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**State of Washington  
GROWTH MANAGEMENT HEARINGS BOARD  
FOR EASTERN WASHINGTON**

JULIA McHUGH, PALISADES  
NEIGHBORHOOD, and NEIGHBORHOOD  
ALLIANCE OF SPOKANE,

Petitioner,

v.

SPOKANE COUNTY,

Respondent,

GREG and KIM JEFFREYS, GJ L.L.C., and  
G.J. GENERAL CONTRATORS,

Intervenors.

Case No. 05-1-0004

AMENDED PREHEARING ORDER

**I. PROCEDURAL HISTORY**

On June 24, 2005, JULIA McHUGH, PALISADES NEIGHBORHOOD, and NEIGHBORHOOD ALLIANCE OF SPOKANE, by and through their representatives, Julia McHugh, Robbi Castleberry, and Bonnie Mager, filed a Petition for Review.

On July 18, 2005, the Board received Greg and Kim Jeffreys, GJ L.L.C. and G.J. General Contractors, Inc.'s Motion and Memorandum in Support of Motion to Intervene.

On July 22, 2005, the Board heard the Motion to Intervene before the Prehearing conference. The Respondent did not object to the intervention. The Petitioner objected, contending Greg and Kim Jeffreys, GJ L.L.C., and G.J. General Contractors, should not be allowed as they did not own the property in the area. This being deemed by the Board as not a requirement, allowed, the intervention, there being not evidence that it will disrupt the management of the case.

1 On July 22, 2005, the Board held the Prehearing conference. Present were, Dennis  
2 Dellwo, Presiding Officer, and Board Members Judy Wall and John Roskelley. Present for  
3 Petitioners were Julia McHugh, Robbi Castleberry, and Bonnie Mager. Present for  
4 Respondent was Martin Rollins. Present for Intervenors was Stacy Bjordahl.

5 On July 26, 2005, the Board issued its Prehearing Order.

6 On August 12, 2005, the Board received Petitioner's Motions listing nine motions.

7 On August 12, 2005, the Board received Intervenors' Motion and Memorandum in  
8 Support of Motion for Partial Dismissal of Issues.

9 On August 12, 2005, the Board received Respondent Spokane County's Motion to  
10 Join Intervenors' Motion for Partial Dismissal of Issues.

11 On August 26, 2005, the Board received Respondent and Intervenors' Response to  
12 Petitioners' Motions.

13 On September 2, 2005, the Board received Petitioners' Request for Expedited Review  
14 and Rebuttal.

15 On September 9, 2005, the Board held a telephonic Motion Hearing. Present were,  
16 Dennis Dellwo, Presiding Officer, and Board Members Judy Wall and John Roskelley. Present  
17 for Petitioners were Julia McHugh and Bonnie Mager. Present for Respondent was Martin  
18 Rollins. Present for Intervenors was Stacy Bjordahl.

19 On September 16, 2005, the Board issued its Order on Motions.

20 Pursuant to the Board's Order on Motions, the issues in the Amended Prehearing  
21 Order are as follows:

## 22 **IX. STATEMENT OF LEGAL ISSUES**

23 1. Has Spokane County violated the fundamental planning goals of RCW  
24 36.70A.020(1)(2)(5)(10) by approval of Comprehensive Plan amendment 04-CPA-1 to  
25 convert 80 acres of Rural Traditional farm land, one dwelling per 10 acres, into urban  
26 residential development supporting a minimum of 320 single family residences, with a  
maximum allowable density of 480 dwelling units, as listed on the application, and in  
placing this development site within the West Plains Urban Growth Area – Joint Planning

1 Area without adequate public facilities and services. Further, did Spokane County disregard  
2 its Comprehensive Plan Goals and Policies to protect the rural character and lifestyles of its  
3 rural Palisades residents by approving conversion of this site to urban and including it within  
4 the West Plains Urban Growth Area – Joint Planning Area (Goal RL.1 UL.18, Policies RL.1.1  
5 UL.181 – UL.18.4). Further, did Spokane County endanger retention and expansion of  
6 existing businesses by disregarding Fairchild Air Force Base's (FAFB) consistent input of  
7 discouraging siting this development within the FAFB flight path? Further, is Spokane  
8 County negligent in upholding the County Critical Areas Ordinance which designates this  
9 property and the area surrounding it with medium contamination susceptibility, with no  
10 available sanitary sewer capacity and no ability to predict when such capacity may become  
11 available to this development, thus endangering existing Palisades neighborhood domestic  
drinking water wells?

