

April 29, 2013

Dear Mayors,

NWPOA.ORG a growing local rural property owners group, is aware that the Kootenai County consultant KendigKeast, along with the Kootenai County Community Development Dept., has been involved in discussions with each of your respective city planning departments to modify and blend "Areas of City Impact" (ACI) agreements within the proposed new ULUC Code.

NWPOA has formally come out against the proposed ULUC in its current form. After hundreds of hours of research and participating in nearly every ULUC Tech Committee meeting, NWPOA deems the proposed ULUC far too complicated, convoluted, and overly burdensome to rural property owners of whom we represent. It is unbalanced in its approach when weighing property owner rights and economic interests against environmental concerns. However, in this letter we wish to specifically address our support and related concerns to you with regards to the topic of ACI language, maps, and related agreements.

Generally NWPOA considers unifying ACI requirements between all cities and Kootenai County to be beneficial from several aspects:

1. The use of common language, common requirements and/or restrictions between affected cities and the county.
2. The embedding of requirements into a common code or ordinance that makes residents aware of factors and conditions related to properties located within ACI boundaries, can be useful.
3. NWPOA understands that internal pressures from population growth will cause city boundaries to expand and that a greater portion of area residents choose to live within city boundaries. To wit, cities should plan for city boundary expansion.
4. That the future annexation of unincorporated rural lands is an expected activity when a geographic area is growing. Note that growth occurs when governmental leaders and business friendly regulations are focused on providing a strong and vibrant engine for economic growth, thus supporting jobs for those moving into the Kootenai County area.
5. That annexation is frequently easier using larger tracts of land that are developed by single large developers who enter into annexation agreements with a city. None-the-less, "mom & pop" property owners should not be ignored in any aspect of this process.
6. That land use compatibility, road alignment, traffic flow, and related alignment of other services such as water, sewer, and storm water utilities are best planned for with future development annexation. Yet, this may not require the immediate installation of any of these respective utilities.

However NWPOA does have some concerns for property owners located within what will become the mapped ACI areas. NWPOA at this time would encourage the following:

- A. NWPOA believes that the proposed mapped areas for future expansion should be no larger than expected city expansion that will occur in the next 20 yrs. Predicting where people and business decide to move is far from a science, often a guess, and frequently results in errors as all kinds of factors (*growth rates, growth directions, types of growth, etc*) come into play. However the application of additional and often arbitrary requirements upon rural property owners for what "may occur" in the future 40-60-100 years from now, is often burdensome to the property owners located within the ACI boundaries.
- B. Growth projections and growth directions should be reviewed collectively every 5 years by the respective cities, County, and affected property owners.
- C. NWPOA requests that both the City's and the County would respect that local "mom and pop" property owners, not be subjected to burdensome amounts of bureaucracy nor extra costs to; improve their land, build a house, or start a business just because they happen to have been located in a mapped ACI boundary.
- D. That the approval/denial and hearing process for property owners located within the boundaries of mapped ACI areas, should be crystal clear. The minimum sizes of properties located within the ACI map must be clearly articulated, and there should be some reasonable methods for exceptions to such requirements when "mom & pop" developers (*by state and county law, "developer" means any person improving land, dividing it into one or more lots, or building a structure*) seek to exercise their right to develop their property.

