



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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“Building Partnerships – Building Communities”

STAFF REPORT

TO: Kittitas County Board of County Commissioners

FROM: Angela San Filippo, Planner II

DATE: November 24, 2015 Public Hearing

SUBJECT: 2015 Annual Kittitas County Comprehensive Plan and Code Amendment

This public hearing is being held to review the items docketed for the 2015, Annual Amendment of the Kittitas County Comprehensive Plan. This staff report summarizes each application and includes some relevant documentation and proposed policy for your consideration.

Five members of the public attended a public open house held on September 29, 2015 at the Kittitas County Armory Hall in Ellensburg. Notice of the open house was advertised in the Ellensburg Daily Record and the Northern Kittitas County Tribune and a press release was sent to all parties of record and the local newspapers. As of November 18, 2015 one public comment has been received from Futurewise.

The entire record for each proposed docket item was presented to the Planning Commission at a public hearing held on October 27, 2015. Notice of the public hearing was advertised in the Ellensburg Daily Record and the Northern Kittitas County Tribune, a press release was sent to all parties of record and the local newspapers, and the public hearing was included on the Ellensburg Daily Record and Northern Kittitas County Tribune Calendar of Events. No members of the public attended the Planning Commission public hearing.

The entire record for each proposed docket item will be presented to the Board of County Commissioners in digital form. Commission members can request printed copies upon request to Community Development Services.

The general public has had 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 has also been available for viewing at the Community Development Services front desk at:

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There are fourteen (14) items being considered for amendment, primarily within the Kittitas County Code. There are map corrections and associated land inventory table amendments proposed to the Comprehensive Plan in this year's docket.

In summary, the proposed amendments include:

1. Docket Item 1 – this amendment includes changes to reflect correct road names and legal descriptions for hunting restricted areas. Currently Chapter 9.20 of the Kittitas County Code which describes specific areas where hunting restrictions apply references some road names incorrectly or in some cases the boundaries are not described in adequate detail. The proposed amendments will provide clarity and consistency in the Kittitas County Code. The proposed amendments will clarify the hunting restricted areas for the public as well as allowing for proper enforcement of the regulations.
2. Docket Item 2 – the proposed PUD map amendments reflect approved rezoning ordinances and updated project status. The following PUDs were updated in this process:

Evergreen Ridge – an amendment to Evergreen Ridge PUD was passed by Ordinance 2006-026 to rezone 17 acres that were zoned Rural-3 and General Industrial to Planned Unit Development. The maps were updated to correct the PUD boundaries consistent with the authorization of Ordinance 2006-026.

Gold Creek – Gold Creek PUD was superseded by short plat 94-16, therefore the Gold Creek PUD was removed from the PUD zoning layer.

Ronald Mill Site – the rezone of 21.13 acres from Rural-3 and General Industrial to Planned Unit Development was authorized by Ordinance 2011-009. The zoning maps were updated to correct the PUD boundaries consistent with Ordinance 2011-009.

Snoqualmie Village – the Snoqualmie Village PUD was superseded by Summit Park PUD which was passed by Ordinance 2005-018. Based on this information Snoqualmie Village PUD was removed from the PUD zoning layer.

Sno Pass Meadows – the Sno Pass Meadows PUD was denied an extension resulting in the expiration of the PUD and removal from the PUD zoning maps.

Summit Park – the final plat approval for Summit Park PUD was passed by Ordinance 2005-018 and resulted in the rezoning of the following three parcels: 027835, 717835, and 637835 from Forest and Range to Planned Unit Development. The maps were updated to reflect PUD zoning rather than PUD Overlay consistent with Ordinance 2005-018.

As part of the process of updating the PUD zoning maps staff also reviewed the PUD expiration dates as indicated by Kittitas County Code Section 17.36.090. Through this review staff found that no PUDs are scheduled to expire in 2015, therefore no updates are needed based on the expiration dates.

