

## Lisa Iammarino

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**From:** Traci Shallbetter <traci@shallbetterlaw.com>  
**Sent:** Thursday, April 11, 2013 10:22 AM  
**To:** Lisa Iammarino  
**Cc:** tckchristman@fairpoint.net  
**Subject:** Gibson Fruit Stand

Lisa,  
I am representing the Christmans, as owners of the Gibson Fruit Stand in Thorp. I understand that a year or so ago the BOCC made a decision indicating that the fruit stand would require a CUP. The Christmans have now submitted their application for a CUP and we expect a hearing in May.

Do you have, or could you easily access, any written record/decision of the BOCC that would indicate their finding that the fruit stand qualifies/would be/would require a CUP? I would greatly appreciate it if you could forward me any documentation. (If necessary, I can submit a public records request to the BOCC, but wasn't quite sure of the dates, etc. to reference).

Traci Shallbetter  
**SHALLBETTER LAW**  
*The Best in Real Estate and Land Use*  
3201 Airport Road  
Cle Elum, WA 98922  
Ph: (509) 674-3836  
Cell: (509) 260-0037  
[www.shallbetterlaw.com](http://www.shallbetterlaw.com)

COPY

**KITTITAS COUNTY BOARD OF COMMISSIONERS**

IN RE THORP FRUIT AND ANTIQUE )  
MALL LLC CODE INTERPRETATION )  
APPEAL )

**ORDER**

This matter came before the Kittitas County Board of Commissioners (BOCC) as an administrative appeal from a code interpretation rendered on June 6, 2012. The administrative appeal was filed on June 15, 2012. After certification of the record, briefing by the parties, and due notice, the BOCC conducted the administrative appeal at 1:30 p.m. September 6, 2012 in the commissioners' auditorium. Having considered the record, briefing of the parties, and being fully advised in the premises, the BOCC finds and orders as follows:

The BOCC finds that this appeal was properly before the Board of County Commissioners; and

The BOCC finds that Kittitas County Code 17.31.020(6) is not ambiguous and so not subject to interpretation; and

The BOCC finds that Kittitas County Code requires fruit stands in the Commercial Agricultural zone to sell produce grown or produced on site and that it was not the intent of the code to allow fruit stands regardless of where the produce being sold was grown or produced; and

The BOCC finds that the code interpretation rendered on June 6, 2012 was in error.

IT IS ORDERED that the code interpretation rendered on June 6, 2012 regarding fruit stands in the Commercial Agricultural Zone is hereby reversed.

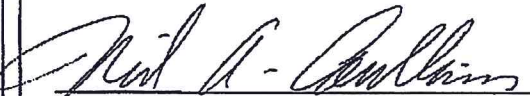
ORDER

GREGORY L. ZEMPEL  
KITTITAS COUNTY PROSECUTOR  
Kittitas County Courthouse - Room 213  
Ellensburg, WA 98926  
(509) 962-7520

1 Ordered this 4<sup>th</sup> day of October, 2012.

2   
3 Alan Crankovich, Chairman

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5 Presented by:

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8 Neil A. Caulkins, WSBA 31759  
9 Deputy Prosecuting Attorney

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ORDER

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## **Chapter 17.31**

### **COMMERCIAL AGRICULTURE ZONE**

#### **Sections**

- 17.31.010 Purpose and intent.
- 17.31.020 Uses permitted.
- 17.31.030 Conditional uses.
- 17.31.040 Lot size required.
- 17.31.050 Yard requirements - Front yard.
- 17.31.060 Yard requirements - Side yard.
- 17.31.070 Yard requirements - Rear yard.
- 17.31.075 Yard requirements- Zones Adjacent to Commercial Forest Zone.
- 17.31.080 Yard requirements - Sale or conveyance restrictions.
- 17.31.090 Dimensional requirements.
- 17.31.100 Access.
- 17.31.110 Special setback requirements.
- 17.31.120 Administrative uses.

#### **17.31.010 Purpose and intent.**

The commercial agriculture zone is an area wherein farming and ranching are the priority. The intent of this zoning classification is to preserve fertile farmland from encroachment by nonagricultural land uses and protect the rights and traditions of those engaged in agriculture. (Ord. 96-15 (part), 1996)

#### **17.31.020 Uses permitted.**

The following uses are permitted:

1. One-family or two-family dwellings;
2. Hay processing and container storage;
3. Agriculture, livestock, poultry or swine, or mink raising, and other customary agricultural uses; provided, that such operations shall comply with all state and/or county health regulations and with regulations contained in this title related to feedlots;
4. Community clubhouse, schools and public utility buildings, pumping plants, and substations;
5. Commercial greenhouses and nurseries;
6. Roadside stands for the display and sale of fruits and vegetables raised or grown on the premises when located not less than forty-five feet from the centerline of the public street or highway;
7. Existing cemeteries;
8. Private airplane landing strips used primarily in conjunction with agricultural activities;
9. Processing of products produced on the premises;
10. Home occupations that do not involve outdoor work or activities, or which do not provide noise;
11. Farm implement repair and maintenance.
12. Accessory Dwelling Unit ( if in UGA or UGN)
13. Accessory Living Quarters
14. Special Care Dwelling
15. Electric Vehicle Infrastructure. See KCC Chapter 17.66 (Ord. 2011-013, 2011; Ord. 2007-22, 2007; Ord. O-2006-01, 2006; Ord. 96-15 (part), 1996)

