

**Kootenai Environmental Alliance**

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**Comments on the Kootenai County Comprehensive Plan**

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Submitted by Terry J. Harris

Kootenai Environmental Alliance is pleased to provide these comments on the most recent draft of the Kootenai County Comprehensive Plan. Kootenai Environmental Alliance and many of its individual members have been active and involved in the development of the Plan, and we continue to be impressed with the enormity of the task, and encouraged by the progress made in this latest draft. The long hours put into the draft by the Planning Commission in drafting and revising the document, and the many hours spent engaging the public and listening to the concerns and comments are impressive. We appreciate your extraordinary efforts, and in the spirit of cooperation and with hopes to improve the document even further, we offer the following commentary.

**1. Summary**

Kootenai Environmental Alliance generally supports the overall design of the Comprehensive Plan and many of the individual goals and policies therein. Our interests, of course, are in the protection of the public health, protection of the natural environment, and the promotion of sustainable development in Kootenai County. The Plan's overarching goals -- to direct development to areas of the county better able to sustain it, to provide greater protections to our rural areas, and to direct development away from open space and sensitive areas -- are entirely consistent with our view of the necessary tenets of any Comprehensive Plan. In general, we believe the goals and policies set forth in the Plan are a marked improvement over current plans and practices and we are encouraged by the values represented.

We will recommend a number of improvements and strengthening amendments to the Plan to provide greater protections and clarity. While we believe development being directed to the urban centers on the prairie is a sound policy, we also believe that conservation and protection of the Rathdrum aquifer must be a top priority. Moreover, we believe that Spokane River water quality will need to be a critical concern for the further development of the cities on the prairie. A number of our more specific comments will be directed to strengthen protections of these critical water resources by tightening development standards.

Our comments will also make the point that meaningful public participation is a central value which should be protected in the Plan. Earlier and more robust participation by citizens and neighborhood groups will almost invariably result in better development planning and

fewer mistakes. It is the rare development that is not significantly improved by thorough ventilation of the issues and meaningful public participation and comment. We believe that a strong public process is vitally important to protect in the Comprehensive Plan.

Finally, and perhaps most importantly, we take strong exception to the ill-defined and utterly unconstrained concept of “Master Planned Communities” as described in the Plan. While we do not oppose the concept of such comprehensive development, the fact that such entities would be allowed in any area of Kootenai County gives us great concern. We can conceive of no situation in which such a large-scale community would be appropriate in a rural zone, for example, so we would strongly suggest that Master Planned Communities be expressly limited to Areas of City Impact. Without such limits, a poorly located Master Planned Community, could destroy any improvements achieved by the other elements in the Comprehensive Plan.

## **2. Introduction**

Established in 1972, Kootenai Environmental Alliance is the oldest conservation group in Northern Idaho with a diverse membership living and working in Kootenai County. The Alliance’s mission is to protect and restore the quality of the environment in the Coeur d’Alene basin and Idaho Panhandle. Kootenai Environmental Alliance has been an advocate for resource protection and more sustainable development practices throughout the region.

We have attempted to evaluate the Comprehensive Plan through a distinct prism by which we can focus our comments on the issues of major interest to our organization. First and foremost, we are interested in Comprehensive Plan impacts on public health. Thereby, we support such goals and policies aimed at reducing or minimizing air and water pollution, and, critically, such goals and policies designed to protect drinking water supplies. Next, we are concerned with goals and policies impacting the natural environment, including the extraordinary collection of forests, rivers, lakes, wildlife, and open space which are central to the landscape and character of Kootenai County. And third, we are concerned that development in the County, recognizing the extent to which it is necessary in maintaining a vibrant economy, be appropriately located, well-designed, and to the degree possible, sustainable. More to the point, perhaps, Kootenai County is a wonderful place to live, and we suggest that it is largely our natural environment, scenic beauty, and abundance of rural character that contribute most to our highly valued quality of life.

## **3. General Comments**

### *a. The Importance of the Community Design Chapter*

Kootenai Environmental Alliance’s central interests in commenting on the Comprehensive Plan are actually somewhat well-represented in the narrative provided within the Community Design chapter. The goals enunciated at end of the chapter (and described as

“objectives” in the narrative) are precisely the overarching goals that should be guiding land use throughout the county.

