

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING AN )  
AMENDMENT TO THE SPOKANE COUNTY )     **FINDINGS OF FACT AND DECISION**  
CRITICAL AREAS ORDINANCE         )

**WHEREAS**, pursuant to RCW 36.32.120(6), the Board of County Commissioners of Spokane County, Washington, hereinafter sometimes referred to as the "Board," has the care of County property and the management of County funds and business; and

**WHEREAS**, pursuant Chapter 36.70A RCW, the Board adopted a Comprehensive Plan and Capital Facilities Plan for Spokane County on November 5, 2001 (Board Resolution Nos. 1-1059-and 1-1060) and an updated Capital Facilities Plan on January 16, 2007 (Board Resolution No. 7-0063); and

**WHEREAS**, pursuant to Chapter 36.70A RCW, the Board adopted a Critical Areas Ordinance for Spokane County on March 26, 1996 (Board Resolution No. 96-0302) for the protection of Wetlands, Fish and Wildlife Conservation Areas, Geological Hazardous Areas, and Critical Aquifer Recharge Areas and the Board has subsequently amended said Critical Areas Ordinance on August 19, 2003 (Board Resolution No. 3-0754) and again on June 24, 2008 (Board Resolution No. 8-0609); and

**WHEREAS**, pursuant to RCW 36.70A.130, the Critical Areas Ordinance is subject to continuing review and evaluation, and every five years after adoption shall be reviewed to ensure consistency with the requirements of Chapter 36.70A RCW; and

**WHEREAS**, pursuant to Spokane County Code (SCC) Section 11.20.030(I) amendments to the Critical Areas Ordinance may be initiated by the Board of County Commissioners, the Planning Commission, the Department of Building and Planning or an interested person; the proposed amendment was initiated by the Department of Building and Planning (Department); and

**WHEREAS**, RCW 36.70A.172 and WAC 365-195, require that the Critical Areas Ordinance include the Best Available Science in developing policies and development regulations to protect the functions and values of critical areas; and

**WHEREAS**, as technical assistance to jurisdictions for the use of Best Available Science the Washington State Office of Community Development prepared a report titled; *Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas March 2002*, as amended from time to time; and

**WHEREAS**, pursuant to RCW 36.70A.106, on January 2, 2011 the Department sent a Notice of Intent to Adopt regarding the proposed Critical Areas Ordinance amendment, to the Washington State Office of Community, Trade and Economic Development; and

**WHEREAS**, pursuant to RCW 36.70A.035 (1)(a) – (e) and RCW 36.70A.140, the development and review of the proposed amendment to the Critical Areas Ordinance is consistent with the public participation notice and *Public Participation Program Guidelines* adopted by the Board (Board Resolution Nos. 98-0114 and 98-0788). The Spokane County internet site displayed the proposed Critical Areas Ordinance amendment and provided opportunity for public comment. A legal notice for a public hearing on the Critical Areas Ordinance amendment was published in the *Spokesman-Review* newspaper on January 13, 2011. Copies of the proposed Critical Areas Ordinance amendment were placed in Spokane County and City of Spokane public libraries for review and comment; and

**WHEREAS**, pursuant to RCW 36.70A.100, on January 13, 2011 the Department sent the State Environmental Policy Act (SEPA) checklist for the proposed Critical Areas Ordinance amendment to Spokane County jurisdictions and agencies for coordination, review, and comment; and

**WHEREAS**, pursuant to WAC 197-11-340 and SCC Section 11.10.230 (3), on January 13, 2011 the Department issued a Determination of Nonsignificance (DNS) regarding the proposed Critical Areas Ordinance amendment; and

**WHEREAS**, pursuant to WAC 197-11-340 (2) the Department provided a 14-day comment period for the Determination of Nonsignificance (DNS) issued regarding the proposed Critical Areas Ordinance amendment which remained open until January 26, 2011 at 4 p.m.; and

