

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF AMENDING THE
SPOKANE COUNTY CAPITAL
FACILITIES PLAN ELEMENT AND
CHAPTER 7 OF THE GOALS AND
POLICIES OF THE COMPREHENSIVE
PLAN

RESOLUTION

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

WHEREAS, pursuant to the provisions of Chapter 36.70 RCW, the Board has created a Department of Building and Planning ("Department") and a Planning Commission ("Commission"); and

WHEREAS, pursuant to the provisions of chapters 36.70 and 36.70A RCW, the Board adopted a Comprehensive Plan for Spokane County on November 5, 2001 (Resolutions 1-1059 and 1-1060) and has subsequently amended said plan; and

WHEREAS, pursuant to the provisions of chapters 36.70 and 36.70A RCW, the Board on May 25, 2004, under Spokane County Resolution No. 04-0461, adopted a new Zoning Code to implement the goals and policies of the Comprehensive Plan and said regulation becoming effective June 1, 2004; and

WHEREAS, RCW 36.70A.020 identifies goals to guide the development and adoption of comprehensive plans and development regulations; and

WHEREAS, chapters 36.70 and 36.70A RCW, require the Spokane County Zoning Code to be consistent with the goals and policies of the Spokane County Comprehensive Plan; and

WHEREAS, the Comprehensive Plan and Spokane County Zoning Code ("SCZC") Chapter 14.402 allow initiation of amendments by the Board on its own, or when requested by the Director of the Department, the Commission, or an individual; and

WHEREAS, pursuant to Washington Laws, 1993, 1st Special Session, Chapter 6, effective June 1, 1993, Spokane County was required under RCW 36.70A.040 to conform to the requirements of the Growth Management act Chapter 36.70A RCW ("GMA"); and

WHEREAS, pursuant to the requirements of RCW 36.70A.140, the Board adopted Public Participation Program Guidelines on February 24, 1998, under resolution 98-0144 and adopted amendments to the policies under Resolution 98-1998 and 06-0869; and

WHEREAS, RCW 36.70A.130(2)(b) allows counties or cities to adopt amendments or revisions to its Comprehensive Plan outside of the annual cycle whenever an emergency exists or to resolve an appeal of a Comprehensive Plan filed with the Growth Management Hearings Board or with the court after appropriate public participation; and

WHEREAS, on June 23, 2020, the Board, by Resolution 2020-0129 adopted an amended Capital Facilities Plan element to its Comprehensive Plan; and

WHEREAS, Futurewise filed an appeal with the Growth Management Hearings Board (GMHB) challenging, among other things, the amendment to the Capital Facilities Plan in Resolution 2020-0129; and

WHEREAS, the Growth Management Hearings Board, on May 12, 2021, found that Futurewise had not met its burden of proof that the County's Capital Facilities Plan was inconsistent with the Growth Management Act; and

WHEREAS, thereafter, in late 2021, Futurewise filed a direct appeal with the Court of Appeals, alleging several assignments of error; and

WHEREAS, on September 22, 2022, the Court of Appeals, Division 3, issued its decision, and remanded the matter to the Growth Management Hearings board and the County, directing that Spokane County make the following corrections to its Comprehensive Plan:

- Schools and other publicly owned facilities other than transportation facilities must be included within the Capital Facilities Plan element under RCW 36.70A.070(3)(a) and (b).
- The capital facilities plan element must cover Spokane County's entire planning area, not just Urban Growth Areas, and cannot simply rely on prior capital facilities plans without reanalyzing present validity.

WHEREAS, after the Court of Appeal's September 2022 ruling was issued, amendments to the Capital Facilities Element of the Comprehensive Plan, Chapter 7, and SCC 13.650 were completed and on December 13, 2022, after duly noticed public hearings, participation, and an open public meeting the Board adopted Resolution 2022-0859 which amended the Capital Facilities Element of the Comprehensive Plan, Chapter 7, and SCC 13.650; and

WHEREAS, such amendments were not challenged or appealed but did receive comments from Futurewise and other members of the public; and

