



May 6, 2008

Kittitas County Board of Commissioners  
205 West 5<sup>th</sup>, Room 108  
Ellensburg, WA 98926

**RE: 2008 Growth Management Act Compliance Documents – Supplemental Comments**

Honorable Commissioners:

These supplemental comments are prepared on behalf of several property owners<sup>1</sup> concerned with the proposed Growth Management Act (GMA) compliance documents. The purpose of these comments is to clarify several issues discussed during the Commissioner's public hearing on May 6, 2008.

**State Economic Policy**

As noted during the May 6<sup>th</sup> public hearing, Title 43.21H RCW contains the State Economic Policy requires local jurisdictions give economic values appropriate consideration prior to adopting new regulations. More specifically, RCW 43.21H.020 states:

*“All state agencies and local government entities with rule-making authority under state law or local ordinance shall adopt methods and procedures which will insure that economic values will be given appropriate consideration in the rule-making process along with environmental, social, health, and safety considerations.”*

To date, no documentation has been identified in the record which would indicate economic values were ever given appropriate consideration during the preparation of the proposed compliance documents. It is vitally important the Kittitas County fully disclose potential economic impacts associated with the proposed documents. Failure to do so would, in our opinion, violate the public's trust.

***Recommendation***

We respectfully request the Commissioners direct staff to prepare and disseminate documentation demonstrating economic values were appropriate considered through this rule-making process. In addition, we request the Commissioners direct staff to prepare and disseminate a detailed analysis which identifies potential economic impacts associated with the proposed compliance documents.

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<sup>1</sup> Manna Funding et. al., Roslyn Heights et. al, Hutchinson Properties, Ellensburg Cement Products, Robert Sukert, and Equity Holding et. al.

### **Private Property Rights**

As we testified on May 6<sup>th</sup>, Kittitas County Code 1.24 requires the County to prepare Property Takings Analysis prior to adopting or amending any regulations. Kittitas County Code 1.24.020(2) outlines the specific requirements and states:

*“A private property taking impact analysis shall be a written statement that includes:*

- a) The specific purpose of the policy, regulation, proposal, recommendation, or related agency action;*
- b) An assessment of the likelihood that a taking of private property will occur under such policy, regulation, proposal, recommendation, or related department action;*
- c) An evaluation of whether such policy, regulation, proposal, recommendation, or related department action is likely to require compensation to private property owners;*
- d) Alternatives to the policy, regulation, proposal, recommendation, or related agency action that would achieve the intended purposes of the agency action and lessen the likelihood that a taking of private property will occur;*
- e) An estimate of the potential liability of county government if the county is required to compensate a private property owner; and*
- f) If the policy, regulation, proposal, recommendation, or related department action is in response to a state or federal mandate, the name of the state or federal agency responsible for the policy, regulation, proposal, recommendation, or related action shall be stated.”*

Kittitas County Code 1.24.020(3) also requires each department to:

*“provide an analysis as part of any submission otherwise required to be made to the board of county commissioners in conjunction with a proposed policy, regulation, proposal, recommendation, or related action.”*

To date, we have been unable to identify where the required Property Takings Analysis is in the record. The fact that such an analysis was not transmitted to the Commissioners as part of the proposed compliance documents appears to be a procedural error.

During the Commissioner’s questioning of Community Development Services Director Darryl Piercy regarding this issue, Director Piercy indicated there would be no takings; therefore, no analysis was needed. With all due respect to Director Piercy he does not have the authority to waive the requirements of KCC 1.24. Further, we and several others have identified several proposed amendments which may in fact result in the taking of private property.

Director Piercy maintains no down-zoning is proposed through the proposed compliance documents. However, the proposal includes the removal of all of the designated Urban Growth Nodes (UGNs) and the down-zoning of all properties within those areas. Further, the proposed amendments to the Kittitas County Zoning Code include changes to the permitted and conditional uses allowed within certain zoning classifications. Finally, the proposal would

separate the current Forest and Range 20 zone into three separate zoning classifications<sup>2</sup> which result in different permitted and conditional uses and down-zoning in some areas.

***Recommendation***

We respectfully request the Commissioners table consideration of the proposed compliance documents until a Property Takings Analysis is prepared a disseminated for public review.

**Three Acre Zoning**

The Commissioner's received testimony regarding the removal of three acre zoning from the Zoning Code, with the number of existing three acre lots in the County cited as rational for the removal. Unfortunately, the testimony relied on fatally flawed rational and should be ignored. The testimony assumes all existing three acre lots are marketable and/or for sale by the owner. In addition, the only way Kittitas County can insure existing three acre lots would be available for sale/development is to mandate the sale of private property.

***Recommendation***

We respectfully request the Commissioners ignore the arguments presented for removal of three acre zoning in Kittitas County and retain three acre zoning as a zoning classification.

Once again, we thank you for the opportunity to comment on the proposed Growth Management Act Compliance documents. If you have any questions or need additional information, please don't hesitate to contact me.

Respectfully submitted,  
**Taylor Consulting Group**

David V. Taylor, Senior Consultant/Owner

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<sup>2</sup> Forest and Range 20, Rural Outlying 20 and Rural Outlying 80.