**WHEREAS**, after providing at least fifteen (15) days prior notice, as required for public participation, the Commission held a public hearing on January 27, 2011 to receive public testimony, thereafter the Commission kept the record regarding the proposed amendment to the Critical Areas Ordinance open until February 17, 2011, for the purpose of allowing additional written comments from the public regarding the proposed amendment; and

**WHEREAS**, at a deliberation session on February 17, 2011 the Commission considered all testimony and all written comments regarding the proposed amendment to the Critical Areas Ordinance received prior to the closing of the record; and

**WHEREAS**, after considering all oral and written testimony, and all agency comments and/or reports regarding the proposed Critical Areas Ordinance amendment, the Commission adopted a recommendation to the Board of County Commissioners, finding that the best interests of the public will be served by adoption of the proposed Critical Areas Ordinance amendment; and,

**WHEREAS**, the Board received the Commission's recommendation regarding the proposed Critical Areas Ordinance amendment at the Board's public meeting on March 15, 2011 and set March 22, 2011 to consider said recommendation, and

**WHEREAS**, at its public meeting on March 22, 2011 the Board considered the Commission's recommendation regarding the proposed Critical Areas Ordinance amendment including all files and records pertaining to the Commission's review and recommendation. The Board accepted the Planning Commission's recommendation; and

**WHEREAS**, after considering the Planning Commission's Recommendation and after considering all testimony, all written comment, and all records and files of the County regarding the proposed Critical Areas Ordinance amendment, the Board accepts the Planning Commission's recommendation and resolves as follows.

**NOW, THEREFORE, BE IT RESOLVED** by the Board that, upon consideration of the proposed amendment to the Critical Areas Ordinance, the Board does hereby enter the following Findings of Fact:

**#1**

The Commission considered the goals and requirements of the Growth Management Act (RCW 36.70A.) in making its recommendation, and the Commission's recommendation supports the goals of the Growth Management Act.

**#2**

The Commission considered the Goals and Policies of the Spokane County Comprehensive Plan adopted by the Board on November 5, 2001, in making its recommendation, and the Commission's recommendation is consistent with the goals and policies of the Spokane County Comprehensive Plan.

**#3**

The record developed before the Commission and by the Board indicates that in framing its recommendation regarding the proposed amendment to the Critical Areas Ordinance, the Commission considered the Best Available Science for the designation and protection of critical areas and further considered the proposed amendment's consistency with the Shoreline Management Act and WAC 173-26. The Department of Building and Planning staff collaborated with staff from the Washington State Department of Ecology and from the Department of Fish and Wildlife in developing the proposed amendment to the Critical Area Ordinance in consideration of Best Available Science and the record before the Planning Commission and Board reflects consideration of Best Available Science.

**#4**

Prior to the Planning Commission public hearing on January 17, 2011, the Department of Building and Planning requested comments on the proposed amendment to the Spokane County Critical Areas Ordinance from state agencies including, the Washington State Department of Ecology, Washington State Department of Fish and Wildlife, and Washington State Department of Commerce, and from local agencies including the Spokane County Division of Engineering and Roads, Spokane County Division of Utilities, and Spokane County Parks Department, and from interested citizen organizations including the Center for Justice, Spokane Riverkeepers, and Futurewise.

**#5**

Prior to the Planning Commission public hearing on January 27, 2011, for the purpose of developing consensus regarding the amendment to the Critical Areas Ordinance that would be presented to the Commission for consideration, the Department of Building and Planning held an inter-agency consultation meeting with the Washington State Department of Ecology, Washington State Department of Fish and Wildlife, Washington State Department of Commerce and the Spokane County Parks Department.

**#6**

The Department of Building and Planning also collaborated with the Washington State Department of Fish and Wildlife, Washington State Department of Commerce, Washington State Parks Department, the Spokane County Division of Engineering and Roads, Spokane County Parks Department, Friends of the Centennial Trail, Spokane Riverkeepers, JUB Engineering and AHBL regarding the various agency comments and the application of Best Available Science to the amendment that was presented to the Planning Commission at their continued public hearing on February 17, 2011.