One concern, however, is that the goals are not accompanied by the specific policies discussed in the narrative. The chapter describes “preferred design alternatives” and a “hybrid concept” for development on the prairie that seem to be worthy of explicit adoption as design policy. Indeed, directing population growth, shaping potential annexations in the absence of an overall plan for the prairie, and preference for clear and distinct urban-rural boundaries are all desirable policies which should be implemented as part of the Plan rather than being buried in the text. (See pp. 13-7, 13-8) Similarly, the design objectives relevant to shoreline development (pp. 13-9, 13-10) should be incorporated into distinct policies. Kootenai Environmental Alliance supports adding specific policies to be implemented consistent with the “hybrid concept” for community design.

Another concern pertains to the incorporation of sub-area design into the Comprehensive Plan. As written, the draft Plan acknowledges a need for sub-area design, and hints at the distinct features and planning challenges in each of the sub areas, but the text is not developed enough to constitute a specific vision for the areas, much less a comprehensive plan through which future land use decision-making might be guided. The Plan notes that an ongoing Rathdrum Prairie planning collaboration exists, and that when concluded, this Comprehensive Plan should be amended to include any plan that results. However, there is no clear or comparable mechanism by which the other sub areas may be similarly addressed in more detail. Kootenai Environmental Alliance supports a policy under which detailed sub-area designs may be incorporated into the Plan.

#### *b. Incorporation of Other Plans*

Unlike other jurisdictions around the nation, Kootenai County’s Comprehensive Plan is not actually very comprehensive. This County is replete with assorted plans dealing with different jurisdictions, different areas of the county, or with different public services. Too frequently, the Comprehensive Plan refers to these other planning documents without actually recognizing their policy significance or committing to their contents. Yet, some of these plans are very likely to impact development patterns in ways the Comprehensive Plan needs to more formally acknowledge. In most instances, the Comprehensive Plan purports to direct the County to “coordinate,” “participate with” or “collaborate with” other entities (see, for just a few examples, policies such as E-1A, PS-4B, T-1A, T-2A, T-3C, T-5A, NR-3B, NR-3E, NR-5D, NR-7B, HA-1A, etc.) which makes it entirely unclear what effect, if any, the Comprehensive Plan will have on development patterns – some of which may be more impacted by other concerns driven by other plans.

More specifically, we believe that there are a number of important documents which probably need to be explicitly included as a part of this comprehensive plan. These documents, to be explicitly incorporated into the Comprehensive Plan by reference, include but are not limited to: (1) all sub-area plans or regional land use plans (KMPO, for example), (2) all

highway and transportation plans operative in the County, including the Public Transportation Plan, Metropolitan Transportation Plan, and Transportation Improvement Plan, (3) all water and wastewater plans operative in the County (most particularly the Rathdrum Prairie Wastewater Management Plan and Groundwater Management Plan), (4) the Airport Master Plan, (5) relevant management plans for forests, fish and wildlife, (6) the Coeur d'Alene Lake Management Plan (when adopted) and any other lake or shoreline management plans, (7) Critical Aquifer Recharge Area plans, (8) Parks, Open Space and Trails Plan, and (9) the relevant portions of the Bunker Hill Superfund Institutional Controls Program.

Kootenai Environmental Alliance would suggest explicit incorporation by reference of such other plans already in effect or otherwise may come into effect through an action by the Board of County Commissioners, or plans imposed on the County by other governmental act. The Comprehensive Plan should expressly supersede any inconsistent provision of any other plan – comprehensive or otherwise – previously adopted by the County, with any remaining provisions to be construed *in pari materia* with this Comprehensive Plan.

#### **4. Protection of the Prairie Aquifer and the Spokane River**

Overall, Kootenai Environmental Alliance is pleased to see that the Comprehensive Plan recognizes the critical importance of the Rathdrum Prairie and its valuable aquifer in accommodating future growth in the County. Clearly, the prairie is the best equipped – in the way of water, sewer, services and infrastructure – to handle the growth expected in the next 20 years. On the other hand, the aquifer's drinking water is not infinite, and wastewater treatment will be increasingly difficult due to the environmental and legal requirements necessary to protect Spokane River quality. With these competing pressures, Kootenai Environmental Alliance would suggest that the Comprehensive Plan needs some additional strengthening not only to protect the water resources but also to preserve development potential in the years beyond those contemplated by this Plan.

