

**EXHIBIT LIST FOR HEARINGS EXAMINER ORDINANCE AMENDMENTS**

<b>Planning Commission Staff Memo Exhibit List September 8, 2014 Public Hearing</b>			
		<b>DATED</b>	
<b>PCM 1</b> Includes:	PCM 1.1	Staff Memo	August 28, 2014
	PCM 1.2	BCC 3.04- An ordinance relating to the building code	
	PCM 1.3	BCC 3.22 - An ordinance relating to Manufactured Home/Factory Assembled Structure (FAS) Parks	
	PCM 1.4	BCC 3.24 - An ordinance relating to swimming pools	
	PCM 1.5	BCC 3.26 - An ordinance relating to flood damage prevention	
	PCM 1.6	BCC 6.35 - An ordinance relating to environmental policy	
	PCM 1.7	BCC 9.04 - An ordinance relating to short plat subdivisions	
	PCM 1.8	BCC 11.04 - An ordinance relating to zoning definitions	
	PCM 1.9	BCC 11.10 - An ordinance relating to the Community Center Residential District (CCR)	
	PCM 1.10	BCC 11.13 - An ordinance relating to Urban Growth Area Residential District (UGAR)	
	PCM 1.11	BCC 11.14 - An ordinance relating to zoning and Rural Lands One Acre District (RL1)	
	PCM 1.12	BCC 11.16A - An ordinance relating to zoning and Rural Lands Five Acre District (RL5)	
	PCM 1.13	BCC 11.16B - An ordinance relating to zoning and Rural Lands Twenty Acre District (RL20)	
	PCM 1.14	BCC 11.18 - An ordinance relating to GMA Agricultural	
	PCM 1.15	BCC 11.22 relating to zoning and the General Commercial District (GC)	
	PCM 1.16	BCC 11.25 - An ordinance relating to zoning and the Community Commercial District (CC)	
	PCM 1.17	BCC 11.27 - An ordinance relating to zoning and the Interchange Commercial District (IC)	
	PCM 1.18	BCC 11.30 - An ordinance relating to zoning and the Light Industrial District (LI)	
	PCM 1.19	BCC 11.34 - An ordinance relating to zoning and the Heavy Industrial District (HI)	
	PCM 1.20	BCC 11.46 - An ordinance relating to zoning and the Park District (P)	
	PCM 1.21	BCC 11.48 - An ordinance relating to zoning & the Unclassified District (U)	
	PCM 1.22	BCC 11.52 - An ordinance relating to the general provisions of the zoning code	
	PCM 1.23	BCC 11.65 - An ordinance relating to zoning and Communication Facility Criteria	
	PCM 1.24	BCC 17.10 - An ordinance relating to the permit review process	

**EXHIBIT LIST FOR HEARINGS EXAMINER ORDINANCE AMENDMENTS**

	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.	
	PCM 1.26	Determination of Non Significance	August 11, 2014
	PCM 1.27	Environmental Checklist	July 28, 2014
	PCM 1.28	Email from Department of Commerce Expedited Review	August 26, 2014
	PCM 1.29	Letter from Sunnyside Valley Irrigation District	August 12, 2014
<b>Planning Commission Continued Hearing Staff Memo Exhibit List for September 30, 2014</b>			
<b>PCM 2</b> Includes:	PCM 2.1	Planning Commission Memo	September 22, 2014
	PCM 2.2	Memo from Steve Donovan to Michael Shuttleworth	September 16, 2014
	PCM 2.3	Sample RFP Okanogan County	
	PCM 2.4	Douglas County 2011 Annual Hearings Examiner Report	December 15, 2011
	PCM 2.5	Douglas County 2012 Annual Hearings Examiner Report	December 21, 2012
<b>Board of County Commissioners Workshop Staff Memo Exhibit List for October 21, 2014</b>			
<b>BCCWK 1</b> includes:	BCCWK 1.1	Board of County Commissioners Workshop Agenda Sheet	October 14, 2014
	BCCWK 1.2	Planning Commission Findings for BCC 3.04- An ordinance relating to the building code	October 3, 2014
	BCCWK 1.3	Planning Commission Findings for BCC 3.22 - An ordinance relating to Manufactured Home/Factory Assembled Structure (FAS) Parks	October 3, 2014
	BCCWK 1.4	Planning Commission Findings for BCC 3.24 - An ordinance relating to swimming pools	October 3, 2014
	BCCWK 1.5	Planning Commission Findings for BCC 3.26 - An ordinance relating to flood damage prevention	October 3, 2014
	BCCWK 1.6	Planning Commission Findings for BCC 6.35 - An ordinance relating to environmental policy	October 3, 2014
	BCCWK 1.7	Planning Commission Findings for BCC 9.04 - An ordinance relating to short plat subdivisions	October 13, 2014
	BCCWK 1.8	Planning Commission Findings for BCC 11.04 - An ordinance relating to zoning definitions	October 3, 2014
	BCCWK 1.9	Planning Commission Findings for BCC 11.10 - An ordinance relating to the Community Center Residential District (CCR)	October 3, 2014
	BCCWK 1.10	Planning Commission Findings for BCC 11.13 - An ordinance relating to Urban Growth Area Residential District (UGAR)	October 3, 2014
	BCCWK 1.11	Planning Commission Findings for BCC 11.14 - An ordinance relating to zoning and Rural Lands One Acre District (RL1)	October 3, 2014
	BCCWK 1.12	Planning Commission Findings for BCC 11.16A - An ordinance relating to zoning and Rural Lands Five Acre District (RL5)	October 3, 2014
	BCCWK 1.13	Planning Commission Findings for BCC 11.16B - An ordinance relating to zoning and Rural Lands Twenty Acre District (RL20)	October 3, 2014
	BCCWK 1.14	Planning Commission Findings for BCC 11.18 - An ordinance relating to GMA Agricultural District (GMA)	October 3, 2014

