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“Building Partnerships – Building Communities”

STAFF REPORT

TO: Kittitas County Board of County Commissioners

FROM: Doc Hansen, Planning Official

DATE: November 5, 2013, Public Hearing

SUBJECT: 2013 Annual Kittitas County Comprehensive Plan Amendment

This public hearing is being held to review and make recommendations on the items docketed for the 2013 Annual Amendment to the Kittitas County Comprehensive Plan and Kittitas County Code. This staff report summarizes each application and includes some relevant documentation and proposed policy for your consideration.

The entire record for each proposed docket item has been presented to the Board of County Commissioners in digital form with one printed copy for the clerk as required by law. Commission members can request printed copies upon request to Community Development Services.

The general public has access to the proposed docket items for consideration at the Kittitas County Community Development Services Comprehensive Plan web page, <http://www.co.kittitas.wa.us/cds/comp-plan/default.aspx>. One printed copy is also available for viewing at the Community Development Services front desk at:

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There are five items being considered for amendment, all within the Kittitas County Code. No amendments are proposed to the Comprehensive Plan in this year's docket.

In summary, the proposed amendments include:

1. Docket Item 1 - Requiring the Hearing Examiner to make final decision appealable only through LUPA (court) process for a variety of land use issues including conditional use permits.
2. Docket Item 2 – Permitting an “Accessory Living Quarter” detached from the primary residence without meeting the ADU density requirements under certain conditions.
3. Docket Item 3 – Providing new uses within the land use matrices in Title 17 allowing for land uses that were not included in the creation of the matrices.
4. Docket Item 4 – An administrative process permitting minor land use activities to occur after proceeding through a conditional use permit process through administrative decision instead of public hearing.

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5. Docket Item 5- Amendment to Title 18, Code Enforcement. Proposal from the Prosecutor's office for code enforcement as it relates to the Fire Marshal's office and the ability for the code enforcement officer to issue a form to violators similar to a traffic ticket.

The Planning Commission at its hearing considered all of the items and has made recommendation for the Board of County Commissioners to approve the proposals.

Docket 1: Requiring the Hearing Examiner to Make Final Decisions Land Use Decisions.

Currently, the Hearing Examiner only makes final decision on SEPA appeals in closed session after reviewing briefs provided by the appellant and applicant of a land use action requiring the SEPA. On land use matters requiring public hearing, the Examiner only makes recommendation to the Board of County Commissioners for their final decision. Public testimony is taken when heard before the Hearing Examiner, and recommendation for decision is made based upon facts of the proposal and public testimony. The amendment, if approved, would require the Hearing Examiner to make final decision on conditional use permits, appeals of administrative decisions including land use variances, and shorelines permits. The Board of County Commissioners would retain the final decision for long plats and project related rezone applications.

Arguments were made against the proposal before the County Planning Commission including:

- Removing the Board from making final land use decisions, the Board is not fully representing the population, an obligation of the elected official. One member of the Planning Commission agreed to this argument.
- The current process allows the County Commissioners to be removed from the emotion of the decision making by reviewing only facts and recommendation rather than public testimony.

Staff presented argument that with the amendment, the County Commissioners would be removed from the land use decision making process on some applications. By not being the ultimate decision maker, the amendment would permit the Commissioners to discuss land use proposals with the public, the press and members of the staff without violation of "appearance of fairness." Any commissioner could use information to offer change to the law as his/her obligation as an elected official, or to testify before the Hearing Examiner and become a "party of record."

Finally, staff indicated that examples exist throughout the State where land use cases which were resolved in court after the decision of the Hearing Examiner were most supportable when findings and conclusions surrounding decision of a proposal were based upon meeting the criteria within the ordinance. Having the Hearing Examiner as the final decision maker on a land use case provides greater insurance for objective decision based upon an existing ordinance.

The Planning Commission recommended that a clause be added to permit for reconsideration of the Hearing Examiner's decision where it was felt by parties of record that an error or miscommunication had been taken in the decision made. The motion to recommend this amendment to the Board of County Commissioners was passed by the Planning Commission 4 to 1 with the reconsideration amendment.

Docket 2: Permitting an "Accessory Living Quarter" detached from the primary residence.