WHEREAS, Spokane County also entered a Settlement Agreement to settle, among other matters, Growth Management Hearings Case Number 13-1-0006c (Resolution 2016-0464) ("Settlement Agreement"), Section 7 of the Settlement Agreement requires the County to complete transportation and Capital Facilities Plan updates; and

WHEREAS, on August 31, 2023, after holding a duly noticed public hearing consistent with Spokane County Zoning Code 14.402 and the Growth Management Act RCW 36.70A.035 and 36.70A.140, the Planning Commission recommended in favor of initiating amendments to the Capital Facilities Plan and Chapter 7 of the Comprehensive Plan; and

WHEREAS, on September 19, 2023, Board, by Resolution 2023-0556, did initiate for further consideration, amendments to the Capital Facilities Plan and Chapter 7 (Capital Facilities) of the Comprehensive Plan; and

WHEREAS, on October 12, 2023, after holding a duly noticed public hearing consistent with Spokane County Zoning Code 14.402 and the Growth Management Act RCW 36.70A.035 and 36.70A.140, the Planning Commission recommended in favor of amending the Capital Facilities Plan and Chapter 7 of the Comprehensive Plan as proposed and attached hereto as **Attachment A**; and

WHEREAS, on November 20, 2023, the Board did receive the Planning Commission's recommendation and findings and did set November 28, 2023, to consider the same consistent with RCW 36.70A.130(2)(b) which permits amendments to the comprehensive plan to be taken outside of the annual cycle where done to resolve an appeal of a Comprehensive Plan filed with the Growth Management Hearings Board or with the court; and

WHEREAS, the Board has received the file, the recommendation of the Planning Commission, and considered the proposed amendments to Chapter 7 of the Comprehensive Plan and the CFP attached hereto as **Attachment A**, incorporated herein by reference, and concurs with the Planning Commission's findings and recommendation.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby make the following additional Findings of Fact regarding amendments to the **Capital Facilities Plan and Chapter 7 of the Comprehensive Plan, Capital Facilities**:

1. The Board adopts the preceding recitals as Findings of Fact and incorporates the same by reference as though fully set forth herein to the extent they do not conflict with the below additional Findings of Fact.
2. The Planning Commission has the legal authority to recommend approval or denial of the proposed amendment to the Spokane County Comprehensive Plan and Zoning Code, pursuant to Chapters 36.70 and 36.70A.
3. The Board concurs with the Findings of Fact entered by the Planning Commission and incorporates the same by reference as though fully set forth herein to the extent they do not conflict with the below additional Findings of Fact.
4. Spokane County has provided for timely public participation in consideration of the proposed amendment, consistent with RCW 36.70A.140, WAC 365-196-600 and the adopted Public Participation Program Guidelines (BoCC Resolutions 98- 0114, 98-0788, 22-0470).

5. Having considered the planning goals and requirements of the Washington State Growth Management Act RCW 36.70A the Board finds that this decision is consistent with those goals and requirements.
6. The Board finds the review and processing of this amendment consistent with the public participation notice requirements and Public Participation Program Guidelines adopted by the Board (Resolution 22-0486), and the proposals are also consistent with the Zoning Code – Section 14.102.040 for a Comprehensive Plan and zoning amendments, pursuant to RCW 36.70A.035 (1)(a)–(e) and RCW 36.70A.140.
7. The Board notes that at the October 12, 2023, Planning Commission public hearing that comments were made by the general public in attendance and that those comments were acknowledged and used by the Commission in making its recommendation.
8. The Board believes these amendments will resolve all outstanding matters in Growth Management Hearings Board Case number 20-1-0007 and is consistent with resolving the issues identified by the Court of Appeals in *Futurewise v. Spokane County*, 23 Wn.App.2d 690 (2022), as well as complete Section 7 of the Miotke Settlement Agreement adopted by Resolution 2016-0464, thereby resolving Growth Management Hearings Board case number 13-1-0006c.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Spokane County, having considered the proposed changes to the Capital Facilities Plan and Chapter 7 of the Comprehensive Plan (Capital Facilities), as well as the Spokane County Code, Spokane County Comprehensive Plan, and all other applicable statutes and/or regulations, and after considering all oral and written public testimony, all files and records maintained by Spokane County, staff reports, and other applicable information contained in the files maintained relative to the proposal, the Board finds that the compliance with the regulations and requirements applicable to the proposed amendments, and the best interests of the public as well as its health, safety, and welfare, will be accomplished by adopting the proposed amendments as set forth in **Attachment A**.