**EXHIBIT LIST FOR HEARINGS EXAMINER ORDINANCE AMENDMENTS**

	BCCWK 1.15	Planning Commission Findings for BCC 11.22 relating to zoning and the General Commercial District (GC)	October 3, 2014
	BCCWK 1.16	Planning Commission Findings for BCC 11.25 - An ordinance relating to zoning and the Community Commercial District (CC)	October 3, 2014
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	BCCWK 1.23	Planning Commission Findings for BCC 11.65 - An ordinance relating to zoning and Communication Facility Criteria	October 13, 2014
	BCCWK 1.24	Planning Commission Findings for BCC 17.10 - An ordinance relating to the permit review process	October 3, 2014
	BCCWK 1.25	Planning Commission Findings for 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.	October 3, 2014
<b>Board of County Commissioners Memo Exhibit List for October 28, 2014</b>			
<b>BCCM 1</b> includes:	BCCM 1.1	Board of County Commissioners Agenda Sheet	October 21, 2014
	BCCM 1.2	Planning Commission Legal Notice	August 20, 2014
	BCCM 1.3	Board of County Commissioners Legal Notice	October 9, 2014
<b>Board of County Commissioners Memo Hearing List for October 28, 2014</b>			
<b>BCCH 1</b> includes:	BCCH 1.1		
	BCCH 1.2		
	BCCH 1.3		

**The Exhibit Numbers are found in the Top Right Hand Corner of each document.**

**PCR = Planning Commission Record Exhibits**

**PCM = Planning Commission Memo Exhibits**

**PCH = Planning Commission Exhibits submitted during Hearing**

**BCCWK = Board of County Commissioners Workshop Exhibits**

**BCCM = Board of County Commissioners Memo Exhibits**

**BCCH = Board of County Commissioners Hearing Exhibits submitted during Hearing**

## BCCM 1.1

<b>AGENDA ITEM</b> <b>MTG. DATE:</b> October 28, 2014 <b>SUBJECT:</b> Ordinance amendments to create a Hearings Examiner System <b>MEMO DATE:</b> October 21, 2014 <b>Prepared By:</b> Michael Shuttleworth	<b>TYPE OF ACTION NEEDED</b> Execute Contract Pass Resolution <b>X</b> Pass Ordinance <b>X</b> Pass Motion Other	Consent Agenda Public Meeting Public Hearing <b>X</b>
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### **BACKGROUND INFORMATION**

The Benton County Planning Department is presenting to the Board of County Commissioners 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. The hearings examiner would conduct hearings 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 time to contract with a hearings examiner and modify existing applications and procedures. The Planning Commission considered the proposed ordinances at a public hearing and voted to recommend the adoption of the ordinances.

The Benton County Board of Commissioners will be conducting a public hearing on October 28, 2014 at 9:00 a.m. to review and discuss proposed ordinances.

### **SUMMARY**

The Benton County Planning Department is proposing that the Benton County adopt a hearing examiner system to handle land use applications requiring a public hearing with the Board of Adjustment. The Benton County Planning Commission has conducted a public hearing on the draft ordinances and recommended that the ordinances be adopted by the Board of County Commissioner. A public hearing has been scheduled for October 28, 2014.

### **RECOMMENDATION**

It is the recommendation of the Benton County Planning Commission that the proposed ordinances be approved and adopted by the Benton County Board of County Commissioners.

