

**Sandy Guinn**

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**Sent:** Tuesday, February 17, 2015 8:32 PM  
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**Cc:** Paula Waters; Dave Kuhl  
**Subject:** Exhibit for Comprehensive Plan hearing  
**Attachments:** CommentsRe2015CompPlanUpdate-20150217.pdf

Sandy, Dave, and Commissioners,

Attached is a document that lists a few observations, concerns, and suggestions regarding the draft Comprehensive Plan. Please add it as an exhibit for the Planning Commission's hearing on the Comprehensive Plan.

Kind regards,

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To: Woodinville Planning Commission  
Date: 17 February 2015  
From: Susan Boundy-Sanders  
Re: 2015 Comprehensive Plan Revisions

Planning Commissioners:

This document provides information that I hope will be of use during your consideration of Comprehensive Plan amendments.

It lists some observations from a very time-constrained examination of the draft Comprehensive Plan.

If there are commissioners who are inclined to undertake a detailed review of the draft Comprehensive Plan, I encourage the Planning Commission to postpone making final recommendations on the draft to give commissioners time for a review.

To be clear, this should be taken only as my personal attempt to identify issues that may merit more detailed consideration by the Planning Commission.

Kind regards,

*Susan*

Susan Boundy-Sanders

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## Extensive revision without legislative markup or a change list

A brief comparison shows that the changes between the previous Comprehensive Plan and the new draft are substantial in both form and content. And they appear to cover every scale of magnitude, from implying planning rights over large tracts of unincorporated land to introducing ambiguous new terms.

Without legislative markup or a thorough inventory of changes, and with an all-volunteer Planning Commission and part-time City Council, the draft Comprehensive Plan asks us to take a leap of faith.

The changes may end up being acceptable, but that conclusion could only reasonably be reached after thorough and thoughtful comparison.

## Recreational immunity and liability for natural conditions

Staff has mentioned that recreational facilities are protected by "recreational immunity." RCW 4.24.210 grants this immunity. It is found here: <http://apps.leg.wa.gov/rcw/default.aspx?cite=4.24.210>

Condensed to remove the extra words, the portion that is most applicable to Woodinville reads,

(1) ". . . Public . . . landowners, . . . in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, . . . , picnicking, swimming, hiking, bicycling, skateboarding or other nonmotorized wheel-based activities, . . . , rock climbing, the riding of horses or other animals, . . . , boating, kayaking, canoeing, rafting, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users . . .

(4)(a) Nothing in this section shall prevent the liability of a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted." (underlines added)

A plain reading of the RCW (which is the standard courts apply) is that if land is designated for recreational purposes, the landowner is not liable for unintentional injuries to users. The exemption to this general rule is "a known dangerous artificial latent condition for which warning signs have not been conspicuously posted." In this case, the owner can apparently eliminate liability by "conspicuously posting" warning signs.

Interpreting the plain English, it appears that critical areas incur less liability as recreational land than any other designated use. As our consultants have told us, they also pose less risk if left alone than if

badly developed . . . and Woodinville's best bet for avoiding bad development is to have the ownership control that allows the city a high degree of control of the development.

Specifically, ownership proposals for environmentally constrained land might resemble land the city owns in the Wedge, where the following signs are posted along NE 190<sup>th</sup> Street:



### Definition of "open space" or a new recreational category

I encourage Woodinville to either:

- Craft a definition of open space that includes environmentally constrained lands, classifies them as recreational, and leaves them forested; or
- Create a new land use category that would fall within recreational uses, and that would allow the city to protect critical areas and avoid damage to persons and property.

### Criteria for landslide hazard areas

As documented on page BAS 95 of the Berk report (Exhibit 2 in the binders), the state criteria for landslide hazard areas include "9) Any area with a slope of forty percent or steeper . . ."

In the Woodinville code, steep slopes are protected as a separate category from landslide hazard areas. For the sake of consistency with the state code, I encourage the City to add 40% slopes as an explicit criterion for landslide hazard areas (knowing that this is a zoning code, not Comprehensive Plan, issue).

I can't speak to whether steep slopes should, in addition, be removed from their current, separate category; I don't know the history of why they were separated from other landslide hazard criteria in the past.