Upon final determination by the Board of County Commissioners with regard to all the edits described above, an official paper zoning map will be produced for approval and signature. The corresponding changes in acreages will be amended into Tables 2-1 and 8.2.4-1 of the Comprehensive Plan.

3. Docket Item 3 – the proposed Calaway, Butler, and Terrell Stalder map amendments to the Kittitas County Comprehensive Plan reflect zoning changes that were passed by ordinances. The map amendments will create consistency with the zoning changes passed by ordinance and the maps in the Kittitas County Comprehensive Plan.

The Calaway rezone is a zoning change passed by Ordinance 2012-009 changing the zone from Urban Residential to Highway Commercial Zoning. The Butler rezone is a zoning change passed by Ordinance 2014-012 changing the zone from Light Industrial to Highway Commercial. The Terrell Stalder is a zoning change passed by Ordinance 2011-016 changing Agriculture-5 to residential zoning.

Upon further evaluation the house and adjacent property proposed to be included in the Ronald LAMIRD boundary is already incorporated into the LAMIRD. The proposal was based on the parcel layer that is not accurate. Evaluation of the parcel layer and aerial photographs indicate that the house and property in question are already a part of the LAMIRD and no adjustment in the logical outer boundary is necessary at this time.

4. Docket Item 4 – the road standards were last updated in September, 2005. Kittitas County Public Works held two open houses in 2011 to discuss the proposed changes to the Road Standards. Most recently a Citizen Advisory group was formed to provide additional input, the advisory group met three times in 2015 to discuss the Road Standard update.

The proposed Road Standard update includes changes throughout Kittitas County Code Title 12 to clarify and correct, including:

- The timing of road construction is changed to be required prior to final approval, or be bonded.
 - The road variance process is updated to include a new appeal process and criteria.
 - The bonding requirements are updated to allow all types of guarantees for private or public development.
 - The development regulations within UGAs are updated to require city road and utility standards regardless of pre-annexation requirements.
 - The driveway width is increased to comply with Kittitas County Code Title 20 Fire Life and Safety.
 - The private road certification process is explained and clarified.
 - The Stormwater regulations are updated to comply with state regulations.
 - The bridge construction requirements are clarified.
 - The access permit process is updated.
5. Docket Item 5 – this proposed amendment has been incorporated into Docket Number 15-04, Road Standards.
 6. Docket Item 6 – this amendment would allow landowners the opportunity to create a conservation easement on a specified area of their property if there is no domestic water use. The intent is to provide a subdivision mechanism that allows landowners the flexibility to divide their property upon meeting conditions that conserve the area for open space or agriculture without having to provide a water source to the area.

The proposed amendment was originally proposed as a revision to Kittitas County Code Chapter 13.35, upon further research and evaluation Public Health and Community Development Services staff believe the proposal is a better suited in Kittitas County Code Title 16. Chapter 13.35 of Kittitas County Code specifically addresses adequate water supply determinations for building permits and this amendment would be for subdivided property with no domestic water use. Title 16 of Kittitas County Code addresses subdivisions and already includes provisions that reference Chapter 13.35 when an adequate water supply determination is required. It is logical to have the conservation easement alternative in Title 16 which includes all the other regulations that would be required for a subdivision.

7. Docket Item 7 – the proposed amendment will streamline the water availability process for building permits on lots within plats utilizing connections to a Group A public water system currently serving a City, Town, or Master Planned Resort.

Section 13.35.020 of Kittitas County Code requires an adequate water supply determination (AWS D) review of all new uses of water, including those adding connections to municipal Group A water systems. Large Group A water systems are required to maintain, monitor, and operate systems as per Washington Administrative Code (WAC) 246-290 and 246-292. A Group A water system is defined as having 15 or more service connections or serving 25 or more people 60 or more days per year.

Group A systems are under direct authority of Washington State Department of Health. Any violation of monitoring and operating requirements requires specific remedies immediately or costly daily fines can be imposed by State and/or Federal Water Quality agencies. The larger systems have stringent monitoring and reporting requirements. With this in mind, Kittitas County Public Health Department believes an adequate water supply determination is not necessary in situations where a building permit is based on the structure utilizing connections to a Group A public water system currently serving a City, Town, or Master Planned Resort.