### **FISCAL IMPACT**

The cost of contracting with a hearings examiner. The Planning Department included the projected costs of a hearing examiner in its 2015-2016 budget.

### **MOTION**

After considering the information received at the public hearing on October 28, 2014, the Planning Department recommends the following motion: The Board approve the amendments to the Benton County Code as proposed in the ordinances shown in PCM 1.2 through PCM 1.25 and adopt the Planning Commission findings of fact and conclusions as our own.

# Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

## NOTICE OF PUBLIC HEARING

NOTICE IS GIVEN that the following application and ordinance amendments will be considered by the Benton County Planning Commission at a public hearing at a Special Meeting on Monday, September 8, 2014, at 7:00 p.m. in the Hearing Room, Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350. All concerned persons may appear and present any support for or objections to the preliminary plat revision or ordinances or submit written testimony to the Planning Commission in care of the Planning Department on or before the date of the hearing. It is suggested that if you plan on attending the hearing that you call the Benton County Planning Department by 4 p.m. the afternoon of the hearing to confirm that the hearing will be conducted as scheduled.

**R2014-SUB 09-02** for a major revision to the preliminary approved plat of Hidden Hills SUB 09-02 to combine Phases 3 and 4 into Phase 3 which will complete all phases for this subdivision; by realigning the roads within this phase and by reducing the number of total lots in the plat to 48. The site is located in the Southeast Quarter of Section 34, Township 9 North, Range 28 East, W.M.

**Ordinance Amendments** to BCC 3.04, 3.22, 3.26, 6.35, 9.04, 11.04, 11.10, 11.13, 11.14, 11.16A, 11.16B, 11.18, 11.22, 11.25, 11.27, 11.30, 11.34, 11.46, 11.48, 11.52, 11.65, 17.10 and adding a new chapter BCC 17.20 all relating to establishing a Hearings Examiner System with some amendments relating to Auto Wrecking Yards and housekeeping changes regarding Department and Staff titles.

A summary of the proposed amendments follows this legal notice. All the above ordinance amendments will take effect and be in full force on January 1, 2015.

NOTICE IS FURTHER GIVEN that said 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 was issued on August 11, 2014. Comments regarding the determination and the environmental impacts of the proposal can be made to the planning department by September 8, 2014.

FURTHER INFORMATION REGARDING THE PROPOSALS and copies of the proposed ordinances are available at no cost to the public from the Benton County Planning Department at the following address: 1002 Dudley Avenue, P O Box 910, Prosser, WA 99350 or by calling 736-3086 (Tri-Cities) or 786-5612 (Prosser).

At this hearing, the Planning Commission may recommend approval or disapproval of the application to the Benton County Board of Commissioners. All parties concerned may appear and present any support or objections for the application. Information concerning the application can be obtained at the Benton County Planning Department, P.O. Box 910, 1002 Dudley Avenue, Prosser, Washington 99350 or by calling 736-3086 (Tri-Cities) or 786-5612 (Prosser).

It is Benton County's policy that no qualified individual with a disability shall by reason of such disability be excluded from participation in public meetings. If you wish to use auxiliary aids or require assistance to comment at this public meeting, please contact the ADA Coordinator or the Benton County Planning Department at the above stated phone numbers and/or address no later than 48 hours prior to the date of the meeting. The Request for Reasonable Accommodation form is available online at [www.co.benton.wa.us](http://www.co.benton.wa.us) or from the Planning Department.

DATED at Prosser, Washington on this 20th day of August 2014.

MARTIN SHEERAN, Chairman  
BENTON COUNTY PLANNING COMMISSION

MICHAEL SHUTTLEWORTH, Planning Manager  
BENTON COUNTY PLANNING DEPT.

PUBLISH: August 27th, 2014

## ORDINANCE AMENDMENT SUMMARIES

The severability and effective dates as follows are the same for all the ordinances being amended:

**SEVERABILITY** If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

**EFFECTIVE DATE** This ordinance shall take effect and be in full force as of January 1, 2015.

### **BCC 3.04 relating to Building Codes**

An ordinance relating to the building code; replacing the Board of Adjustment with the Hearings Examiner as the party responsible for granting variances;

### **BCC 3.22 relating to Manufactured Home/Factory Assembled Structures Parks**

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".

### **BCC 3.24 relating to swimming pools**

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".

### **BCC 3.26 relating to Flood damage prevention**

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".

### **BCC 6.35 relating to environmental policy**

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).

### **BCC 9.04 relating to short plat subdivisions**

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.

**BCC 11.04 relating to zoning**

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".

