

# **North West Property Owners Alliance**

## **Position Paper on the Kootenai County Proposed ULUC**

Adopted: June 13, 2013

By the NWPOA Board of Directors

To the Kootenai County, Board of County Commissioners, Planning Commission and Citizens.

### **INTRODUCTION**

North West Property Owners Alliance (NWPOA) came into being in 2012 after rural area property owners found themselves and our interests largely being ignored in several regulatory processes including the creation of the Comprehensive Plan and the resulting Unified Land Use Code (ULUC) draft. The observations of many property owners was that special interest environmental groups and governmental agencies and staff were very well represented in determining rural regulatory policy, but the rural property owners to whom all these various types of restrictions would apply to, had no representation.

NWPOA members include: mom & pop land owners, farmers, ranchers, timber land owners, commercial and business owners who own lands on the plains, in the trees, mountain tops and along shorelines. But we have a common purpose in our diversity of rural property ownership; less regulations, less government intrusion, simple and basic zoning/building codes, more freedoms, and low taxes.

Using grassroots methods, NWPOA conducts educational town hall meetings with local residents. To date we've received greater than a 99% thumbs up approval rating from the citizens who attend our typically 2-3 hour long informational presentations. During these town hall meetings, we've heard from citizens that they were not made aware of the effort to change all of our zoning, and many have expressed that they are afraid of the BOCC and the Building and Planning Departments. A significant portion feel they have been abused when they have interfaced with these departments.

Because the proposed ULUC regulations apply solely to the rural residential, agricultural, forestry, and business owners of property in the unincorporated areas of the county, it is our position that we as the landowners should have the largest and most influential voice regarding any proposed changes to rural planning, regulations, and enforcement. We consider it a travesty that other interests have had a dominate influence in this process to create the regulations that will be applied and enforced upon us.

### **SUMMARY OPINION and POSITION**

We do agree that our current ordinances could be improved, we fully support basic land use regulations and do find that basic regulations can be mutually beneficial to rural property owners, and we support the combining of all land use ordinances into a common document. We are keenly aware of the requirements in Idaho Code for land use planning and support the balanced application of the requirements contained in Idaho Code Title 67-6500.

However, we find that the ULUC Draft and the process leading to its creation, objectionable and flawed in the following ways:

1. **Failure to notify** - Rural property owners were not individually notified by USPS direct mail of the Comprehensive Plan revision process, nor the ULUC formation process until the draft was complete. While we admit the BOCC did likely comply with Idaho Code regarding newsprint

notification, the BOCC overseeing the 1994 Comp Plan process did the right thing and directly notified every property owner at the beginning of the process, asking them for their input.

2. **Misinformation** – In the recent USPS postcard mailing effort that the BOCC did conduct after the draft was completed, the card told citizens that “*the proposed regulations are required by Idaho law ...*” which is a false and very misleading statement. We also contend that the hired consultant presented the favorable aspects while ignoring the non-favorable parts of the proposed ULUC in public meetings leading up to the completed ULUC draft. We contend that the County continues to promote only the few favorable aspects of the ULUC, while ignoring the more significant negative aspects of the ULUC.
3. **Dominate special interest representation** – One of the most offensive observations in the creation of the ULUC draft was the BOCC’s purposeful appointment of dogmatic environmental individuals to lead and formulate the content of the proposed ULUC. These very dominate special interest voices expressed little or no respect for rural property owners interests and are largely based on irrational fears. The BOCC authorized the continued decision making involvement of a self described environmentalist activist on the ULUC Technical Committee for the 9 months he was actually a California resident, shaping his vision for Kootenai County at the expense of local property owners.
4. **Overreaching** – In the scheme to shield every aspect of the environment from human activity the burden of these dogmatic environmental regulations are not born evenly by all citizens, rather solely by property owners who have yet to build upon or divide their lands. NWPOA performed a coarse (*only KC has the GIS tools to perform an accurate analysis*) review of the Timeberlake Fire District coverage area, and determined that roughly 50-60% of property owners will lose their current right to divide their property. Those who seek to impose all these new growth limitations are making no attempt to soften the blow to property owners, but making many drastic changes all at once.
5. **Assumption of guilt written into the codes** – The fact is rural property owners have been very good stewards of our lands, to such a degree that governmental agencies are either not able to demonstrate any meaningful degradation in any air or water quality directly related to property owners, or can only raise a concern. Some governmental agencies report conditions improving over the last 50 years. There is no known pollution occurring. So it is wrong to assume that any development activity will cause harm, and thus all kinds of regulations need to be put into place.
6. **Undue focus on lakeshore property** – Those along rivers and lakes are being asked to assume a disproportionate share of the burdens in so called protection of waterways. Restrictions on motorized equipment within 25’ of the shoreline while motorized boats and jet skis travel along the shoreline is entirely unfounded. In our area, many of the property owners along waterways only come here for a few weeks out of the year, yet they pay taxes all year long. These are indeed the types of property development we should be supporting as we take in all the property tax benefits, with little in the way of actual new demand upon services or our natural surroundings.
7. **Bulk and length** – The current ULUC draft is basically double the size of our current ordinances. Neither has it escaped our attention that at the same time the KendigKeast consultant is formulating our ULUC, it has been formulating a similar code for a city (McAllen). Yet the McAllen ULUC draft is just 300 pages, or apx. 40% smaller than our rural ULUC draft.