**#7**

The Washington State Department of Ecology provided written comments dated January 25, 2011 and January 27, 2011 to the Commission prior to the January 27, 2011 hearing before the Commission.

**#8**

The Commission considered the *Countywide Planning Policies for Spokane County* (CWPPs) in its decision, and the decision is consistent with the CWPPs (Board Resolution Nos. 94-1719, 96-1205, 97-0297, 97-0937, and 04-1075).

**#9**

The Department has complied with the State Environmental Policy Act (SEPA). The Commission found that Spokane County is following WAC 197-11-340, Environmental Checklist and Spokane County development regulations for environmental review in consideration of the Critical Areas Ordinance amendment.

#10

Spokane County has provided for timely and continuous public participation during the planning process for the Critical Areas Ordinance amendment. The hearing process is consistent with RCW 36.70A.035 (1)(a) – (e), RCW 36.70A.140, WAC 365-195-600, and the adopted *Public Participation Program Guidelines* (Board Resolutions 98-0144 and 98-0788).

#11

A legal notice of the Critical Areas Ordinance amendment, and public hearing date was published in the *Spokesman-Review* newspaper on January 13, 2011. The Spokane County internet site displayed the Critical Areas Ordinance amendment and provided opportunity for public comment. The Department provided copies of the Critical Areas Ordinance amendment to Spokane County and City of Spokane Libraries.

#12

During its consideration of the proposed Critical Areas Ordinance amendment the Commission considered all of the comments and reports received from agencies participating in the process and all public testimony and written comment received regarding the proposed amendment.

#13

The Commission found that the proposed Critical Areas Ordinance amendment is consistent with Chapter 36.70A RCW.

**THEREFORE, BE IT FURTHER RESOLVED THAT:**

The proposed Critical Areas Ordinance amendment, attached hereto as Attachment "A" is hereby adopted. The Spokane County Critical Areas Ordinance, Section 11.20.060 (c)(d), is amended as indicated in Attachment "A" hereto.

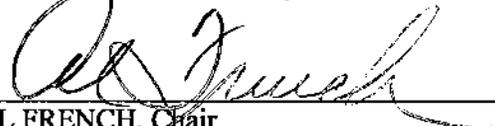
**PASSED AND ADOPTED** this 22<sup>nd</sup> day of March 2011.



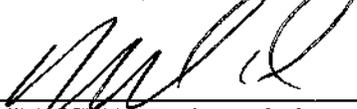
ATTEST:

  
Daniela Erickson, Clerk of the Board  
11-0278

BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON

  
AL FRENCH, Chair

  
TODD MIELKE, Vice Chair

  
MARK RICHARD, Commissioner

## ATTACHMENT "A"

- d. Public non-motorized multi-use equestrian, pedestrian/bike trails shall only be allowed in the shoreline buffer when:
  - i. Accompanied by a Habitat Management Plan meeting the requirements of Section 11.20.060D herein;
  - ii. Parallel pathways and trails are located at the landward edge of the shoreline buffer with the following exceptions: (1) When physical constraints, public safety concerns, or public ownership limitations merit otherwise, or (2) when the trail will make use of an existing constructed grade such as those formed by an abandoned rail grade, road or utility; or (3) when it can be demonstrated in the Habitat Management Plan that the trail will enhance the shoreline ecological functions of the riparian area;
  - iii. Perpendicular pathways and trails and river crossings are sited in a location that has the least impact to shoreline ecological functions with mitigation sequencing as specified herein. Previously altered or disturbed locations shall be preferred;
  - iv. Located, constructed, and maintained so as to avoid, to the maximum extent possible, removal and other impacts to perennial native vegetation, including trees, standing snags, forbes, grasses and shrubs, consistent with the Habitat Management Plan;
  - v. Alternatives to impervious paving should be considered and are encouraged
  - vi. Total trail width inclusive of shoulders will be the minimum width necessary to achieve the intended use and shall not exceed 14 feet;
  - vii. Disturbed areas (outside of the designated trail and trail shoulders) shall be re-vegetated with native vegetation consistent with the Habitat Management Plan.