**BCC 11.10 relating to the Community Center Residential District (CCR)**

**BCC 11.13 relating to Urban Growth Area Residential District (UGAR)**

**BCC 11.14 relating to Rural Lands One Acre District (RL1)**

**BCC 11.16A relating to Rural Lands Five Acre District (RL5)**

**BCC 11.16B 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.

**BCC 11.18 relating to zoning and the GMA Agricultural District**

An ordinance relating to GMA Agricultural District 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..

**BCC 11.22 relating to zoning and the General Commercial District**

**BCC 11.25 relating to zoning and the Community Commercial District (CC)**

**BCC 11.27 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.

**BCC 11.30 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.

**BCC 11.34 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).

**BCC 11.46 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.

**BCC 11.48 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".

**BCC 11.52 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.

### **BCC 11.65 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.

### **BCC 17.10 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.

### **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**

Section 1-Purpose      Establishing a Hearings Examiner system

Section 2-Office of Examiner      The Office of Hearings Examiner is hereby created.

Section 3-Appointment      The Board of County Commissioners shall appoint the Hearings Examiner.

Section 4-Qualifications      The Hearings Examiner shall be appointed solely with regard to his or her qualifications and shall hold no other elective or appointed office or position with any local governmental agency located in Benton County.

Section 5-Duties of the Hearings Examiner      The Hearings Examiner shall receive and examine available relevant information, conduct public hearings; cause preparation of a record thereof and adopt findings and conclusions for various permits and appeals as noted in the amendments listed above.

Section 6-Hearings Examiner-Conflict of Interest.      The Hearings Examiner shall not conduct or participate in any hearing or decision in which he/she has a conflict of interest.

Section 7-Application Applications and appeals requiring a determination by the Hearings Examiner shall be filed with the Planning Department as required by the BCC.

Section 8-Report to the Hearings Examiner.      The Planning Department shall prepare a report summarizing the issues involved; proposed findings of fact, recommendation conditions and or recommended action to the Hearings Examiner.

Section 9-Public Hearing The Hearings Examiner shall hold an open record hearing if required by the Benton County Code.

Section 10-Hearings Examiner Findings and Decision The Hearings Examiner shall render a decision and adopted written findings of fact and conclusions of law in support of such decision.

Section 11-Reconsideration Any aggrieved party of record may request a reconsideration of the Hearings Examiner's decision. Sets forth criteria for submitting and processing of reconsiderations.

Section 12-Appeal of Examiner's Decision The decision of the Hearings Examiner shall be final unless an appeal is filed in accordance with applicable county and state codes.

Section 13-Annual Report to the Board of County Commissioners The Hearings Examiner shall annually report in writing to the Board of County Commissioners a summary of his decisions.

Section 14- Severability If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other person and circumstances shall not be affect thereby.

Section 15-Effective Date This ordinance shall take effect and be in full force as of January 1, 2015.

# Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

## NOTICE OF PUBLIC HEARING

NOTICE IS GIVEN that the following application and ordinance amendments will be considered by the Board of County Commissioners at a public hearing on Tuesday, October 28, 2014, at 9:00 a.m. in the Commissioners Hearing Room, Third Floor, Courthouse, Prosser. All concerned persons may appear and present any support for or objections to the ordinances or submit written testimony to the Commissioners in care of the Planning Department on or before the date of the hearing. Information concerning the amendments and copies of the proposed ordinances are available at no cost to the public and can be obtained at the Benton County Planning Department, P.O. Box 910, 1002 Dudley Avenue, Prosser, Washington 99350 or by calling 736-3086 (Tri-Cities) or 786-5612 (Prosser).

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DATED at Prosser, Washington on this 9th day of October 2014.

JAMES BEAVER, Chairman  
BOARD OF COUNTY COMMISSIONERS

MICHAEL SHUTTLEWORTH, Planning Manager  
BENTON COUNTY PLANNING DEPT.

PUBLISH: October 16, 2014

## ORDINANCE AMENDMENT SUMMARIES

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An ordinance relating to the building code; replacing the Board of Adjustment with the Hearings Examiner as the party responsible for granting variances;

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### **BCC 3.24 relating to swimming pools**

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".

### **BCC 3.26 relating to Flood damage prevention**

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".

### **BCC 6.35 relating to environmental policy**

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).

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**BCC 11.10 relating to the Community Center Residential District (CCR)**

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Replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**BCC 11.18 relating to zoning and the GMA Agricultural District**

An ordinance relating to GMA Agricultural District 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..

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**BCC 11.30 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.

**BCC 11.34 relating to zoning and the Heavy Industrial District (HI)**

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**BCC 11.46 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.

**BCC 11.48 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".

**BCC 11.52 relating to the general provisions of the zoning code**

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**BCC 11.65 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.

**BCC 17.10 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.

**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**

Section 1-Purpose      Establishing a Hearings Examiner system

Section 2-Office of Examiner    The Office of Hearings Examiner is hereby created.

