted and compatible business and/or residential uses can coexist.
13. Pg. 9
In the first paragraph, two additional items should be added. First to the end of item 4:
Infrastructure is readily available at the site. And then:

5. Preliminary Environmental Impact Statements are completed.
14. Pg. 12
In the third paragraph of Urban zoning section, an additional sentence should read:
It is important to note this is a significant difference from the focused and preferred scenarios and this will be subject contentious debate with residents in the community, which will result in some fall-out of projected densities. This needs to be accounted for when setting the Urban Growth Boundary and the specific zoning regulations within.
15. In the following paragraph, a general concern:
(NOTE: 5.8% of the urban area zoning dedicated to all three classifications of the business zoning does not sound like an adequate provision for sustained economic vitality in the UGA. As a bare minimum, there needs to be enough flexibility to increase this capacity if needed, and more appropriately this zoning should be increased prior to adoption of the comprehensive plan to allow for proper public input.)
16. Pg. 15
(NOTE: At the end of paragraph two, as well as throughout the entire Comprehensive Plan, there is reference to neighborhood and subarea planning processes. These processes must be well understood and defined so they are not construed as a method to alter the intent of the plan, or to destroy the predictability and consistency that comes from a well designed plan. It is very concerning the real estate, building and development businesses, that they be required to rely on individual alteration of design standards, development practices, and land uses allowed, after the adoption of the Comprehensive Plan. To allow this micro planning will defeat the intent of RCW 36.70B, and drive up the cost of all development; and thus cost to consumers for goods, services and housing. The purpose

must be flexibility to preserve the integrity of the local neighborhood without compromising cost or a streamlined process to the landowner/developer.)

17. Pg. 22
(NOTE: Item 6 under the Purpose section of urban character and design creates undue pressure on affordable development. It is beyond the scope of the Comprehensive Plan to require implementation of public art/expensive building design standards, except to say that those standards enhance the community environment and encourage core principles of The Growth Management Act. (see UL.6.2 on pg. UL-29))
18. UL.2.3 (NOTE: Solid protective language must be provided to describe the intent and necessary limitations on a community-based design review process. If proposals are consistent with the law, they should not require review (RCW 36.70B.))
19. Pg. 23
UL 2.6 should read:
Mixed use or mixed density development should be encouraged where they would be compatible with neighborhood character to ensure a balance with jobs and housing.
(NOTE: this concept deserves stronger encouragement to accomplish the primary goals of The Growth Management Act.)
20. A new sentence should be added:
UL 2.8 Ensure the availability of a variety of affordable housing choices.
(NOTE: This is necessary to provide for affordable housing in all economic segments.)
21. UL 2.11a Separated sidewalks shall be encouraged in new residential subdivisions where appropriate. (NOTE: There are physical limitations or smaller plat sizes which make it inappropriate to construct sidewalks.)
22. UL.2.16 Develop standards that prescribe appropriate building heights...(NOTE: there is no need to impose unnecessary restrictions to in-fill development, especially one which may be seen as a method to reduce sprawl.)
23. In the final sentence of the final paragraph of page 24, the following addition is needed:
Rather, roads should be encouraged to connect and... (NOTE: The plan must allow for flexibility and some choice when appropriate or necessary due to physical constraints.)
24. Pg. 26
UL 2.21 Establish reduced and/or shared parking space standards...
25. UL.3 (NOTE: This is good, but it must stand the test of the subarea/neighborhood planning phase.)
26. Pg. 27
Performance Standards

**Spokane Association of Realtors®
Urban Land Use Notes**

(NOTE: If performance standards and zoning are detailed, prescriptive and agreed upon previously by the public in the planning process, they should not be required to go to public hearing. This adds additional cost to development, increases uncertainty, increases inconsistency and discourages innovation.)

