

# Benton County Planning Department

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## PCM 1.1

**DATE:** AUGUST 28, 2014

**TO:** BENTON COUNTY PLANNING COMMISSION

**FROM:** BENTON COUNTY PLANNING DEPARTMENT

**RE:** DRAFT ORDINANCES AMENDING BENTON COUNTY CODE CHAPTERS TO CREATE A HEARINGS EXAMINERS SYSTEM AND ADDING A NEW CHAPTER TO TITLE 17.

### **SUMMARY:**

The Benton County Planning Department is presenting to the Planning Commission a number of ordinances to create a hearings examiner system in Benton County. In Benton County a hearings examiner would replace the Benton County Board of Adjustment and would conduct public hearings and rule on Special Permits; Conditional Use Permits; Variances; Shoreline Conditional Use Permits; Shoreline Variances; and Appeals of the Planning Managers Decisions. The ordinances will also direct some of the appeals that are currently considered by the Board of County Commissioners to the Hearings Examiner. All of the proposed ordinances have an effective date of January 1, 2015, to give the County time to contract with a hearings examiner and modify existing applications and procedures.

### **SEPA**

The ordinances have been reviewed under the requirements of the State Environmental Policy Act, as amended, along with the Environmental Checklist and other information. A Determination of Non-Significance (**PCM 1.26**) was issued on August 11, 2014.

### **LEGAL NOTICE PUBLISHED:**

The legal notice required by BCC, for the Planning Commission's Open Record Hearing on the ordinance amendments was published in the Tri-City Herald on Thursday, August 27, 2014.

### **BACKGROUND:**

Attached to this memo are draft ordinances that will amend the Benton County Code to allow the County to use a Hearings Examiner System. The ordinance amending BCC 11.04 will also remove the definition for Board of Adjustment, replace the definition of Auto Wrecking Yard with a definition for wrecking yards and add a definition for Hearings Examiner. A new chapter will be added to Title 17. This new chapter will outline the duties and functions of a Hearings Examiner. There will be a total of 24 ordinances for the Planning Commission to discuss. Below is a brief summary of each draft ordinance:

**PCM 1.2** - BCC 3.04 - An ordinance relating to the building code; replaces the Board of Adjustment with the Hearings Examiner as the party responsible for granting variances.

**PCM 1.3** - BCC 3.22 - An ordinance relating to Manufactured Home/Factory Assembled Structure (FAS) Parks, amending certain sections by replacing the "Benton County Planning and Building Department" with the "Benton County Planning Department" and replacing the "Director" with "Manager"; amending certain sections by replacing the "Board of Adjustment with " with the "Hearings Examiner".

**PCM 1.4** - BCC 3.24 - An ordinance relating to swimming pools; replacing the Board of Adjustment with the Hearings Examiner as the party responsible for granting variances; replacing "Building Department with "Planning Department"; replacing "Building Official" with "Planning Manager"; and, replacing "Planning Director" with "Planning Manager".

**PCM 1.5** - BCC 3.26 - An ordinance relating to flood damage prevention; amending certain sections by replacing the Board of County Commissioners with the Hearings Examiner as the office responsible for hearing appeals and requests for variances; replacing the "Planning and Building Department" with the "Planning Department"; replacing the "Planning and Building Director" with the "Planning Director".

**PCM 1.6** - BCC 6.35 - An ordinance relating to environmental policy; replacing the Board of County Commissioners with the Benton County Hearings Examiner as the party responsible for receiving and hearing appeals of determination of significance, appeals from threshold determinations and appeals of the adequacy of a final or supplemental environmental impact statement (EIS).

**PCM 1.7** - BCC 9.04 - An ordinance relating to short plat subdivisions; defining "Department" as the Benton County Planning Department; replacing the Board of County Commissioners with the Hearings Examiner as the party responsible for considering appeals of short plat decisions.

**PCM 1.8** - BCC 11.04 - An ordinance relating to zoning, amending the definitions section; replacing "Auto wrecking yard" with "wrecking yard"; removing the definition for "Board of Adjustment" and adding the definition for "Hearings Examiner".

**PCM 1.9** - BCC 11.10 - An ordinance relating to the Community Center Residential District (CCR); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**PCM 1.10** - BCC 11.13 - An ordinance relating to Urban Growth Area Residential District (UGAR), replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**PCM 1.11** - BCC 11.14 - An ordinance relating to zoning and Rural Lands One Acre District (RL1); replaces the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**PCM 1.12** - BCC 11.16A - An ordinance relating to zoning and Rural Lands Five Acre District (RL5); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**PCM 1.13** - BCC 11.16B - An ordinance relating to zoning and Rural Lands Twenty Acre District (RL20); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**PCM 1.14** - BCC 11.18 - An ordinance relating to GMA Agricultural District (GMA); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits, setting criteria and imposing conditions and requirements..

**PCM 1.15** - BCC 11.22 relating to zoning and the General Commercial District (GC); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**PCM 1.16** - BCC 11.25 - An ordinance relating to zoning and the Community Commercial District (CC); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**PCM 1.17** - BCC 11.27 - An ordinance relating to zoning and the Interchange Commercial District (IC); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**PCM 1.18** - BCC 11.30 - An ordinance relating to zoning and the Light Industrial District (LI); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits; amending "Auto wrecking yard" to read "Wrecking yard" as a use requiring a conditional use permit.

**PCM 1.19** - BCC 11.34 - An ordinance relating to zoning and the Heavy Industrial District (HI); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits; amending "Auto wrecking yard" to read "Wrecking yard" as an allowed use within the Heavy Industrial District (HI).

**PCM 1.20** - BCC 11.46 - An ordinance relating to zoning and the Park District (P); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**PCM 1.21** - BCC 11.48 - An ordinance relating to zoning and the Unclassified District (U); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits; replacing "Section 2 or 3 above" with "BCC 11.48.010 or BCC 11.48.060".

**PCM 1.22** - BCC 11.52 - An ordinance relating to the general provisions of the zoning code, replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits; issuing conditional use/special use permit; granting variances, and hearing appeals; replacing the title of the planning director with that of planning administrator.

**PCM 1.23** - BCC 11.65 - An ordinance relating to zoning and Communication Facility Criteria, replacing the Planning Director with the Planning Administrator as the party responsible for the provisions of Chapter 11.65 BCC; Replacing the Board of Adjustment with the Hearings Examiner as the party responsible for hearing appeals.

**PCM 1.24** - BCC 17.10 - An ordinance relating to the permit review process. Defining the "Building Department Manager", amending Table 17-1 Project Permit Application types, amending Table 17-2 Project Permit Application - Administrative Process, replacing the Planning Director with the Building Department Manager as the party responsible for decisions regarding Type I and Type II project permit applications and appeals thereof, replacing the Board of Adjustment with the Hearings Examiner as the party responsible for hearings relating to Type V project permit applications and appeals of decisions on all appeals of Type III and Type IV project permit applications and hearing appeals of adequacy of any final or supplemental EIS issued in conjunction with a Type III, Type IV or Type V project permit application.

**PCM 1.25** - An ordinance relating to the creation of the office of Benton County Hearings Examiner; setting standards and procedures; and **adding a new chapter** to Title 17 of the Benton County Code.

**RECOMMENDATION:**

The Benton County Planning Department recommends that the planning commissions review the proposed ordinances, conduct the public hearing and make recommendations to the Board of County Commissioners.