## Prioritizing land use goals

In the current (2009) Comprehensive plan, Woodinville's land use goals are listed in this order (goals are paraphrased for brevity):

2009	2015 draft	Goal
1	2	Guide growth to maintain or improve quality of life and preserve Northwest woodland character
2	3	Encourage less reliance on single occupant vehicles
3	~7, 8	Attain a wide range of residential patterns, densities, and site designs
4	9	Encourage a variety of commercial services and employment opportunities
5	absent	Provide a process for siting essential public facilities
6	4	Plan and develop a pedestrian-oriented multimodal transportation system approach to the downtown
7	absent	Encourage and achieve a mixed-use downtown
8	~9	Balance commercial and residential needs in the Mixed-Use Overlay
9	~6	Maintain the downtown as the center for commercial, civic, cultural, and recreational activities
10	policy in 9	Provide an active and diverse industrial area that promotes economic growth
11	policies in 1	Annex additional areas that are appropriate for the welfare of both the City and the annexed area
absent	1	Provide land areas and densities for housing, employment, and public facilities
absent	5	Maintain and enhance robust environmental stewardship
absent	6	Inviting and distinctive public spaces, especially downtown and multi-family districts

On closer consideration, these significant revisions may turn out to be acceptable. However, without legislative markup, the scope of the change is not readily apparent. It seems likely that this degree of change is present throughout the draft and should be examined carefully.

## "Northwest woodland character" as a citywide aesthetic vs. an architectural style

In the current Comprehensive Plan, the term "Northwest woodland character" is used to express a citywide aesthetic, and refers to such large-scale features as the wooded hillsides of the Sammamish Valley.

In contrast, in the Woodinville Municipal Code, "Northwest woodland character" is used to describe both a citywide aesthetic, and a collection of design standards for commercial exteriors in Woodinville. For example, see pages 1-2, 2-16, and 2-19 of the draft Comprehensive Plan.

In the recent *Phoenix v. Woodinville* case, the Washington Supreme Court supported Woodinville in its claim that it was allowed to preserve the Northwest woodland character it described in its Comprehensive Plan.

If Woodinville mixes the citywide aesthetic with the architectural style, as the draft Comprehensive Plan does, we imperil our ability to defend the large-scale aesthetic. A developer can make the claim that by adhering only to the architectural style, they remain consistent with the Comprehensive Plan.

I would urge that "Northwest woodland character" continue to be used as it currently is in the Comprehensive Plan—as a citywide aesthetic. This is a usage that both has statewide legal implications and is of long standing in Woodinville's Comprehensive Plan. I encourage Woodinville to find another phrase to describe our commercial architectural style standards.

## "Riverfront Districts"

The draft Comprehensive Plan headlines "Riverfront Districts," beginning with the Woodinville Vision Statement and Ten Guiding Principles:

[http://www.ci.woodinville.wa.us/Documents/Work/MasterPlans/CompPlan%20Update%202015/General%20Description%20Main%20Page/Nov%202019,%202014/1\\_Comprehensive%20Plan\\_%20112014.pdf?op=view&id=69335358&crd=cityofwoodinville](http://www.ci.woodinville.wa.us/Documents/Work/MasterPlans/CompPlan%20Update%202015/General%20Description%20Main%20Page/Nov%202019,%202014/1_Comprehensive%20Plan_%20112014.pdf?op=view&id=69335358&crd=cityofwoodinville)

Elsewhere in the draft, the riverfront is described as a "major amenity," and includes a proposal of a "Riverfront Amenity Overlay."

Unfortunately, this idea has never been discussed by the City Council, and would be constrained by state, county, city, and tribal environmental regulations and salmon recovery requirements.

The formal districts names adopted by the City Council on 15 July 2014 are Hollywood District, West Valley District, and Warehouse District.

Use of the river is a valid question, but should not be presented as a foregone conclusion. If it is ultimately included as a Comprehensive Plan goal, it should always include a statement of Woodinville's commitment to environmental protection and salmon recovery.

## "Joint Study Area"

In its 2012 Comprehensive Plan update, the King County Council proposed, and Woodinville agreed to, a "joint study" to discuss ways to benefit agriculture and the wine industry in the Sammamish Valley. However, the proposed Woodinville Comprehensive Plan update contains numerous text references and maps that erroneously show a "Joint Study Area," or "Special Study Area" or an incorrect Urban Growth Boundary, around agricultural lands that are in fact outside the UGB and have not been designated as subjects of "joint study." In fact, there were no maps, only industry-related policy considerations, in the joint study agreement. The joint study will be about two industries, not land.

