



## Building Industry Association of Washington

Post Office Box 1909 • Olympia, WA 98507 • 1-800-228-4229 • FAX (360) 352-5332 • www.biaw.com

May 8, 2008

Kittitas County Board of Commissioners  
Honorable Alan A. Crankovich  
Honorable Mark McClain  
205 W. 5<sup>th</sup> Avenue, Suite 108  
Ellensburg, WA 98926

**Re: Proposed Compliance Drafts**

Dear Commissioners:

The Central Washington Home Builders Association and Building Industry Association of Washington (Home Builders) have quickly reviewed the compliance draft documents posted by Community Development Services (CDS) in response to the May 6, 2008 public hearing. At that hearing, we understood the Commissioners directed CDS to revise its proposed amendments to the County's Comprehensive Plan and development regulations to reflect only those changes unaffected by the Superior Court stay orders.

Although it is once again not at all clear what is actually being proposed and why, we find it perplexing that the newly posted drafts still contain changes to issues that are stayed by both Kittitas County Superior Court orders. As one example, albeit significant, the County is apparently still proposing sweeping changes to its rural land planning in response to Issue 11 of the Growth Board's 2007 Final Determination and Order (FDO), even though Issue 11 is stayed by the Superior Court. See April 11 CDS Staff Narrative at p.5 (admitting that the rural land use changes are in response to Issue 11).

As explained in the Home Builders' May 5, 2008 memorandum, there is absolutely no reason to make any changes at this time to the Comprehensive Plan and development regulations in response to those issues stayed by the Kittitas County Superior Court. Any such changes could significantly affect the currently pending appeals. As previously explained, amending the Comprehensive Plan and development regulations at this time would moot those issues on appeal. Yet, the current proposals still contain numerous changes in response to the stayed issues, placing the Home Builders in the awkward position of protecting its rights against the County, a co-appellant in the litigation.

RECEIVED

MAY 09 2008

1ST AND 3RD

BOARD OF KITTITAS COUNTY COMMISSIONERS

CDS

Further, it is only prudent to wait until the appeals run their course before considering any significant planning changes related to the issues. At that time, the County will have clear direction as to what is, and is not, permissible under the GMA. In the meantime, the Superior Court has made clear that the County is under no obligation to respond to the stayed issues under the Growth Board's 2007 and 2008 FDOs, such as Issue 11, and the applicable portions of the Growth Board's Compliance Schedules set forth in the FDOs.

We respectfully suggest that the County Commissioners again direct the planning staff to prepare a red-lined proposal for public review and comment that only reflects changes to the Comprehensive Plan and development regulations that respond to issues of the FDOs not stayed by the Superior Court. In light of the underlying litigation and the extreme importance of the stays to the Home Builders and other parties, we would also ask for the CDS staff to prepare and post a narrative explaining what planning changes are being made, and to what issues they are intended to respond.

Thank you for your kind consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Cook", written in a cursive style.

Andrew Cook  
Legal Counsel