12 2. Did Spokane County abandon its own Statement of Principles within its  
13 Countywide Planning Policies (as required by RCW 36.70A.210), for "Urban and Rural  
14 Character" by not protecting the rural character and avoiding the need for extensive  
15 government services and facilities in the Palisades rural area by approving 04-CPA-1.  
16 Further, did Spokane County violate its Countywide Planning Policy Topic 1(5) by not  
17 initiating an amendment to the Urban Growth Area (UGA) and Joint Planning Area (JPA)  
18 boundary to the Spokane County Steering Committee of Elected Officials for its review,  
19 analysis, consideration of the merits of this UGA request, and consideration of public  
participation through a public hearing on the need to amend the West Plains UGA/JPA?

20 3. Has Spokane County violated RCW 36.70A.100 by approving conversion of this  
21 rural land to urban land, by altering the West Plains UGA-JPA to include this parcel only,  
22 and not coordinating this with the City of Spokane, the City of Airway Heights, Spokane  
23 International Airport, Fairchild Air Force Base, or other urban service providers in this area,  
24 as evidenced by agency letters and a SEPA appeal by the City of Spokane, contained within  
25 the staff report, discouraging approval of this amendment?  
26

1           4. Did Spokane County violate RCW 36.70A.110(1)(2)(3)(4) and RCW  
2 36.70A.130(1)(3) by approving urban growth in a distinctly rural character neighborhood,  
3 by failing to show their work with a State of Washington Office of Financial Management  
4 population projection or by demonstrating support through a land quantity analysis report  
5 consistent with the adopted Steering Committee land quantity methodology, to determine  
6 the appropriate amount and location of additional land to add to County UGAs or JPAs, as  
7 established in the County Comprehensive Plan, Urban Reserve Areas (Policies RL.1.11  
8 RL.1.12 RL.13(a)-(e), Goal CF.5), enunciating analysis of capacity within it's adopted Urban  
9 Reserve areas prior to approving urban development in long-standing rural areas; by  
10 approving urban growth without provision for greenbelt and open space areas; by not  
11 coordinating this work with other jurisdictions and agencies?

12           5. Is the County out of compliance with RCW 36.70A.070(1)(3) by not providing  
13 for protection of quality of domestic wells in the Palisades Neighborhood; by not updating  
14 its Capital Facilities Plan and Capital Facilities Plan Element (Chapter 7) of its  
15 Comprehensive Plan, nor demonstrating the ability to provide the development approved in  
16 04-CPA-1 with adequate capacities for the requisite urban services consistent with adopted  
17 Levels of Services in the Countywide Planning Policies, along with a financial plan that  
18 clearly provides storm and sanitary sewer systems, domestic water systems, roadway  
19 upgrade and maintenance services, fire and police protection services, public transit service,  
20 library, school, and other public utilities associated with urban areas and normally not  
21 associated with rural areas as described in RCW 36.70A.030(19) and stated in the Spokane  
22 County Comprehensive Plan (Goal UL.7 CF.3, Policies UL.7.1 UL.7.12)?

23           6. Is Spokane County committing a breach of RCW 36.70A.070(5.c.i-iv) by  
24 propagating rather than controlling development within and adjacent to a traditionally rural  
25 area; by approving development density incompatible with existing rural conditions; by  
26 inappropriately converting undeveloped land into urban residential development in the rural  
neighborhood; by not protecting a critical groundwater recharge area for domestic

1 neighborhood wells designated as medium susceptibility in the County Critical Areas  
2 Ordinance?

