TO: Kittitas County Board of County Commissioners
FROM: Kittitas County Community Development Services
RE: Addendum to Proposed Amendment to Kittitas County Comprehensive Plan and Kittitas County Code to Comply with Washington State Growth Management Plan
DATE: May 5, 2014 Public Hearing

I. GENERAL INFORMATION

On February 26, 2014 the Board of County Commissioners held a public hearing regarding compliance to the Growth Management Act. Amendment proposals that the Commissioners have been considering are a result of the Growth Management Hearings Board decision on March 31, 2013 that there were still growth management issues within its land use code and its Comprehensive Plan that needed to be addressed in order to be compliant with the Growth Management Act. A “reconsideration” of the March decision was filed by Futurewise requesting that uses and requirements for LAMIRDs be examined by the County for their fulfillment of requirements of the Growth Management Act to protect rural character as required by the Act. The Hearings Board agreed that arguments presented by the group were justified. As a result of these decisions, the following issues were addressed at the February 26, 2014 public hearing.

1) Measures to Protect Rural Character. The Hearings Board found that the amendment to the Comprehensive Plan policies do not adequately provide “measures” to protect rural character as required by RCW 36.70A.070(5)(c).

2) Adopting Imperative Language in Policies. The Hearings Board found that the County made a mistake “in not adopting imperatives” within the language of the policies to assure protection of rural character in designated rural areas.

3) Adoption of Development Regulations Implementing Plan Measures. The County must provide within the Code, regulations that insure the implementation of these adopted “measures” in policies designed to protect rural character.

4) Demonstrate How Existing Zones Meet Limited Areas of More Intense Rural Development (LAMIRD), Types I, II, and III. The Hearings Board finds in its Reconsideration that this issue is closely related to the request to provide “Measures to Protect Rural Character,” and that therefore, the County will show what “measures” and implementing ordinances are provided in existing LAMIRDs.

5) Protection of Water Quality and Quantity. The issue before the Hearings Board is that the County has not adequately provided for the protection of the water quality and quantity for the rural areas through its Comprehensive Plan and through its implementing Code regulations.

Public testimony was taken at the February 26 hearing, and Commissioners continued the hearing to consider, discuss, and decide upon the proposal on March 6, 2014. At this closed testimony public hearing, the County
Commissioners decided after discussion, that issues related to water and agriculture should be discussed with
groups owning water rights and with the Farm Bureau representatives to determine if some of the expressed
concerns could be resolved through change to the proposed Code and Plan amendments. The Board instructed the
staff to request a 60-day extension from the Hearings Board to further resolve water and agriculture concerns.
Request for extension was granted by the Hearings Board, and the County began discussions with various parties
regarding amendment proposals related to water and agriculture issues. Exhibits A-1 and B-1 outline the result of
those discussions and are additions to the February 26, 2014 proposed amendments to the Comprehensive Plan
and the Kittitas County Code. These exhibits area explained in this staff report and are separate exhibit
documents.

STAFF REVIEW AND SUMMARY OF PROPOSED CHANGES TO THE ORIGINALLY PROPOSED
AMENDMENTS TO THE COMPREHENSIVE PLAN, CHAPTER 8.

“Exhibit A-1”. Representatives from the Farm Bureau suggested changes to five of the originally proposed
amendments in Chapter 8, which were presented to the Commissioners in February. These changes were
proposed to a Futurewise agent representing Ridge and Kittitas County Conservation Coalition (herein referred to
as “Futurewise”), and to Kittitas County staff. After numerous discussions and emails, all could agree on four of
the five suggested changes to policy language. The policy change GPO 8.28 below is developed from Kittitas
County staff after consideration of the issues within the policy language proposed by the two groups. The
proposed and staff recommended changes include the following:

GPO 8.5 In order to protect and preserve Resource lands, non-resource development and activities on Rural lands
adjacent to resource Rural lands shall require preservation of adjacent
vegetation, existing landforms (e.g. ravines) or use of other methods that provide functional
separation from the resource land use. may require buffering.

Discussion: It was felt by the group that the language within the current proposal was limited in clarity of intent
and “may require buffering” was too broad and did not provide enough measure to indicate the intent of the policy
in guiding land use decisions. The intent of the policy is to protect resource lands (agriculture and open spaces)
from development so that such resource lands are priority over development.

GPO 8.7 The use of cluster platting and conservation platting shall be limited to innovative land
use techniques should be encouraged in specific rural areas to lessen the impacts upon the
environment and traditional agricultural/forestry uses and to provide services most economically.
The use of other innovative land use techniques that protect rural character and resource land
uses will be evaluated for future implementation.

Discussion: The group agreed that cluster platting should be permitted, but not in a way that detrimentally
impacts agriculture activities or forested lands. Although innovative land use techniques are desired, all agreed
that the language should provide the primary protection of agriculture resources. The County should have the
option to examine other land use techniques that may further this objective.

GPO 8.17 Land use development and conservation tools to prevent sprawl within the Rural area
that is not compatible with will be researched and adopted when it is determined that such tools
protect the unique Kittitas County rural character or agricultural activities as defined in RCW
90.58.065 (2)(a) will not be allowed.
Discussion: The group agreed that clarity was lacking here in protecting agriculture and did not provide enough “measure” to provide such protection. Futurewise expressed that reference to RCW would provide adequate measures, and the Farm Bureau agreed expressing no problem with the language since the reference includes all of the agriculture activity types existing within the County. Staff agrees with the proposed change and recommends adoption of such language.