It is the judgment of nearly everyone that a rural code would and should naturally be much smaller than a city code simply from the fact that rural property owners have less close-quarter concerns that may need to be addressed. Equally concerning, the vetting process of the ULUC Tech Committee draft resulted in apx. 50 more pages of content. Rural property owners do not feel the need for such a large and complicated code.

8. **Unbalanced application of Idaho Code** – Idaho Code Title 67-6508 lists 16 components that should be part of the planning process and 67-6502 lists 12 specific items to address in such planning. It is very clear that the creators of the Comprehensive Plan and resulting Draft ULUC, chose to prejudicially focus on certain required components while giving only casual mention to others, which resulted in a biased and distorted Comprehensive Plan and resulting ULUC. The sentiment of a couple ULUC Technical Committee members was the review process was not balanced.
9. **Complicated** – The proposed ULUC draft is far too complicated. This observation is not only that of NWPOA, but also a frequent statement of those on the ULUC Technical Committee. We insist that BOCC & Planning Department has a duty to produce regulations that are easily discerned and understood. The proposed ULUC draft fails miserably in this regard.
10. **Overly burdensome to “mom & pop” property owners** - Throughout the ULUC draft there are numerous requirements for; certified, registered, licensed, and qualified design professionals. There are also requirements for various other specialists and analysis’s. What justifies placing these burdens on rural property owners?
11. **Comprehensive Plan Revision** – Do to the lack of a representation by non-special interest led rural property owners, a revision of the Comp Plan should be undertaken. That a representative committee made up entirely of rural property owners, should be tasked with reviewing and revising the goals and polices contained in the Plan to create a “balanced” document.
12. **Legal Nightmare** – While touted as the path to less lawsuits against the County, it is the opinion of at least 3 local land-use attorneys that the draft ULUC will result in many more legal challenges to the County. Their individual but collective observations represents the ULUC draft is disservice to the taxpayers of Kootenai County.
13. **Costly to property owners** – The County has written into the proposed ULUC many requirements for assessments, studies, professional design, and BMP’s. Nearly all of these requirements are based on nothing more than an assumption and fear that some form of pollution on land or water will occur. The additional cost will largely depend on requirements yet to be determined by the Planning Department. We believe these extra demands are largely unfounded.
14. **Code and ordinance comparison denial** – Between the current ordinances and the proposed ULUC, we find it objectionable that in the midst of the most sweeping change in Kootenai County land use law, the consultant and the BOCC refused to create an accurate comparison of the differences between the current and proposed codes for property owners to make personal determinations. We ask, why would County leadership not undertake an objective comparison, like other jurisdictions have done?
15. **Assuming jurisdictional oversight** – We believe that the County has no business including nor enforcing regulations by Federal, State or Regional agencies, and that writing in state and/or

federal laws into our local land use laws should not occur. These other governmental agencies can and should fend for themselves. Property owners should not be forced to jump through these other hoops by our County planning department.

16. **Regulations used to limit growth** – We object to using exhaustive and complicated regulations to limit growth. If the residents of Kootenai County want to limit growth, then a single page of regulations stating the maximum # of permits to be issued with a lottery would accomplish that goal, and would be far easier to understand. However, the statistics all indicate Kootenai County growth has been stable over the last 10 years, and that growth has not been a troublesome factor, rather the “bubble” occurred in rapidly rising/declining “assessed valuations”.
17. **ACI agreements and mapping** – We support the combing of all ACI language into a common code, and we support creating smaller ACI mapped areas because the path of growth is hard to predict, but we request that the County and the respective cities directly involved, notify by USPS all ACI mapped area affected property owners.

As a result of the above;

(a) NWPOA Board of Directors, can not support the current ULUC draft nor the Comprehensive Plan in their current state. Because the ULUC structure and content is so totally flawed, and thus not fixable, we believe there are only two options: (1) starting over from scratch, or (2) taking our current codes that everyone is familiar with and fixing the areas that need addressing. We also call for a “balanced” revision of the goals and polices contained in the Comprehensive Plan.

(b) We insist that any future revision committees contain a super-majority of unbiased rural property owners from all areas of the county and of various land use types. Furthermore, that special interest environmental groups, governmental agencies, and other officials serve in an advisory role rather than a decision role to the proposed rural property owners code revision committee.

As the “mom and pop” rural folks and business owners who live and work upon our rural lands, NWPOA would like our elected officials to understand that we are now organized and we are here to stay. We have to admit our own failure in not diligently participating, rather just trusting, those we elect to do the right thing. We invite our elected and appointed officials to make this right. And they should know this about rural folks, we know how to work. To that end, in the future we will be holding candidate forums, we will establish a candidate survey, and establish a candidate rating system with regards to rural property owner interests. We also intend to establish a PAC to financially support those candidates who value and strongly support our rural property rights.

As we say in the county when we’ve built a fence down the wrong line, *“just gotta pull em out, fill the holes and build it right the next time.”*

Sincerely

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