27. Pg. 28
UL.5.2 sentence at end of this section should read ...shall not exceed 500 feet...
(NOTE: The language..."Aesthetic corridors shall not exceed 1500 feet"... is better than previous proposal, but it will lead planners to obtain the 1500 foot mark. This distance is extreme, incredibly costly and should be drastically reduced so as not to lead policy. Certainly our viewscapes need improvement along these corridors, but by and large, people expect to see and identify business along major traffic corridors and not a rural setting.)
28. UL.5.3 item 2
This language is too restrictive and should end with: roadways, where appropriate;
29. Pg. 29
UL5.6a This option should be denied, in favor of UL.5.6b. (NOTE: This is a first amendment right and a necessary part of conducting business. If we are going to be supportive of business coming to Spokane, we have to allow them to advertise their product/service.)
30. Goal –Public Art
UL.6.1 and 6.2
(NOTE: Incentives are a perfect method to encourage, however language in 6.2 indicates a mandatory requirement. This is a nice concept, but imposes additional cost on the end user and does nothing to promote the concept of growth management. It must be left as a choice, with incentives to encourage.)
31. Pg. 30
Residential Categories
The last sentence should read: ...with the exception of office and retail use in medium and high-density residential areas to promote mixed use, would only...
32. Residential Patterns
Goal UL.7 Complete the paragraph to include the GMA goal of: ...Provide adequate residential land within the UGA necessary to accommodate demand.
33. Pg. 31
UL.7.11 Establish zoning and subdivision regulations that encourage residential developments to provide the following improvements when appropriate. (NOTE: to require these items in all instances in both inappropriate and does not provide the flexibility needed to address physical limitations or the planning commission's preferred interpretation of concurrency.)

34. Pg. 32
UL.9c1 and 9c2 (NOTE: The Planning Commission's recommended density level of 4 units per acre identified here conflicts with their recommendations for 6.5 units per acre identified elsewhere in the plan; i.e. in the second to last paragraph on page UL-49 and language in the Capitol Facilities element of the plan. This is confusing and needs to be clarified. This number should be 4 units per acre average in order to respect the current demand as indicated in public hearings.)
35. Pg. 38
7. Commercial development in centers should be encouraged through incentives to provide or contribute to...(NOTE: this is important to keep the choices available in recognition of the costs associated with this proposal.)
36. Pg. 39
UL.12.4 The mix of land use in a Mixed Use Corridor includes but is not limited to:
37. Pg. 40
5. Should be amended to include: ...are prohibited, provided appropriate zoning for such uses is available nearby.
38. Pg. 41
(NOTE: In defining sizes of commercial use zoning (i.e. Community Commercial and Neighborhood Commercial) the recommendations should be goals and not mandates. Limiting sizes may not be appropriate to the character of the area, and may inhibit development from occurring all together.)
39. Pg. 43
UL.13.6 Zoning and other land use regulations shall encourage the following...(for the reasons described above.)
40. Pg. 44
UL.14.8 Allow for cluster development that allows correlated mixed use of business and housing. (NOTE: as mentioned before, these are characteristics of other successful community industrial developments and would make us more competitive to draw business.)
41. Pg. 45
In the second paragraph under Heavy Industrial the following changes are needed for the same reason described above: ...except for appropriate ancillary... and ...to other uses should be carefully limited where appropriate.
42. UL.15.3 ... except for appropriate ancillary...
43. UL.15.4 ...shall be carefully limited where appropriate...
44. Pg. 46

**Spokane Association of Realtors®
Urban Land Use Notes**

- In the first sentence and in UL.16.2 similar changes should be made to read
...Industrial/Industrial Parks, unless appropriate. And in 16.2 ...except for appropriate..
45. UL.16.4 The following change should occur to provide flexibility and acknowledge need vs. cost in individual developments: ...areas shall encourage sidewalks...
46. UL.17.1 similar change: ...Urban growth Area shall encourage the following improvements where appropriate.
47. Pg. 48
UL.18.2 To recognize the goals of the Growth Management Act it should read:
...consideration of the market, economic development, affordable housing, environmental features...
48. Pg. 49
Again, in the second to last paragraph, the Planning Commission's recommendations for average density goals is inconsistent with other parts of the plan and should read: The Planning Commission recommendation assumes an average density of 4 dwelling units...
49. Pg. 50
(NOTE: In the paragraph that starts with Based on..., it must be clear that sufficient land is available to accommodate the Planning Commission preferred alternative of 4 units per acre, and this must take into account a change in the average persons per household which is declining over time. The statistics used rely on 2.5 (see page H-10 in Housing) persons per household, and this is not accurate.)
50. Pg. 53
Planning Commission Recommended Plan
(NOTE: Again I point out the inconsistency in the density, as well as extreme concern for the alteration of multifamily housing as a percentage of total housing being pushed from 25% by 1997 records (see H-12) to 42% (see H-36.) This is nothing short of social engineering and will not be tolerated by the general public unless other policies drive housing costs to the extent that multifamily is the only option for many citizens. This shift is way to drastic and must be rolled back!)
51. Pg. 54
(NOTE: In the second to last paragraph, it must be confirmed that outlying cities agree with the rural residential classification and the limitations put on their growth potential. This has huge implications for them.)