#### **17.31.030 Conditional uses.**

It is the intent of this code that all conditional uses permitted in this zone shall be subordinate to primary agricultural uses of this zone. The following are conditional uses:

1. Auction sales of personal property, other than livestock
2. Bed and breakfast business
3. Commercial Activities Associated with Agriculture
4. Churches
5. Day care facilities
6. Farm labor shelters; provided, that:



- a. The shelters are used to house farm laborers on a temporary or seasonal basis only, regardless of change of ownership, if it remains in farm labor-needed status;
  - b. The shelters must conform with all applicable building and health regulations;
  - c. The number of shelters shall not exceed four per twenty-acre parcel;
  - d. The shelters are owned and maintained by the owner or operator of an agricultural operation which clearly demonstrates the need for farm laborers;
  - e. Should the parent agricultural operation cease or convert to non-agriculture use, then the farm labor shelters shall conform with all applicable building and health regulations
7. Feed mills, canneries and processing plants for agricultural products
  8. Governmental uses essential to residential neighborhoods
  9. Guest ranches
  10. Home occupations which involve out door work or activities or which produce noise
  11. Kennels
  12. Livestock sales yard
  13. Riding academies
  14. Room and board lodging involves no more than four boarders or two bedrooms
  15. Sand and gravel excavation; provided, that noncommercial excavation shall be permitted for on-site use without a conditional use permit
  16. Shooting ranges
  17. Stone quarries
  18. Temporary offices and warehouses of a contractor engaged in construction (not to exceed two years). (Ord. 2009-25, 2009; Ord. 2007-22, 2007; Ord. O-2006-01, 2006; Ord. 96-15 (part), 1996)

**17.31.040 Lot size required.**

Minimum lot (homesite) requirements in the commercial agriculture zone are:

1. Twenty acres for any lot or parcel created after the adoption of the ordinance codified in this chapter, except that one smaller lot may be divided off any legal lot; provided such parent lot is at least ten acres in size; and provided, that such divisions are in compliance with all other county regulations (e.g., on-site septic system). Parcels must be located within the Commercial Agriculture Zone at the date of the adoption of this code. Once this provision has been applied to create a new parcel, it shall not be allowed for future parcel subdivision, while designated commercial agriculture. Onetime splits shall be completed via the short plat process. The one-time parcel split provision should be encouraged where it is adjacent to ongoing commercial agricultural practices, especially since the intent of this provision is to encourage the development of homesite acreage rather than removing commercial agricultural lands out of production.
2. Commercial Agricultural Zones. In no case shall there be more than two dwellings (residences) on any lot or tax parcel unless such parcel is twice the required minimum (twenty-acre) size. (Ord. 2007-22, 2007; Ord. 96-15 (part), 1996)

**17.31.050 Yard requirements - Front yard.**

There shall be a minimum front yard of twenty-five feet unless previous building lines less than the required minimum exist, in which case the board of adjustment may grant a variance of up to ten feet. (Ord. 96-15 (part), 1996)

**17.31.060 Yard requirements - Side yard.**

Side yard shall be a minimum of five feet; on corner lots the side yard shall be a minimum of fifteen feet on the side abutting the street. (Ord. 96-15 (part), 1996)

**17.31.070 Yard requirements - Rear yard.**

There shall be a rear yard with a minimum depth of twenty-five feet to the main building. (Ord. 96-15 (part), 1996)

**17.31.075 Yard requirements – “Zones Adjacent to Commercial Forest Zone.**

Properties bordering or adjacent to the Commercial Forest zone are subject to a 200' setback from the Commercial Forest Zone. (KCC 17. 57.050(1)). For properties where such setback isn't feasible, development shall comply with Kittitas County Code 17.57.050(2). (Ord. 2007-22, 2007)

**17.31.080 Yard requirements - Sale or conveyance restrictions.**

No sale or conveyance of any portion of a lot for other than a public purpose shall leave a structure or the remainder of the lot with less than the minimum lot, yard, or setback requirements of this zone. (Ord. 96-15 (part), 1996)

**17.31.090 Dimensional requirements.**

The minimum average lot width shall be two hundred feet. No platted lot or parcel may be created with a dimensional ratio greater than 4:1. (Ord. 96-15 (part), 1996)

**17.31.100 Access.**

No dwelling shall be constructed or located on a lot or parcel which is not served by a legal sixty-foot right-of-way or existing county road. (Ord. 96-15 (part), 1996)

**17.31.110 Special setback requirements.**

None of the following uses shall be located within the distances indicated of any public street or road, any school or public park, or any dwelling (except such dwelling as may exist upon the same property with the restricted use):

1. Within one and one-half miles:
  - a. Farms or establishments for feeding of garbage or other refuse to hogs or other animals:
    - i. Provisions made that all other operations shall be conducted in compliance with all state and county health regulations, and
    - ii. Reasonable protection from any potential detrimental effects such use might have on surrounding properties will be provided.
2. Within one hundred feet:
  - a. Barns, shelters, or other buildings or structures for keeping or feeding of any livestock, poultry, or other animals or birds whether wild or domestic.
3. Feed lots containing fifty to one hundred head at a density of less than five hundred square feet per head for a period of six months or more shall be located no closer than three hundred feet to any existing home, school or park. (Ord. 96-15 (part), 1996)

**17.31.120 Administrative uses.**

The following uses may be permitted in any CA zone subject to the requirements set forth in Chapter 17.60B.

1. Accessory Dwelling Unit (if outside UGA or UGN) (Ord. 2007-22, 2007)