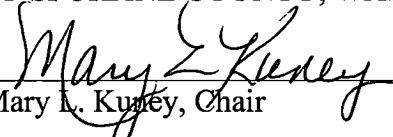
BE IT FURTHER RESOLVED, by the Board that based upon the findings set forth herein and the record and testimony in this matter, the Board of County Commissioners of Spokane County does hereby adopt the amendments as set forth in **Attachment A**.

BE IT FURTHER RESOLVED, by the Board hereby incorporates by reference, all those materials considered in the making of this decision, to include, but not limited to presentations by staff, files on these matters held by the Building and Planning Department, and the Planning Commission's Findings and Recommendation, as well as all testimony and deliberations at all open public meetings related thereto.

BE IT FURTHER RESOLVED that the Department is directed to publish a notice of adoption pursuant to RCW 36.70.290(2)(b) and send a copy of this decision to the Washington State Department of Commerce pursuant to RCW 36.70A.106(2) within 10 days of adoption.

PASSED AND ADOPTED this 28th day of November 2023.

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON



Mary L. Kuey, Chair



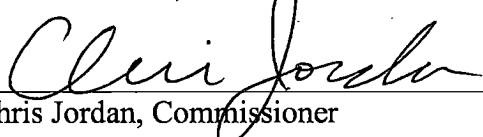
Josh Kerns, Vice-Chair



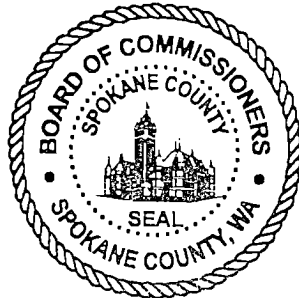
Al French, Commissioner




Amber Waldref, Commissioner



Chris Jordan, Commissioner



ATTEST:



Ginna Vasquez, Clerk of the Board

Resolution 23- 0707

Due to the size of Attachment A, we have provided the following link to access the documents.

<https://www.spokanecounty.org/5254/Capital-Facilities-Plan>

You can also find it on the Spokane County website if you search for Building & Planning Capital Facilities Plan.

Submit to Clerk of the Board with available supporting materials (Resolutions, Agreements, Presentations, etc.)

AGENDA SHEET

SUBMITTING DEPARTMENT: *Building & Planning*

CONTACT PERSON: *Scott Chesney, Jessica Pilgrim, Laurie Carver*

PHONE NUMBER: *477-7212, 509-477-3641, 509-477-7127*

CHECK TYPE OF MEETING BELOW: **BELOW FOR CLERK'S USE ONLY:**

☒ Regular Legislative Session Agenda

Clerk's Resolution No.

23 - 0707

Approved:

Majority/Unanimous

Denied:

Majority/Unanimous

Renews/Amends No.

Public Works No.

Purchasing Dept. No.

AGENDA TITLE *(please provide a reasonably descriptive agenda title for this item:* Consideration of the Planning Commission recommendations for 2023 Amendments to the Spokane County Capital Facilities Plan and Comp Plan Chapter 7.

DESCRIPTIVE SUMMARY *(please provide anticipated fiscal and budgetary information & reason for request):*

Consideration of the Capital Facilities Plan and Comp Plan Chapter 7 may be taken out of the CPA cycle due to the fact they are responding to current or pending litigation. They should be adopted ahead of the 2024 annual budget. CPAs are scheduled for consideration on December 12.

FISCAL IMPACT *(please provide anticipated fiscal and budgetary impact, with amount and source of funds, if applicable):* N/A

REQUESTED BOARD ACTION *(if any):* Consideration and approval of the Planning Commission recommendations for the 2023 amendments to the Comprehensive Plan, specifically the Capital Facilities Plan and Comp Plan Chapter 7.

Other County Departments Impacted - List any other departments that were notified in advance of this agenda item: Legal

This Item will need to be codified in the Spokane County Code: Yes