Chapter 5

Rural Land Use Notes

1.

Pg. 7

A general observation that it appears Liberty Lake and Newman Lake areas are in a Rural Designation, and yet there is housing all around the Lake. These areas are more appropriate for a urban, limited rural development or a master plan resort designation due to their density, recreation features and services.

2.

Pg. 11

Density in the Exclusive Agricultural zone should be 1 unit per 20 acres. With 96 percent of the County untouched by the UGA as indicated on page R-9, the demise of modern day farming, and need for preservation of property rights, landowners in this designation must be allowed to sell off smaller more affordable pieces of land to stay alive. In addition, many times owners wish to break off a piece of the farm for their children, and this needs to be available in manageable and affordable sizes of 20 acres.

The density requirements for forestry should be reduced to 1 unit per 20 acres for the same reasons. Making these changes does not impose any measurable impact on the rural nature of the land, and yet it provides for personal and financial options to the property owners.

3.

Pg. 18

Rural Conservation areas should be left at 1 unit per 10 acres. Using cluster techniques of 1 per unit per 10 acres is virtually ineffective and provides little opportunity for incentive. Considering the minimal change in impact on the natural environment compared to the significant impact on individual property rights to down-zone this vast area, these parcels are better left in their current state of 1 unit per 10 acres.

4.

Pg. 19

As a minimum, there is need for an additional limited rural development classification or a rural activity center in the deep creek area, and one on the U.S. 195 corridor. In order to accommodate regional commercial needs in a fashion that does not unduly create additional long automobile trips, and allows for reasonable commerce to support local economies, the plan must provide for additional centers of business. Not doing so will merely add to the environmental impacts of commuter and commerce travel while not realizing the needs of local economies.

5.

Pg. 20

The master planned resort should provide for recreational type overnight and seasonal housing. There is no way to sustain these facilities or management of attractions if there

- is no opportunity for housing and the economic multipliers associated with extended stays. This zone should allow for commerce to conduct a tourism/attraction enterprise and the necessary seasonal and overnight stay to make them profitable. The financial support that housing provides at Mt. Spokane, for instance, helps to defer some of the operating costs and allows it to stay open.
6. Pg. 21
The Planning Commission should adopt RL.1.3.a and allow for the in-fill of existing urban-type residential development, provided the outlined criteria are met. It would be an error to restrict these compatible uses in areas where more rural lots would not be feasible.
 7. Pg. 22
Exemptions to Subdivision regulations
This provision is allowed by state law and must be preserved locally. There might be corrective measures that could clean up some of the problems associated with the exemption from subdivision regulations, but to take a more prescriptive approach than the state is unwarranted and places undue burdens on private property ownership. This exemption provides for an affordable process for land use decisions that are often clear cut, and it should remain an option. Support RL.1.5.a, and as a bare minimum, RL.1.5.c.
 8. Pg. 24
The Planning Commission should stick with their plan to support RL.1.9a and remain consistent with The Growth Management Act by providing for clustering techniques as an incentive to preserving open space and incurring short term loss for long term gains in planning for future growth.
 9. Pg. 26
Regarding Urban Reserve Areas, the proposed map does not appear to provide enough land in this designation to accommodate growth for the subsequent 20 years of growth. Make sure these boundaries support the kind of growth that could occur here, and not just the percentage of growth that has occurred. Over the past 80 years, our population has increased just three fold. That equates to an average of just 3750 persons per year! Increase the amount of urban reserve, or at least provide contingency plans as to how additional growth can be accommodated.
 10. Pg. 27
Rural Activity Centers
Again, there should be provisions for additional centers where appropriate, including Deep Creek and along the U.S. 195 highway as a minimum.
 11. Pg. 31
Support should be given to RL.5.1.a, which allows for limited major industrial development in the rural category. As a note, there appears to be a blending of two contrary recommendations in sub-paragraph (3) on pg. 32. If this was intended as two separate options, it would be more in line with the GMA and RL.5.2, to not make it a

requirement to amend the Comprehensive plan for approval of an application for a major industrial development.