Section 3-Appointment          The Board of County Commissioners shall appoint the Hearings Examiner.

Section 4-Qualifications        The Hearings Examiner shall be appointed solely with regard to his or her qualifications and shall hold no other elective or appointed office or position with any local governmental agency located in Benton County.

Section 5-Duties of the Hearings Examiner    The Hearings Examiner shall receive and examine available relevant information, conduct public hearings; cause preparation of a record thereof and adopt findings and conclusions for various permits and appeals as noted in the amendments listed above.

Section 6-Hearings Examiner-Conflict of Interest.    The Hearings Examiner shall not conduct or participate in any hearing or decision in which he/she has a conflict of interest.

Section 7-Application Applications and appeals requiring a determination by the Hearings Examiner shall be filed with the Planning Department as required by the BCC.

Section 8-Report to the Hearings Examiner.    The Planning Department shall prepare a report summarizing the issues involved; proposed findings of fact, recommendation conditions and or recommended action to the Hearings Examiner.

Section 9-Public Hearing The Hearings Examiner shall hold an open record hearing if required by the Benton County Code.

Section 10-Hearings Examiner Findings and Decision The Hearings Examiner shall render a decision and adopted written findings of fact and conclusions of law in support of such decision.

Section 11-Reconsideration Any aggrieved party of record may request a reconsideration of the Hearings Examiner's decision. Sets forth criteria for submitting and processing of reconsiderations.

Section 12-Appeal of Examiner's Decision The decision of the Hearings Examiner shall be final unless an appeal is filed in accordance with applicable county and state codes.

Section 13-Annual Report to the Board of County Commissioners The Hearings Examiner shall annually report in writing to the Board of County Commissioners a summary of his decisions.

Section 14- Severability If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other person and circumstances shall not be affect thereby.

Section 15-Effective Date This ordinance shall take effect and be in full force as of January 1, 2015.

<p><b>AGENDA ITEM</b>  <b>MTG. DATE:</b> October 21, 2014  <b>SUBJECT:</b> Ordinance amendments to create a Hearings Examiner System  <b>MEMO DATE:</b> October 13, 2014  <b>Prepared By:</b> Michael Shuttleworth</p>	<p><b><u>TYPE OF ACTION NEEDED</u></b>  Execute Contract  Pass Resolution  Pass Ordinance  Pass Motion  Other</p>	<p>Consent Agenda  Public Meeting  1st Discussion  2nd Discussion  Workshop <b>X</b></p>
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**BACKGROUND INFORMATION**

The Benton County Planning Department is presenting to the Board of County Commissioners a number of ordinances to create a Hearings Examiner System in Benton County. The ordinances propose to have the Hearings Examiner replace the Benton County Board of Adjustment and conducting hearings 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 time to contract with a hearings examiner and modify existing application and procedures. The Planning Commission considered the proposed ordinances at a public hearing and voted to recommend the adoption of the ordinances.

This is a workshop to present the Board of County Commissioners with the draft ordinances and answer questions the Board may have on the proposed ordinances. The Benton County Board of Commissioners will be conducting a Public Hearing on October 28, 2014 at 9:00 a.m. to review and discuss proposed ordinances.

**SUMMARY**

A workshop has been scheduled to provide the Board of County Commissioners with draft ordinances related to the creating a Hearings Examiner System and answer question the Board may have on the proposed ordinances. Attached to this memo are draft ordinances.

**FISCAL IMPACT**

Contracting with a Hearings Examiner. The Planning Department has included the projected costs into its 2015 – 2016 budget.

**MOTION**

No motion is required for the workshop.

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 3.04-  
relating to Building Codes  
replacing the Board of Adjustment  
with the Hearings Examiner

**RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS**

**RECOMMENDATION**

An ordinance amendment relating to Building Codes; amending BCC 3.04 - replacing the Board of Adjustment with the Hearings Examiner as the party responsible for granting variances;

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### FINDINGS AND CONCLUSIONS

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
\_\_\_\_\_  
Martin Sheeran, Chairman      10/3/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 3.22 - relating to  
Manufactured Home/Factory  
Assembled Structure (FAS) Parks  
replacing the Board of Adjustment  
with the Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment 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".

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### FINDINGS AND CONCLUSIONS

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.



Martin Sheeran, Chairman

10/3/14  
DATE

BENTON COUNTY PLANNING COMMISSION

RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION

RE: In the Matter of County Planning:  
amending BCC 3.24 - relating to  
Swimming Pools replacing  
the Board of Adjustment with  
a Hearings Examiner and updating  
with some housekeeping edits.

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment 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".