##### *a. The "70-30" split of urban-rural growth is not appropriate for the lifetime of the Plan*

In several points in the narrative, the Plan refers to a "preferred" split of urban and rural land use as 70% urban and 30% rural. (See, for example, pp. 1-3, 6-4, 13-2, and 14-1) But the plan conflates the desirability for the *current* 70-30 split with a goal to direct *future* growth such that 70% of new growth be in urban areas and 30% of new growth be in rural areas. (For example, compare the statements on pp. 1-3 and 6-4) We believe that if 30% of future growth is directed into rural areas, the 70-30 split of the future will look nowhere near as attractive as it does now. 7000 housing units in unincorporated areas, (suggested by pp. 13-2) is entirely too many to maintain the rural character in the County. Kootenai Environmental Alliance suggests language clarifying that the *future growth* be consistent with that which will maintain the *current rural character*. While there is an existing 70-30 split now, the Plan needs to require significantly less than 30% of future growth in the rural unincorporated areas in the future.

*b. The “rural” land designation should be a 20-acre minimum.*

Currently, the Plan describes a density for the “rural” land use designation to be 1 ERU per 10 to 20 acres. (See pp. 14-20.) Kootenai Environmental Alliance suggests that a truly rural designation would maintain less density. We would suggest that 1 ERU per 20 acres be designated for the “rural” land use. The less-dense designation is consistent with rural protection densities used throughout the United States and it will provide greater protection for the rural lands of the county. (It also has better potential to create donor properties for a transfer of development rights program under LU-13C.)

*c. The “rural infill” designation should be eliminated or minimized.*

Although infill development is important as the County grows, the “rural infill” designation is at a density that is the most inefficient and will ultimately promote leapfrog development and sprawl. (LU-4B at page 14-20) The density of 1 ERU to 3 to 10 acres is too dense for most agricultural and traditionally rural purposes, and not dense enough for modern residential purposes. The low, sprawl-inducing density seems to contradict the guidance in the Community Design chapter’s expressed preference for “a clear and discrete boundary between what is rural and what is to be developed.” (See page 13-7.)

*d. The Plan provides too much “urban reserve” and doesn’t set boundaries for growth*

Although we understand that the “urban reserve” land use designation arises from negotiated Areas of City Impact with the County’s municipalities, we believe that the land left in this reserve is unnecessarily large, and that some of the areas should probably be re-designated to a rural designation. Our concern is that as development and annexation processes continue, the areas of “urban reserve” eventually turn into “urban” densities without sharp growth boundaries. The result on the Prairie is that eventually there will be little separation and distinction between the growing municipalities of Coeur d’Alene, Hayden, Rathdrum and Post Falls. Kootenai Environmental Alliance would prefer that the Prairie retain some rural and resource corridors between the cities, so that they will remain distinct and separate. To the extent that the Areas of City Impact can be renegotiated in the future, and to the extent that the County coordinates with the municipalities on their future planning, it should be a distinct objective of the Plan. (We suggest either a separate goal in the land use section or as a set of policies under Goal 4 and Goals 19, 20, 21, and 22).

## **5. Master Planned Communities**

Kootenai Environmental Center strongly objects to the “Master Planned Communities” as specified in the draft Comprehensive Plan. (pp. 14-22, and 14-39 through 14-43.) Unless such communities are limited to urban areas or Areas of City Impact, the concept should be deleted from this Comprehensive Plan.

*a. Master Planned Communities must be limited to urban settings.*

Conceptually, there is much to like in the flexibility and performance-based planning inherent in Master Planned Communities (MPCs). Indeed, “smarter” growth should allow for more thoughtful and integrated development planning than sometimes simple zoning maps may allow. However, such communities cannot be allowed to subvert the more important goals of the County’s Comprehensive Plan. If, in fact, the County is serious about directing growth to the Rathdrum Prairie and existing towns where infrastructure and services already exist, then Master Planned Communities – characterized as very large “self-supporting” developments – must be similarly directed. Failure to do so will allow intense private development in areas of the county where it would be entirely inappropriate. Indeed, Kootenai Environmental Alliance can conceive of no circumstance whatsoever in which Master Planned Communities would be appropriate in a rural, rural infill, open space or resource zones.

Master Planned Communities in an inappropriate rural location would forever ruin the rural values of the surrounding area, spoiling the rural lifestyle of the residents already there. Moreover, such intensive development within a MPC would almost certainly attract *unplanned* commercial and other development pressures on the perimeter of these communities and on the network of roadways nearby. These issues, however, dissipate if the MPCs are strictly limited to urban locations or Areas of City Impact.