3 7. Did the Board of County Commissioners, as representatives of Spokane  
4 County, disregard RCW 36.70A.035 and its own adopted Public Participation Program BOCC  
5 Resolution 1998-0144) for public by neglecting to notify affected jurisdictions and agencies  
6 of its hearing on 04-CPA-1 on April 25, 2005. Further, after rejecting the unanimous  
7 decision of denial of 04-CPA-1 by the Spokane County Planning Commission, did the County  
8 Commissioners Spokane County fail to provide notification of its public hearing, make it  
9 known to the public on its website, in press releases or public service announcements, as  
10 hard copies available for public review in County Libraries, as a display advertisement in the  
11 local newspaper of circulation, or hold a public meeting at a facility within close proximity of  
12 the area affected by 04-CPA-1 to inform or involve Palisades citizens in the decision making  
13 process as stated in its Public Participation Program? Did Spokane County further fail the  
14 Palisades Neighborhood and other concerned citizens by atypically holding the hearing in  
15 the middle of a workday?

16 8. By approving 04-CPA-01, has Spokane County violated RCW 36.70A.547 for  
17 incompatible uses near Spokane International Airport (SIA) and its flight path and Accident  
18 Potential Zone 'B' (APZ-B) illustrated in SIA's master plan for an additional runway, which  
19 crosses a portion of the amendment site as depicted on the public hearing notice map?  
20 Further, has Spokane County violated its own Comprehensive Plan Goals and Policies (air  
21 Transportation T.3g, T.3g1 – T.3g6) which discourages new residential development near  
22 airports and by having ignored SIA comment letters discouraging 04-CPA-01, as included in  
23 the staff report and County Planning Commission recommendation of denial?

24 9. ~~By approving 04-CPA-01, has Spokane County ignored State Engrossed~~  
25 ~~Substitute Senate Bill 6401 (ESSB 6401), an act relating to encroachment of incompatible~~  
26 ~~land uses around military bases such as Fairchild Air Force Base (FAFB), and the consistent~~  
~~written and verbal comment submissions to the public record by FAFB and included in the~~  
~~staff report and Planning Commission Recommendation to deny, due to it's location in the~~

1 aircraft flight path approach to FAFB and within FAFB established noise contours of 70-75  
2 db, as shown on the public hearing notice map?

3 10. As a representative of Spokane County, did the Director of Building and  
4 Planning, in a blanket fashion, violate the Petitioners' rights to equal protection under the  
5 law against arbitrary and discriminatory actions when providing the developer/applicant of  
6 04 CPA-1 an application fee waiver, otherwise paid by all other 2004 Comprehensive Plan  
7 amendment applicants to the Department of Building and Planning, consistent with Spokane  
8 County Commissioner adopted fee structure for the 2004 Comprehensive Plan and Zoning  
9 Fee Schedule (BOC Resolution 2003-1060, December 2, 2003). Further, by additionally  
10 waiving SEPA review fees for the developer/applicant of 04 CPA-01, did Spokane County  
11 and the Director of Building and Planning commit discriminatory actions against the City of  
12 Spokane, which paid a fee to appeal SEPA for items listed in Issue (5) above and contained  
13 in the SEPA appeal within the staff report. In addition, as a Spokane County representative,  
14 did the Director of Building and Planning act in a discriminatory manner to the Petitioners  
15 by presenting developer/applicant favorable mitigating measures for aircraft noise impacts  
16 on homes built within FAFB flight path during a Planning Commission deliberation meeting  
17 on the amendment? (Planning Commission recorded minutes January 13, 2005).

18 **SO ORDERED** this 16<sup>th</sup> day of September 2005.

19 EASTERN WASHINGTON GROWTH MANAGEMENT  
20 HEARINGS BOARD

21 \_\_\_\_\_  
22 Dennis Dellwo, Board Member

23 \_\_\_\_\_  
24 John Roskelley, Board Member

25 \_\_\_\_\_  
26 Judy Wall, Board Member