12. Pg. 33
Industrial/Commercial Limited Rural Development Areas
It appears that there is only one area with this designation on the proposed land use maps. If this is the case, is it appropriate and accurate? In general the commission should support RL.5.3a, but look to incorporate more area under this designation where appropriate.
13. Pg. 35
To reiterate, item 4 should be expanded to include appropriate housing to support this designation, and item 5 should be removed.
14. Pg. 38
The environmental analysis indicates (paragraph 2) 17,800 acres of land being down-zoned! This illustrates clearly that the plan goes way too far in its attempt to comply with The GMA, and the suggestions made prior in this section of testimony need to be implemented to reduce the adverse effect this will have on hundreds of property owners. If we had a real sprawl or bad land-use problem that was causing environmental concerns as is the case in other parts of the state, then perhaps this would be warranted, but we do not have these problems. The recommendation is to minimize the negative impact on property owners done by down-zoning, wherever possible in the plan while still operating within the confines of the act.
15. Pg. 42
Planning Commission Preferred Scenario
This section should be modified to reflect any changes made. This should include allowing for C of E's.
16. Pg. 44
In summary, we have good land- use practice and management in this county. We also have minimal adverse impacts from sprawl and an inherently weak growth and economic pattern that has arguably lasted for the past 80 years. Everything in this Comprehensive Plan should seek to balance these core principles with the mandated act for growth management. As is indicated in the final sentence, many elements of this plan have the potential to remove property rights and have an adverse impact on land values. If not measured carefully against the needs test of public health, safety and welfare, this planning process runs the risk of further impeding this areas' ability to compete for its own children. Please consider these ramifications carefully.

Chapter 8

Housing Notes

52. Pg. 6
Affordable Housing
(NOTE: The first paragraph should include two things:
First, in the second sentence it is indicated that the marketplace is capable of meeting the housing demands of the upper and middle-income segment of the population. For one thing, this will not be the case when the cost of housing increases across the board as you indicate in your report. In addition, this language flies in the face of the GMA definition or interpretation of affordable housing. As you recognize in the following paragraph, “Affordable” housing does not just mean for low-income families. It is a concern, especially in Spokane, all across the price spectrum and needs to be identified as such. Second, the cost of government regulation and the creation of urban boundaries must be recognized here as an impediment to “affordable” housing by stronger use of language.)
53. Pg. 7
In the first paragraph the following change: ...The County’s policies should ensure financial and regulatory flexibility...(rather than simply encourage)
54. Pg. 8
(NOTE: In paragraph 1, it must be written that such delays and inefficiency of government regulations
(NOTE: the language in paragraph 2 indicates the recognition of what turmoil and uncertainty that will arise from neighborhood and subarea planning. As indicated in other testimony, RCW 36.70bB provides the backbone to create adopted codes and design standards, which while allowing flexibility must be consistent from one jurisdiction to the next.)
55. Pg. 10
(NOTE: The average household size has been declining steadily over time, and this trend is only going to continue in Spokane County. With the aging population, and the female-headed households identified elsewhere in the planning document, It is important that the Plan Commission recognizes this and incorporates the concept in the plan. It is recommended we use a figure closer to today’s national average of approximately 2.3 persons per household when calculating the number of housing units that will be needed for the next 20 years. Without this adjustment, you leave room for a significant shortage of 8000 housing units.) Recommendation: change the projection for 2.5 persons per household to 2.3.