Units and guest houses, which provide for relatively small and temporary living stations for family members, are needed in many areas by families throughout the United States today, and the need is expected to increase dramatically. When the economy is in recession and as a large percentage of the

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U.S. population ages becoming less able to provide for their own housing, assistance for many Americans to provide housing for family members will be needed.

Given recent decisions by the Eastern Washington Growth Management Hearings Board, concern has been expressed that by permitting a separate unit on a property without considering the underlying density could generate a problem similar to a situation that became an issue in 2006. Staff proposed to the Planning Commission that the living unit, if adopted, be classified differently than an “accessory dwelling unit” and be limited in size in relationship to the primary unit.

It was proposed by staff that the current definition of “Accessory Living Quarters” within Kittitas County Code (which is different than a “dwelling”) be amended to allow separation of such units from the primary residence as long as the living quarter is no larger than 1000 square feet or 50% of the floor area of the primary residence, whichever is less. The amendment would indicate within definition the limitation to 1000 square feet for the structure, and it indicates the 50% now within the footnote of the matrices. It was suggested that the criteria limiting the unit to 50% of the primary unit as listed in the footnote be added to the definition of “Accessory Living Quarters” for clarification. Such a change in the Code would prevent two modular units of the same size upon the same property, since one of the units could only be 50% of the area of the primary structure. Accessory Living Quarters are permitted in most zones except General Commercial, Light Industrial, or General Industrial zones.

The Planning Commission unanimously recommends approval of the amendment with the addition of the limitation for square footage to the definition of the “Accessory Living Quarters,” and suggested that maximum distance criteria between the primary structure and separate living quarters be provided.

Docket 3: Providing new uses within the land use matrices in Title 17

Throughout the year after the new matrices were put into effect, a number of proposed uses not provided upon the matrices came before the County for interpretation. This was anticipated by using a new system of analysis. The amendment in Docket 3 proposes to add new uses or clarify meaning to uses existing in the present, adopted zoning matrices found in KCC 17.15. Since the main economic structure in Kittitas County centers around recreation and agriculture, clarifying a number of land use terms, and adding a number of uses to the matrices were proposed by staff to the Planning Commission.

A number of outdoor recreational activities could be open to private party and not be commercial, such as snow parks and trailheads. Some “boat launches” are not commercial and are public. They are not included in the “commercial outdoor recreation” definition. It was suggested to the Planning Commission that the term “Commercial” be eliminated from representation of indoor and outdoor recreational activities so that public activities could be included.

“Small-scale event” activities are becoming popular within the County, and was suggested to the Planning Commission that they be allowed in some zones provided the proposed activities meet criteria and go through either a conditional use process or an administrative conditional use permit process. Such additional changes and uses allowed are indicated within the matrices and could include party barns and rural event centers with appropriate conditions.

A number of requests for “hay storage facilities” were received, yet such activities do not currently exist in the matrices. Staff proposed to the Planning Commission that such facilities be added as a footnote within “Warehousing and distribution” in the Rural Non-LAMIRD and Urban tables and be permitted with Administrative approval.

The Planning Commission unanimously approved all of the staff recommendations and recommends approval by the Board of County Commissioners.

Docket 4: An Administrative Conditional Use Process for Minor Land Use Actions

A number of minor land use activities exist or could be proposed within the rural environment which would be appropriate to the recreational and agricultural economy and social structure of Kittitas County. Such uses would include bed and breakfast facilities, clubhouses and fraternities, small guest ranches, agricultural produce stands and multifamily dwellings in Residential zones within UGAs. The process is designed to cost the applicant less time and monetary expense for comparatively small scale activities. The decision of the administrator would be appealable through the existing administrative appeal process.

The Planning Commission unanimously approved the proposed amendments to the Code and recommends approval by the Board of County Commissioners.

Docket 5: Amendment to Title 18, Code Enforcement.

This item essentially includes violations of Fire Marshal ordinances as enforceable through court action. It also is designed to provide an enforcement officer a form that would be presented to the violator in the same manner as a traffic ticket. Violations would be treated as a misdemeanor in many cases as they are at this time. This amendment is proposed by the Prosecuting Attorney. The Planning Commission unanimously recommends approval of this amendment.