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to

recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process and will update the Benton County Code with correction of certain department titles.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
Martin Sheeran, Chairman      10/3/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 3.26 - relating to  
Flood Damage prevention replacing  
the Board of Adjustment with  
a Hearings Examiner and updating  
with some housekeeping edits.

**RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS**

**RECOMMENDATION**

An ordinance amendment 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".

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September

30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process and will update the Benton County Code with correction of certain department titles.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
Martin Sheeran, Chairman      10/3/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 6.35- relating to  
environmental policy replacing  
the Board of Adjustment with  
a Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment 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).

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to

recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### FINDINGS AND CONCLUSIONS

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.



Martin Sheeran, Chairman

10/3/14

DATE

BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 9.04 - relating to  
short plat subdivisions replacing  
the Board of County Commissioners with  
a Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment 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.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September

30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinance and amendments because they would establish a Hearing Examiner system to replace the Board of County Commissioners as the party responsible for considering appeals of short plat decisions and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
Martin Sheeran, Chairman      10/13/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 11.04 - relating to  
zoning, amending the definitions  
section amending Auto wrecking yard  
and replacing the definition for Board  
of Adjustment with Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment 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".

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to

recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.



Martin Sheeran, Chairman

10-03-14

DATE

BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

**RE:** In the Matter of County Planning:  
amending BCC 11.10- relating  
to zoning replacing the Board  
of Adjustment with the  
Hearings Examiner

**RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS**

**RECOMMENDATION**

An ordinance amendment 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.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September

30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
\_\_\_\_\_  
Martin Sheeran, Chairman                      10/2/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION

RE: In the Matter of County Planning:  
amending BCC 11.13- relating  
to zoning replacing the Board  
of Adjustment with the  
Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment relating to the BCC 11.13 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.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September

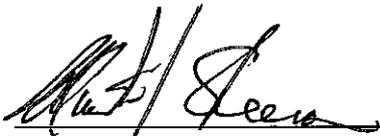
30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
\_\_\_\_\_  
Martin Sheeran, Chairman                      10/3/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning;  
amending BCC 11.14- relating  
to zoning replacing the Board  
of Adjustment with the  
Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment relating to the BCC 11.14 relating to Rural Lands One Acre District (RL1), replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September

30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### FINDINGS AND CONCLUSIONS

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
Martin Sheeran, Chairman      10/3/14      DATE  
BENTON COUNTY PLANNING COMMISSION

RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION

RE: In the Matter of County Planning:  
amending BCC 11.16A- relating  
to Rural Lands 5 Acre District  
replacing the Board of Adjustment  
with the Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment relating to BCC 11.16A relating to Rural Lands Five Acre District (RL5), replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to

recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### FINDINGS AND CONCLUSIONS

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
\_\_\_\_\_  
Martin Sheeran, Chairman                      10/3/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 11.16B- relating  
to Rural Lands 20 Acre District  
replacing the Board of Adjustment  
with the Hearings Examiner

**RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS**

**RECOMMENDATION**

An ordinance amendment relating to BCC 11.16B 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.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to

recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### FINDINGS AND CONCLUSIONS

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

 10/3/14  
Martin Sheeran, Chairman DATE  
BENTON COUNTY PLANNING COMMISSION

RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION

RE: In the Matter of County Planning:  
amending BCC 11.18- relating  
to zoning and the GMA Agricultural District  
replacing the Board of Adjustment  
with the Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment relating to BCC 11.18 relating to zoning and the GMA Agricultural District 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..

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September

30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

 10/3/14  
Martin Sheeran, Chairman                      DATE  
BENTON COUNTY PLANNING COMMISSION

RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION

**BCCWK 1.15**

RE: In the Matter of County Planning;  
amending BCC 11.22- relating  
to zoning and the General Commercial  
District replacing the Board of Adjustment  
with the Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment relating to BCC 11.22 relating to zoning and the General Commercial District, replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to

recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

 10/3/14  
\_\_\_\_\_  
Martin Sheeran, Chairman DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 11.25- relating  
to zoning and the Community Commercial  
District replacing the Board of Adjustment  
with the Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment relating to BCC 11.22 relating to zoning and the Community Commercial District, replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to



**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 11.27- relating to  
zoning and the Interchange Commercial  
District replacing the Board of Adjustment  
with the Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment relating to BCC 11.27 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.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to



**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

**RE:** In the Matter of County Planning:  
amending BCC 11.30 - relating to  
zoning and the Light Industrial District  
replacing Auto wrecking yard with wrecking  
yard and replacing the Board  
of Adjustment with Hearings Examiner

**RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS**

**RECOMMENDATION**

An ordinance amendment 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.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
Martin Sheeran, Chairman      10/3/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 11.34 - relating to  
zoning and the Heavy Industrial District  
replacing Auto wrecking yard with wrecking  
yard and replacing the Board  
of Adjustment with Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT  
AND CONCLUSIONS

**RECOMMENDATION**

An ordinance amendment 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).