GPO 8.21.B: Functional separation and setbacks found necessary for the protection of water resources, rural character and/or visual compatibility with surrounding rural areas shall be required where development is proposed. The first sentence of this policy shall not apply to agricultural activities as defined in RCW 90.58.065 (2)(a). When required by the county shoreline master program or critical area regulations, buffers shall be provided.

Discussion: The intent of this policy is to protect rural resources, including the vision of natural landscape within the County, from development that could disrupt the County’s unique resources. The group expressed that this policy as originally proposed should be re-written to provide greater intent and measure for its intent, while still permitting cluster development. The Farm Bureau is concerned that the first sentence could be interpreted to inhibit normal farm activity, and should not apply to normal agriculture activity as described in the Growth Management Act. Staff recommends adoption of this rewritten policy to satisfy both groups concerns while still meeting its intent.

GPO 8.28 Clustering of development is encouraged in the rural area can only occur where it results in the protection of open space and protects against conflicts with the use of farming or other resource lands. When clustering of development is proposed on land that shares boundaries with public lands and provides existing public access to recreational uses on adjacent public lands, The County shall encourage the inclusion of easements for wildlife habitat networks, public access connections shall be considered during development review, and recreational use. The open space portion of the cluster development shall be located to protect wildlife habitat and migration corridors.

Discussion: There was not consensus between parties in negotiation of this language. Futurewise is most concerned with the final sentence in the policy which did not go far enough in the protection of wildlife easements and habitats. The Farm Bureau is most concerned that the last sentence could permit the protection of wilderness so that no cluster plats could occur. Staff suggests using the final sentence, as written above, to address both parties’ concerns. The sentence requires the staff to examine the relation of the open space proposed in a cluster plat to insure that it enhances the wildlife and migration corridors, and still addresses the Bureau’s concern that a policy might be too broad to permit any kind of cluster plat development.

Staff has reviewed and participated in these re-written policies, and recommends that the Board of County Commissioners approve proposed amendments to Chapter 8 of the Comprehensive Plan as presented in Exhibit A-1.

PROPOSED AMENDMENTS TO THE KITTIenas COUNTY CODE TO IMPLEMENT THE PROPOSED SETTLEMENT AGREEMENT AND MEET THE WATER ISSUE REQUESTED BY THE SUPREME COURT AND THE HEARINGS BOARD.
A Proposed Settlement Agreement between Futurewise, the Department of Ecology, and Kittitas County to create a system of reaching a goal of “no net loss” of water within Kittitas County was reached in February 2014. These three parties have developed this Proposed Agreement after almost nine months of work, and the Proposed Agreement has become a crucial component to maintaining the water quality and quantity within the County as requested by the Washington State Supreme Court and the Eastern Washington Growth Management Hearings Board.

The Proposed Agreement identifies periods when and how a “no net loss” of water within Kittitas County will be achieved, and specifically states that “all new domestic, commercial, irrigation and industrial uses of ground water in the rural areas of Kittitas County not regulated by Chapter 173-539A Washington Administrative Code (WAC) will be water budget neutral with respect to the Total Water Supply Available…”

Since this Proposed Agreement was presented in February 2014, an ordinance is now been drafted encompassing the Commissioners adoption of allowing the production and processing of marijuana. The production and processing of marijuana is will be permitted outright upon lands within the County which are conforming in size within the Agriculture 20, the Commercial Agriculture, and the Forest and Range zones once the drafted ordinance is signed. Therefore, marijuana production or growth that does not require building permits could use exempt wells for watering the crop, a violation of the Proposed Settlement Agreement. The language indicated within “Exhibit B-1” as a footnote within the County Zoning Code matrix will require producers of marijuana, even where building permits may not be required, to obtain sources of water which will meet the Proposed Agreement and maintain the “no net loss” required of the County.

“Exhibit B-1”:

To the language adopted through motion at a public hearing on April 7, 2014 regarding the production, processing and sale of marijuana and adopted through an enabling document for Ordinance 2014-____ to footnotes #28 and #29 in KCC 17.15.060 and footnotes #48 and #49 in KCC 17.15.070.

   g. Obtain water from a water budget neutral source and prove such by providing 1) a letter from a purveyor stating that the purveyor has adequate water rights and will provide the necessary water for the applicant’s project; 2) an adequate water right for the proposed project; or 3) a certificate of water budget neutrality from the Department of Ecology or other adequate interest in water rights from a water bank.

Staff has written the language within Exhibit B-1 and recommends its approval by the Board of County Commissioners if the document enabling the allowance of marijuana production in the County is signed by a majority of the Commissioners. The expected signature date of the enabling documents for the allowance of marijuana production in the County is May 6, 2014.

**ADDITIONAL RECOMMENDATIONS BY STAFF**

All other proposals indicated in the last staff report presented at the February 26, 2014 public hearing are recommended for adoption to meet requests by the Hearings Board, and coming into compliance with the Growth Management Act.