Draft of the joint study agreement as sent to Woodinville from King County:

[http://woodinville.granicus.com/MetaViewer.php?view\\_id=6&clip\\_id=713&meta\\_id=69806](http://woodinville.granicus.com/MetaViewer.php?view_id=6&clip_id=713&meta_id=69806)

Amendments to the draft by the Woodinville City Council:

[http://woodinville.granicus.com/MinutesViewer.php?view\\_id=6&clip\\_id=713](http://woodinville.granicus.com/MinutesViewer.php?view_id=6&clip_id=713)

News coverage of the joint study as passed by the County Council:

<http://patch.com/washington/woodinville/king-county-council-approves-annexation-related-jointaa9a6c8a7b>

In fact, by formal resolution, the City of Woodinville does not support amending the Urban Growth Boundary: <http://www.ci.woodinville.wa.us/Documents/CityHall/Resolutions/Resolution%20447.pdf>

Overall, it seems questionable whether the joint study deserves mention in the Woodinville Comprehensive Plan. There are no commitments as to the magnitude of the study; it may be as little as a single meeting with a county staff member.

## "Regional Retail Overlay"

The Council directed staff to explore a "North Industrial Land Use Plan." In the March 4, 2014 meeting at which this topic was added to the Work Plan, staff described this as a proposal to expand permitted uses in the industrial parcels facing NE Woodinville Way and NE 195<sup>th</sup> Street. Specifically, the example given was that the auto repair shop at 195<sup>th</sup> and 144<sup>th</sup> could repair vehicles, but not sell tires.

Agenda item here: [http://woodinville.granicus.com/MediaPlayer.php?view\\_id=6&clip\\_id=871](http://woodinville.granicus.com/MediaPlayer.php?view_id=6&clip_id=871) , time stamp 2:35:35-2:42:35

In other conversations, the Council has expressed a willingness to consider allowing wineries to server food.

In the draft Comprehensive Plan, this has evolved into a "Regional Retail Overlay" allowing large format chain stores in the entire North Industrial District.

### "Horizontal mixed use"

To my knowledge, the concept of "horizontal mixed use" (page 3-7 of the draft) has had only a single proponent in Woodinville's history. It does not have the imprimatur of the City Council. And as the single proponent describes it, the goal was explicitly a one-story regional mall, not the more intensive uses that the Growth Management Act encourages.

### Shadow platting

Simply defined, shadow platting requires a property owner to build in a corner of his or her property, in anticipation of future upzoning. It constrains an owner's ability to design a home and landscaping.

Shadow platting is proposed on page 2-25 of Exhibit 3.

In numerous discussions with citizens, including as a member of the Sustainable Development Study Citizens Advisory Panel, I can say with certainty that citizens understand, and strongly oppose, shadow platting.

### "Innovative" and "Cottage" housing

"Innovative" and "cottage" housing, in practice, have a high probability of being housing that doesn't fit the aesthetic of the surrounding neighborhood. The most common layouts build an attractive front facing toward the new development, and locate parking lots and Dumpsters near the edges of the development. Their designs often subject the existing neighbors to an unattractive view and excessive runoff.

### High probability that other parts of the draft need further examination and revision

This is a list of matters that need closer attention just based on cursory examination. Without time to fully examine the draft, I simply propose that the Planning Commission review and reconsider every section of the draft.

More than anything, I make this broad statement to alert the Planning Commission, and to preserve for the Commission and Council the prerogative to more completely scrutinize and modify all parts of the draft Comprehensive Plan.

### Christmas tree ornaments

The draft Comprehensive Plan contains a number of measures that the other Washington has dubbed "Christmas tree ornaments" – measures that have been requested by special interests, and added to legislation regardless of their popular support or their effect on the community.

Ornaments I've noted so far include development of the Sammamish riverfront, the "Joint Study Area," the "Regional Retail Overlay," and "horizontal mixed use."

Given the difficulty the City Council has had in achieving goals that actually have public support and benefit the community, the ease with which special interests seem to have had their requests added to the draft is troubling.

These Christmas tree ornaments are examples of why I am uncomfortable with the lack of legislative markup or a change inventory.