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September

30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### FINDINGS AND CONCLUSIONS

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
\_\_\_\_\_  
Martin Sheeran, Chairman                      10/3/14                      DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning;  
amending BCC 11.46 - relating to  
zoning and the Park District  
replacing the Board of Adjustment  
with Hearings Examiner

RECOMMENDATION,  
FINDINGS OF FACT

**RECOMMENDATION**

An ordinance amendment 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.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,



**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 11.48 - relating to  
zoning and the Unclassified District  
replacing the Board of Adjustment  
with Hearings Examiner and updating  
the code with housekeeping edits.

RECOMMENDATION,  
FINDINGS OF FACT

**RECOMMENDATION**

An ordinance amendment 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".

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September

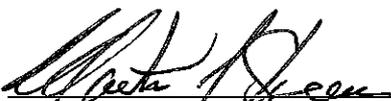
30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
Martin Sheeran, Chairman      10/3/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 11.52 - relating to  
the general provisions of the zoning code,  
replacing the Board of Adjustment  
with Hearings Examiner and updating  
the code with housekeeping edits.

RECOMMENDATION,  
FINDINGS OF FACT

**RECOMMENDATION**

An ordinance amendment 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.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### **FINDINGS AND CONCLUSIONS**

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
\_\_\_\_\_  
Martin Sheeran, Chairman      10/3/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION

**BCCWK 1.23**

RE: In the Matter of County Planning:  
amending BCC 11.65 - relating to zoning  
and Communication Facility Criteria, replacing  
the Planning Director with Planning Administrator  
and replacing the Board of Adjustment  
with the Hearings Examiner.

RECOMMENDATION,  
FINDINGS OF FACT

**RECOMMENDATION**

An ordinance amendment relating to BCC 11.65 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.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to

recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

### FINDINGS AND CONCLUSIONS

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
\_\_\_\_\_  
Martin Sheeran, Chairman                      10/13/14  
DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning:  
amending BCC 17.10- relating to the  
permit review process, replacing  
the Board of Adjustment with the  
Hearings Examiner, amending Table 17-1  
and Table 17-2 and updating the code with  
Housekeeping edits.

**RECOMMENDATION,  
FINDINGS OF FACT**

**RECOMMENDATION**

An ordinance amendment 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.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

#### FINDINGS AND CONCLUSIONS

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process and will update the Benton County Code with correction of certain department titles.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

 10/3/14  
Martin Sheeran, Chairman DATE  
BENTON COUNTY PLANNING COMMISSION

**RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION**

RE: In the Matter of County Planning;  
adding a new chapter to Title 17 of the  
Benton County Code setting standards and  
procedures and creating the Office of Benton  
County Hearings Examiner.

RECOMMENDATION,  
FINDINGS OF FACT

**RECOMMENDATION**

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

**RESOLUTION**

WHEREAS, the Legal notification pursuant to the RCW 36.70.590 was given on August 27, 2014; and,

WHEREAS, the public hearing was held on September 8, 2014 at 7:00 p.m., at the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Marjorie Kaspar, Yi Qu, James Willard, and Darwin Crosby; and,

WHEREAS, after discussion by the Planning Commission the meeting was continued until September 30, 2014, 7 p.m. at the Planning Annex, 1002 Dudley Avenue, Prosser WA; and,

WHEREAS, at the continued hearing, the following members were present: Martin Sheeran, Marjorie Kaspar, Yi Qu, and Darwin Crosby; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the continued hearing on September 30, 2014; and,

WHEREAS, the Planning Commission considered all testimony and, after questions to those giving testimony, closed the public portion of the hearing; and,

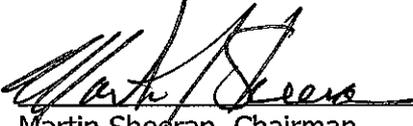
WHEREAS, the Planning Commission at a continued open public hearing held on September 30, 2014, considered the evidence submitted and voted five in favor with two vacancies to recommend approval of the proposal; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

## FINDINGS AND CONCLUSIONS

1. The proposed ordinance amendments are found to be in conformance with the intent of the Benton County Comprehensive Plan.
2. Testimony was received regarding the proposed ordinances.
3. The record does establish the need for the proposed ordinances and amendments because they would establish a Hearing Examiner system to replace the current Board of Adjustment and would allow for a more streamlined permit review process.
4. The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied. A Determination of Non Significance was issued on August 11, 2014.
5. The record indicates that approval of the proposed ordinances and amendment(s) would be in the public interest as it would create a more uniform system for hearing and making decisions on permits, variances and appeals within unincorporated Benton County.
6. The Planning Commission has received a staff memo dated August 28, 2014, which includes various issues, findings and information and agrees with the information found in the staff memo including the changes to the proposed ordinances as recommended by staff.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman, adopts these findings and conclusions with respect to the aforementioned ordinance amendment and such ordinance amendment is hereby recommended to the Board of County Commissioners for approval.