- E. NWPOA “**strongly**” suggests each mayor and city council be open, proactive and to individually notify by USPS, each affected property owner located in the mapped area where the potential for dual or additional approvals is required and to facilitate meetings with these property owners in a group forum during a time when their input can affect the end result. One overriding complaint we have heard over and over from rural property owners, is apx 80-90% were not aware of any revision activity with the Comprehensive Plan nor the formation of the proposed ULUC codes. Direct mail notification is the right thing to do, even if Idaho Code permits just newspaper ad notification.
- F. Where dual governmental authority approval is required, the City and County, whom each will very likely have non-complimentary or non-unified requirements for such things as storm water, roads, etc, and the cost and hassle of trying to appease both the city and the county is not something any owner should be subject to. Ideally either the city or the county would default to the other, or otherwise work together with affected property owner’s in a joint effort supporting the property owners goal and ultimate intended use. The goal should not be to prohibit development, but to allow development in a manner supportive of all parties involved. In general, a property owner should be allowed to develop their land. To prohibit an owner for reasons not clearly established is of great concern from several legal as well as ethical aspects. If ultimate control is the goal of either government entity, they should purchase the property outright.
- G. That no burdensome additional costs for development to a property owner occur as a result in being within an ACI mapped area.
- H. That multi-level annexation tiers not be included in any future ACI mapping or agreements. Forecasting 50-100 years into the future is equal to hiring a psychic and just as accurate.
- I. That the joint governmental body approval process be simple, clearly articulated and understandable by rural property owners subject to such joint approvals. A clear decision tree “must” be created and part of any ACI agreement, which clearly outlines the process flow and time table.
- J. That the process to decision for both the “*mom & pop*” property owner seeking to improve or develop their own land, should not take a lot of time. “*Mom and pop*” decisions should be made within 30 days between all agencies and they should not be made to “dance” between agencies.
- K. We strongly object to the collection of additional development fees for both County and City, and the application of dual enforcement provisions.
- L. That some form of a brief non-encumbering recorded deed notice could be beneficial and should be explored with current property owners located within an ACI, as a way to disclose to buyers of property located in identified and mapped ACI boundaries. Our concern is that people may purchase property only to find out additional restrictions prohibit their intended development activity within the ACI.
- M. That restrictions upon business or residential development, that are not known to, or cannot be proven to cause direct harm to future annexation, should be otherwise permitted, and are thus by lack of definitive proof, not determined to be harmful. Prohibition for other reasons, becomes subjective and subjective reasoning should alone not be enough to prohibit development. In the absence of evidence to prohibit, City planning departments should then otherwise find mutually acceptable methods to permit such development.
- N. We have observed the use of bureaucratic and costly development regulations used as growth limiting tools. NWPOA objects to the use of bureaucracy (*excessive regulations, hiring of experts, and excessive permitting costs*) to limit growth. Where a community desires to limit growth, the land use regulations might rather plainly and clearly articulate regulations that implement growth restrictions. (*ie limit the number of building or plat permits*) Because such growth restrictions limit what a property owner may do by way of dividing or developing (*building a home or business*) their lands, property owners directly bear the economic and social impacts of such regulations and thus should have the most significant voice in determining their future.
- O. Property under the jurisdiction of County shall not require payment for city based Impact Fees, unless such Impact Fees provide an immediate demand on city services. In any case, the Idaho Code requirements for impact fees and related math shall be adhered to and defensible.

NWPOA has compiled all the ACI and annexation content of the proposed ULUC into a single document that is made available to all property owners and public officials. The compact extraction of such language makes the conditions more apparent to vested parties.

The ownership of property and the use of such property, is perhaps one of the most visual displays of a free society. From local to international pressures, property ownership and related property rights have slowly eroded, we desire that our area representatives fully support this most important example of freedom.

While representing the interests of rural families, businesses, farmers, ranchers, and forestry property owners, NWPOA is grateful to all public servants such as yourselves. We understand you frequently have a difficult job in finding balance between varied interests. Indeed America is a republic, and you as leaders are tasked with representing those who you serve and who elected you.

NWPOA understands each city and Kootenai County have important considerations and tasks in this process and we strongly encourage each city to invite affected (*within proposed ACI boundaries*) property owners to have a participatory voice in formulating and commenting these ACI provisions and boundaries. We see the exclusion of property owners and the dominate inclusion of various special interests and governmental agencies, a grievous mistake when it comes to rural property owners interests. Indeed, the complete reworking of the Comprehensive Plan and resulting ULUC codes, which are documents that determine what rural property owners can and cannot do, and the exclusion of a majority rural property owner representation, is a dreadful transgression. NWPOA will continue to conduct town hall meetings as area property owners request them. Such town/grange hall meetings are arranged by concerned property owners.

Thank-you

(please also forward to each city council member)

Bob Bingham

Founder/Director

www.nwpoa.org

cc: nwpoa board of directors

About NWPOA NorthWest Property Owners Alliance, represents a broad group of rural; residential, agricultural, timber, and commercial business property owners. As the founder and one of several NWPOA board directors, Bob Bingham, observed that in all the rural planning activity taking place in the county, no rural property owner representation was present. There were several environmental voices, many government voices, and even tribal, but unrepresented was the rural property owners voice to whom the regulations would apply. In the last few months, we have been holding town hall presentations at the request of rural property owners with regards to the proposed ULUC. NWPOA supports a centralist view with regards to land use ordinances, believing that basic ordinances are indeed beneficial to rural property owners. Yet we've found that over regulation is an all to common problem. NWPOA was deeply involved with impact fees over the last 6 months. Using focused educational presentations to taxing district boards, NWPOA questioned the imposition and retention of "rural" collected impact fees, while offering to help taxing districts consider all methods of planning for and financing needs for the future. As you may be aware, impact fees were unfairly being collected from just the rural property owners developing their homes and businesses, while taxing districts such as fire, EMS, Jail, etc served both rural and city property owners.

In the coming year, NWPOA plans to establish a candidate rating system with regards to property rights and issues related to rural property owners. We are a strong advocate for property rights and hope to insure rural property owners are respected as the most important and influential voice in determining our future with regards to government regulative and taxing activity upon our rural lands. We believe all problems have solutions and we strongly support technical analysis and open discussion.