56. (NOTE: It is very important to note the shift in housing stock as illustrated in table 8-2. Single family housing has declined by 10% over the 27-year period indicated in the chart, and continues to decline today, despite a national trend towards greater homeownership. Further on in the plan, the Planning Commission preferred approach to Urban land use indicates a desire to punch the percentage of single family housing units down more and increase multifamily housing from 24% to 42%. While multifamily housing is a key component to any community, and one that needs encouraging all across the county, not just in certain segments, this drive to redesign lifestyles is an affront to the quality of life that draws people to Spokane. This policy must be toned down and more support must be given to single family housing choices.)
57. Pg. 12
Table 8-4
(NOTE: It is important to further the argument presented above to point out the consistency of the trend for multifamily housing has remained nearly constant (with a 2% increase) since 1960. In addition the drop in ownership of single family housing has been a dramatic 10% since 1960.)
58. Pg. 15
Housing Affordability-Homeownership
Table 8-9
(NOTE: This table reiterates the constant decline in homeownership in Spokane County, a statistic that must be used to measure all policies related to economic development and availability of affordable housing. This is in direct conflict with the national trend of increased homeownership levels.)
59. Table 8-10
(NOTE: this table indicates we fall below index of balance between incomes and affordable housing.)
60. Pg. 19
Special –Needs Housing
(NOTE: This documentation of a rise in elderly population substantiates the trend towards smaller household sizes as discussed above. The figure of 2.5 persons per household that holds true for today will decline and we must plan for that. Planning infers we look ahead, and this is one area that must be recognized.)
61. Pg. 20
(NOTE: A look at table 8-14 gives additional cause for concern that we focus on the goal of make provisions for affordable housing of all types in every policy that is created.)
62. Pg. 30
Housing Goals and Policies
H.1.1 add the following language: ...to ensure housing is affordable and available for...

**Spokane Association of Realtors®
Rural Land Use Notes**

63. H.1.2 add the following language ...innovative financing programs that help increase homeownership levels.
64. H.1.3 clarify with ...development planning processes in the early stages to ensure sufficient housing is available to accommodate growth, while ensuring the review process provides the necessary certainty to keep housing affordable.
65. Pg. 31
Policies
H.2.1 include ...general welfare and take action necessary to reduce regulatory barriers to affordable housing.
66. H.2.4 include: ...Develop standards and incentives that facilitate rehabilitation...
67. Pg. 33
H.3.6 Include: ...reuse, rehabilitation, conversion and other inventive techniques...
68. H.3.9 Include: ...affordable housing and make timely adjustments necessary to effectively accommodate growth with a variety of housing choices available to every economic segment. (NOTE: see testimony provided for chapter 15b, referring to the monitoring of housing shortages.)
69. Pg. 36
Impacts and Alternatives
(NOTE: it is important to note that the claim made in the second to last sentence in the first paragraph may be flawed, due to a number of assumptions made in calculating available land supplies and population estimations. These include, but are not limited to the assumption consumers will accept the drastic change to multifamily housing, that the figure of 2.5 persons per household is and will be accurate for the next twenty years, the double counting of vast areas in the unincorporated county by both the county and the City of Spokane, and the discrepancy in the report from average density used to calculate available lands of 4 units per acre, and an indication of planning Commission recommendations for 6.5 units per acre.) See testimony provided on the Capitol Facilities and Population Allocation elements.
70. Table 8-15
(NOTE: This chart and the proceeding paragraph identify the Planning Commission proposal to reduce single family and increase multifamily lifestyles in dramatic numbers. This policy must be modified to better reflect the local realities and market demands.)

71. Pg. 37
(NOTE: The concern for increased sprawl and exodus from Spokane that will likely occur with constraints on lifestyle choices here in the Environmental Analysis, cannot be emphasized enough. For the past few years we have seen a loss of population, increased commuter trips from Idaho and other outlying areas, and this trend will continue. We implore you to consider these identified ramifications as you set parameters on those lifestyle choices.)
In the final paragraph on page 37, it must be reiterated that The UGA appears to contain sufficient land to accommodate projected housing needs provided certain assumptions are true. If it becomes apparent these assumptions are not true, then a pre-designed process using agreed upon indicators will be put in place to encourage automatic enhancement of the UGA.
72. (NOTE: see testimony provide for chapter 15B.)