8. Docket Item 8 – the amendments to Kittitas County Code Title 14 are for consistency and clarity. The amendments include clarification regarding what constitutes a completed building permit, changes in language to be consistent with RCW and WAC definitions of manufactured homes, modular homes, recreational vehicle, park model trailer, and references to the International Building Code. Amendments also include deleting Section 17A.06.010 because it was repealed and eliminating the manufactured home snow load exemption.

The snow load exemption was originally intended to allow manufactured homes to be placed in a manufactured home park without having to meet the snow load to the roof and structure. The exemption required that owners submit a recorded affidavit stating a snow removal plan was in place. There is no reason to allow this exemption and it may create a liability if there were a collapse. Today's manufactured homes can be designed to meet higher snow loads or an owner may build a stand-alone roof shelter over the manufactured home meeting the snow load requirements.

The proposed amendment to delete Section 14.04.050, Dry Cabins from Kittitas County Code is recommended by Community Development staff for removal from the docket. The substantive nature of this proposal and the amount of work and input needed from multiple County departments and the public to adequately address dry cabins make it necessary for staff to recommend removal of this proposal from the docket process and that it be addressed at a later date.

9. Docket Item 9 –the amendments to small residential structures are for clarity and consistency. Amendments were made to reference the International Building Code and clarify that small residential structures on wheels are considered recreational vehicles.
10. Docket Item 10 – the grading ordinance was approved during the 2014 docket process. Since implementation on December 1, 2014, Public Works staff has identified some sections of the clearing and grading code that need updating. These amendments include additions and clarifications to the exemptions.
11. Docket Item 11 – the proposed additions to Kittitas County Title 15A will vest the specified permit types to the land use regulations and ordinances in effect at the time a fully complete application has been submitted to the County. Vesting upon submittal of a complete application is consistent with the vesting of building permit applications governed by RCW 19.27.095, vesting of short subdivision and subdivision applications governed by RCW 58.17.033, and vesting of development agreements vested by RCW 36.70B.180. The proposed vesting language will provide a measure of certainty to County regulators and developers and will protect a developer's expectations against fluctuating land use policy.

A 2014 state court of appeals decision (*Potala Village, llc v. City of Kirkland*) held that the statutory vested rights doctrine replaced, rather than supplemented, the common law (court-made) vested rights doctrine. Under this decision, vested rights apply only in the context of building permit applications, short subdivisions, subdivision applications, and development agreements. This modified the way vested rights are viewed in the State of Washington where historically the vested rights doctrine referred generally that certain land use applications, under the proper conditions, were considered only under the land use statutes and ordinances in effect at the time of the application's submission. While this decision restricted vested rights at the state level, city or county policies may grant broader vested rights.

12. Docket Item 12 –the proposed amendments will authorize the Hearing Examiner to make final land use decisions in place of the Board of County Commissioners. These amendments serve the purpose of having a professionally trained individual make objective quasi-judicial decisions that are supported by an adequate record and are free from political influences. Making this amendment of the review and decision procedures will allow the Board of County Commissioners to better concentrate on policy-making and will reduce the local government liability exposure through what should be more consistent legally sustainable quasi-judicial decisions.

The Hearing Examiner is authorized in RCW 36.70.970 to hear and issue decisions on certain zoning matters, in RCW 58.17.330 for hearing and issuing recommendations or decisions on preliminary plats, and in RCW 43.21C.075 to conduct hearings on SEPA appeals.