*b. MPCs compound existing problems with Planned Unit Developments*

Kootenai Environmental Alliance does not oppose performance-based land use designations, but in this instance, but we find it difficult to find a clear distinction between Master Planned Communities and Planned Unit Developments (PUDs). We believe that current PUD regulations are riddled with loopholes, are often unenforced, and are frequently toothless when it comes to protecting neighborhoods from adverse development impacts. So while we would otherwise be encouraged that the goals and policies associated with MPCs in the Comprehensive Plan appear to be substantially more protective than PUDs, we are deeply concerned that a developer will follow a path of least resistance by applying for a PUD rather than a MPC in each and every case. Kootenai Environmental Alliance would suggest therefore that if MPCs are adopted as a land use category, then PUDs must be better defined and they must be required to meet the same or similar performance requirements as MPCs.

*c. MPCs would depend on already-lacking regulation and enforcement*

It is no secret that the County is already ill-equipped to analyze the technical, environmental, and engineering aspects of large developments. The County is even less equipped to afford adequate land use enforcement of a complex regulatory scheme to govern large scale developments like the proposed Master Planned Communities. The County, necessarily, has relied on the hired expertise of developers’ own consultants to understand the environmental and other impacts of a proposed development. By creating a new land use designation with an accompanying and highly technical regulatory scheme, the County

exacerbates the problem. Kootenai Environmental Alliance would suggest that if MPCs are adopted as a land use category, then a policy be adopted that fees for MPCs be sufficient such that the County may engage independent and qualified experts for application and development review and any associated enforcement activity.

*d. The Goals and Policies governing Master Planned Communities must be strengthened*

LU-18A -- Delete this policy outright. MPCs should be in Areas of City Impacts ONLY.

LU-18B -- Replace “assurances” with “financial guarantees”

LU-18F -- Replace “consult with” with “consult with and hold at least one informational meeting.” Add “In the application, applicants shall identify any community concerns and describe how those concerns will be addressed.”

LU-18G -- It isn’t immediately clear how “unanticipated employment and population shifts” will be actually anticipated. Replace the “assessment” approach with “the MPC should not cause significant shifts in population or employment outside Areas of City Impact.”

LU-18I -- “Independent technical studies” needs to be defined such that the studies are procured by the County, but financed by fees assessed to the developer. Furthermore, the policy should state explicitly that “all MPCs shall be connected to central water and sewer, and shall employ Best Management Practices for stormwater.”

LU-18Y -- Applications for MPCs should include those detailed elements listed in the draft policy, but the application should also address the statutory elements of the Comprehensive Plan listed in Idaho Code § 67-6508.

## **6. Public Participation**

Public interest in development issues in Kootenai County is high, but meaningful citizen participation remains limited and difficult. We believe strongly that a more robust public participation scheme is important to define in the Comprehensive Plan. Just as the Plan is an attempt to guide the County’s growth and development, it should attempt to guide the processes leading to such growth and development. Similarly, as the necessary ordinances and maps are developed to implement the Plan, the public input procedures need to be reviewed and updated as well.

Kootenai Environmental Alliance has attempted to facilitate and foster participation on issues of importance within the current framework, but neighborhood groups and residents impacted by development would prefer to have earlier and more meaningful participation. Earlier participation has the potential to create more productive dialog, which can help identify areas in which compromise may be reached and legal conflict avoided. The standard “notice and comment” procedures are so late in the development process that a better description might be “pronounce and defend.” In essence, developers are forced to file their application and defend design decisions they’ve already made and in which they’ve already heavily invested, when earlier participation by the community could allow a more cooperative

approach to improve development designs and to ameliorate neighborhood and environmental issues.

Previously, Kootenai Environmental Alliance submitted a proposal for “Land Use Review Neighborhood Meetings” which would be a form of pre-application informational meeting held in the adjacent neighborhood or in the sub-area for any significant land use application (including special use, conditional use, planned unit development, rezoning, etc.). The purposes of the meeting would be informational, and would help identify issues that could be resolved prior to application or could be identified for reviewers of the application. We would renew our proposal and suggest that goals and policies of the Plan be drafted to accommodate a pre-application meeting. (For example, an additional policy could be added following Policy ED-2B.)

## **7. Additional Comments**

### *a. Chapter 4 – Population*

We recommend an additional goal or additional language which expands on Goal 2 and clarifies Policy P-2A. Specifically, with an estimated 50% increase in population in the next 20 years, it should be an express goal in this chapter to direct such population growth to the urban areas.

