

BEFORE THE EASTERN WASHINGTON GROWTH
MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

Harvard View Estates,

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No. 02-1-0005

Petitioner,

vs.

FINAL DECISION AND ORDER

SPOKANE COUNTY,

Respondent,

Procedural History

On March 8, 2002, Petitioner filed a Petition for Review relative to Spokane County's Phase I Development Regulations Implementing the Spokane County Comprehensive Plan, adopted January 15, 2002 pursuant to Findings and Decision No. 2-0037.

On April 8, 2002, the Board held a Prehearing conference. The Petitioner was asked to restate the issues so they would pose questions to the Board. An Amended Petition was received April 12, 2002.

On April 29, 2002, Spokane County, the Respondent, filed a motion seeking the dismissal of this petition for lack of standing and for lack of jurisdiction due to failure to timely file a Petition and/or allege Development Regulations issues pursuant to RCW 36.70A.290(2).

On May 23, 2002, a hearing on the County's motion was heard in Spokane Washington. Gene Cohen represented the Petitioner, Harvard View Estates. Robert B. Binger, Deputy Prosecuting Attorney, represented the County.

On May 31, 2002, the Board issued an Order on Motions granting the County's Motion to Dismiss all issues except Issue No. 5 which provides:

If there is "any conflict between this ordinance and other plans, ordinances and regulations" adapted by Spokane County, does it follow that the "provisions of this ordinance shall prevail" as stated in Section IV, of their Phase 1 Development Regulations.

The Final Hearing on the Merits was held on July 25, 2002 and following consideration of the memorandums submitted by the parties and oral argument, the Board makes the following:

FINDINGS OF FACT

1. The Spokane County Development Regulations at issue herein were adopted January 15, 2002.
2. Section IV of Spokane County's Phase 1 Development Regulations, states as follows: "...this ordinance shall apply as an overlay and in addition to other adopted plans, ordinances, and regulations affecting lands in Spokane County. In the event of any conflict between this ordinance and other plans, ordinances and regulations, the provisions of this ordinance shall prevail."

DISCUSSION

The Comprehensive Plan establishes the County's policy and goals for the management of growth and their compliance with the Growth Management Act. Development regulations are to be adopted to implement those policies and goals. These regulations must be consistent with the Comprehensive Plan (RCW 36.70A.040).

The objected to language is a standard "conflicts between provisions" section. The purpose stated was to avoid conflict with previous plans, ordinances and regulations affecting the same subject. **The County stipulates that it was not their intent to give undue weight to these development regulations or contend that they would take precedence over the policy found in the Growth Management Act or the Comprehensive Plan developed there under.**

ORDER

1. Petitioner has failed to meet his burden of proof on Issue No. 5.
2. That pursuant to the stipulation by the County and the provisions of the GMA, the conflict provision above quoted, applies only when a conflict arises between the Development Regulations and other non-GMA plans, ordinances or regulations.

SO ORDERED this 29th day of July 2002.

EASTERN WASHINGTON GROWTH
MANAGEMENT HEARINGS BOARD

Dennis Dellwo, Board Member

Judy Wall, Board Member

D.E. "Skip" Chilberg, Board Member