13. Docket Item 13 – the amendments to Kittitas County Code Title 17 are for consistency and clarity. The proposed amendments include:
 - An amendment to the definition of structure to exclude fences under 7 feet or under in height. Currently the definition for structure in Kittitas County Code is broad enough that it is interpreted to include fences and Kittitas County routinely issues building permits for fences. The International Building Code exempts fences that are not over 7 feet in height; therefore this proposal would create consistency between Kittitas County Code and the International Building Code. The County's Shoreline Master Program provides its own definition of structure that includes all fences.
 - A definition of farm stands was included in the 2014 docket amendment process but was unintentionally placed out of alphabetical order. The proposed amendment will move the definition of farm stands from Kittitas County Code Section 17.08.456 to 17.08.256 which is consistent with the alphabetical organization of the definitions in Chapter 17.08.
 - Currently two-family dwelling units (duplexes) are permitted in all Agriculture-5 zones but not in Rural-5 zones. For consistency, the proposed amendment would permit duplexes in both Agriculture-5 and Rural-5 zones. This is consistent with the purpose and intent as state in Kittitas County Code for both zones.
 - The proposed amendment would allow primitive campgrounds in Forest and Range zones. Currently there is no designation or definition of primitive campgrounds in Kittitas County Code but are referenced in land use tables. The proposed amendment would also include a definition of primitive campgrounds that protects natural resources by preventing designated campsites, toilets, picnic tables, fire grates, and water tanks and providing conditions on where primitive campgrounds are located.
 - The proposed amendment would change campgrounds from an outright permitted use in Commercial Forest zones to a conditional use. This would ensure that campgrounds are able to be conditioned to meet setback requirements and other standards adequate to meet public health and safety requirements.

- According to the zoning use tables in Kittitas County Code Section 17.15 utilities are allowed as a permitted use in all land use zones (except Historic Trailer Courts) with a reference to Chapter 17.61 of Kittitas County Code which regulates Utilities. The proposed amendments would modify the use tables to more accurately reflect the regulations that are described in Chapter 17.61 which includes some instances where utilities or associated facilities would be a conditional use or an administratively conditioned use.

14. Docket Item 14 – this amendment has been proposed by a private party. The proposal will include adding definitions of Agricultural Sustainability Center and Rural Tourism to Kittitas County Code Chapter 17.08 and allow these two new uses in Rural Non-LAMIRD and Rural LAMIRD lands as shown in the Land Use Tables of Kittitas County Code Section 17.15.060. As proposed the new uses would be permitted in certain rural zones under certain conditions. The proposed amendments would provide new uses that are compatible and representative of Kittitas County’s rural communities. The proposed new uses would provide efficient and productive uses of rural land in ways that promote economic development, create the opportunity for innovative housing and a mix of uses that preserve rural character, and require only rural utilities and services.

Consistent with the Growth Management Act (RCW 36.70A) the County’s Comprehensive Plan recognizes the importance of preserving rural character. The County’s zoning code preserves rural character by limiting the types and intensity of uses and development that can occur in rural areas, it does this by defining different uses and indicating in the Tables of Kittitas County Code Section 17.15.060 whether and to what extent such uses are allowed in various zones. According to the private party proposal for this amendment the County’s zoning omits certain uses that are consistent with rural lifestyles. The proposal further states that including definitions of Agricultural Sustainability Center and Rural Tourism, and allowing such uses in certain rural zones, under specified terms and conditions, would help to ensure that certain activities in rural areas can take place in various rural zones when conditions are such that the use will be consistent with rural character.

Planning Commission Recommendation

The Planning Commission was presented all proposals at a public hearing at the Kittitas County Armory Hall on October 27, 2015. No members of the public were present at the hearing and there was no public testimony given.

The Planning Commission recommended Docket Item 15-04 Road Standards be moved forward to the Board of County Commissioners with a recommendation that the secondary access decision be further deliberated but all other changes to the Road Standards be approved through the docket process.

The Planning Commission was unable to reach a decision on Docket Item 15-11 Vesting. The Planning Commission determined this proposed amendment to Kittitas County Code Title 15A would be moved forward to the Kittitas County Board of County Commissioners as a split decision that needs further deliberation.

The Planning Commission voted to move all other docket proposals forward to the Board of County Commissioners as presented by Kittitas County staff.