### *b. Chapter 5 – Economic Development*

We are somewhat disappointed in the narrative in this chapter. We would suggest that the Plan could be more explicit about the type of economic development desired – as that could help define and drive future land use decisions. In particular, cleaner and more knowledge-based economic development such as health care, higher education, information technology, and green manufacturing should be considered preferential. Kootenai Environmental Alliance would also suggest that the narrative could be more explicit about the fact that there is a relatively strong and growing tourist economy which actually depends on a high level of protection of our natural and scenic resources.

In addition, we recommend an additional policy ED-3F which would encourage *re-development* of vacant or underutilized sites within the County so as to avoid development in otherwise undeveloped areas.

### *c. Chapter 7 – Education*

We suggest that the Plan could be more explicit and supportive of the consolidation and/or co-location of campuses for higher education. Perhaps such a preference could be stated as a new Policy E-1D.

*d. Chapter 8 – Public Services*

We would reiterate here the need to recognize the array of other plans for services which should probably be incorporated by reference into this Chapter. Water and sewer plans, transportation plans, etc., are important to identify specifically since they may drive land use decision-making.

We would also recommend that Policy PS-2D (or policies under Goal PS-4) be edited to *require* that emergency response times be a consideration in evaluation of development proposals. The County should look to establish a minimum response time beyond which a larger scale development should be disapproved.

*e. Chapter 9 – Transportation*

Again, we reiterate our recommendation that all relevant transportation plans be adopted by reference into this Comprehensive Plan. Consistency between the transportation plans and land use plans is critically important.

We were disappointed to see a lack of goals and policies for bicycle and pedestrian transportation. We recommend an additional Goal which sets forth that The County shall promote and facilitate safe bicycle and pedestrian transportation throughout the County. Perhaps Policy T-1C and the Parks and Recreation policy PR-1G should be re-stated under the new goal.

We are concerned editorially with Policy T-1E and would suggest that projects be denied that have no *timely* plan and/or monies to accommodate wear and traffic.

*f. Chapter 11 – Natural Resources*

While we support the general idea suggested in Policy NR-5C, we would suggest that the Site Disturbance Ordinance will need to be revised to abide by the goals and objectives of the new Comprehensive Plan, so therefore, the Best Management Practices for erosion and stormwater control should probably be revised, at least preliminarily, to whichever guidance (Plan or Ordinance) is most protective.

*g. Chapter 12 – Hazardous Areas*

We would suggest that several additional and more specific policies be adopted to address known hazardous areas. The areas under Institutional Controls Plan management and (when adopted) the Coeur d'Alene Lake Management Plan should be singled out for particular goals for management. We would also suggest a goal or policy that would strictly limit development approvals in floodplains.

*h. Chapter 14 – Land Use*

(1) We would suggest that subdivision should be disallowed in Resource / Open Space land use designations (See p. 14-9.)

(2) We would edit LU-2D such that “a variety of rural densities” be understood to be subject to the limits of 1 ERU in 20 acres.

(3) We would clarify the language of Goal 5 to be consistent with Policy LU-5A stating that Rural Dispersed Villages be limited to areas where an existing mix of higher density uses exist and where adjacent development is likely to occur. We do not believe that the Plan should support Rural Dispersed Villages where no such mix exists currently.

(4) In Goals 6 and 7 we are concerned about allowing too much in the way of industrial and commercial development in *rural* zones. Although we acknowledge that there are some instances where such development may be compatible, we are concerned that there is insufficient strength in the Plan’s policies as to what could be allowed. We are further concerned about performance requirements of commercial and industrial operations and the County’s capabilities to enforce them. We would also be concerned that industrial and commercial uses may simply attract additional such uses. We would suggest that stronger language (“shall” instead of “should,” for example) in the Policies accompanying Goals 6 and 7 are warranted here.

(5) We strongly question whether LU-10F, LU-10G, LU-14F and LU 14-G are appropriate for inclusion in a Comprehensive Plan. Although purportedly related to land use, the policies actually re-define legal rights between third parties, and perhaps even contrary to long-held common law concepts. We support the idea that land use maps should provide a reasonable buffer for farm and mining activities, but we do not support the waiver of legal rights to a third party as a condition of a building permit. It is conceivable that such a policy would expose the *County* to legal action for damages in some circumstances if the so-called best management practices were ineffective or unenforced.

(6) We would edit portions of LU-13B to “include but not be limited to considering” the factors listed in the policy for TDRs and clustering.

(7) In LU-13C, we would suggest that TDRs include a public participation component, and we would suggest that the policy state specifically that lands in rural and resource designations may NOT be recipients or TDRs.