  
Martin Sheeran, Chairman  
BENTON COUNTY PLANNING COMMISSION

10/3/14  
DATE

# Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

**DATE:** SEPTEMBER 22, 2014

## PCM 2.1

**TO:** BENTON COUNTY PLANNING COMMISSION

**FROM:** BENTON COUNTY PLANNING DEPARTMENT

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

### SUMMARY:

The Benton County Planning Commission conducted an open record hearing on draft ordinances dealing with creation of a hearings examiner system in Benton County. During the open record hearing, Commissioners had several questions they asked staff to prepare a response for. The following is the additional information requested by the Planning Commission.

1. Planning Staff looked at the surrounding counties and found most of them use the hearings examiner system. Attached to this memo is a brief overview with attachments.
2. Several of the Counties and Cities use the same Hearings Examiner, however, each jurisdiction contracts separately with the hearings examiner.
3. It appears that the cost for hearing examiners range from \$400.00 to \$600.00 per application. Below is a proposed draft fee schedule that would use \$400.00 as the base for the hearing examiner.

Type of permit	Cost of Notice	Hearing Examiner Fee	Suggested Fee	Benton Fee Now
Appeal of EIS Adequacy	\$160.00	\$400.00	\$560.00	250.00 + legal publication fee
Appeal of Director's Decision	\$180.00	\$400.00	\$580.00	100.00 + legal publication fee
Shoreline Conditional use permit	\$340.00	\$400.00	\$740.00	\$250.00
Shoreline Variance	\$340.00	\$400.00	\$740.00	\$250.00
Short Plat Appeal	\$180.00	\$400.00	\$580.00	100.00 + legal publication fee
Special Use Permit	\$180.00	\$400.00	\$580.00	\$250.00
Conditional Use Permit	\$180.00	\$400.00	\$580.00	\$250.00
SEPA Determination Appeal	\$180.00	\$600.00	\$780.00	100.00 + legal publication fee
Variance	\$180.00	\$400.00	\$580.00	\$250.00
Flood Plain Ordinance/Variance	\$180.00	\$400.00	\$580.00	\$150.00

4. The Benton County Risk Manager is looking into the impacts of appeals of land use actions and that information will be presented at the September 30<sup>th</sup> meeting.

### 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.

## PCM 2.2

Date: September 16, 2014

To: Mike Shuttleworth, Planning Manager

From: Steve Donovan, Senior Planner

RE: Eastern Washington Counties Hearing Examiner Information

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**Grant County** – The county has a contract with the examiner and is charged time and expenses. The charge for each permit is \$400-\$500. The amount spent each year is determined by the number of permits reviewed by the hearing examiner. The examiner is an attorney.

**Okanogan County** – The County is charged an hourly rate that is roughly \$150 and hour. The county has two hearing dates a month. Roughly \$12,000/year is spent on the hearing examiner services. The hearing examiner is an experienced land use professional, not an attorney. See attachments 1-2 for additional information.

**Chelan County** – The examiner is scheduled to meet two times a month. They average \$2,500-\$3,500 a month for two hearings a month. They average 3-4 items per meeting agenda and budget \$40,000 a year for hearing examiner services. The examiner is an attorney.

**Douglas County** – The following is a breakdown of the number of permits and amount spent for each of the years: 2011: 19 permits, cost \$8,034; 2012: 13 permits, cost \$ 7,943; 2014: 18 permits, cost \$ 7,319. See attachments 3-5 for additional information.

**Yakima County** – The Yakima County Hearing Examiner is an attorney. The County is charged an hourly rate of \$140 for hearing examiner services. Attachment 6 is a copy of the contract between Yakima County and its hearing examiner.

**Walla Walla County** – Walla Walla County's hearing examiner is a Land Use Attorney. The hearing examiner convenes once a month to conduct hearings. The County has established a variable retainer rate in addition to an hourly rate of \$120/hour. See Attachment 7, which is the most recent agreement between Walla Walla County and its hearing examiner.

### **Attachments**

1. Okanogan County RFQ Draft
2. Okanogan County Draft Professional Services Agreement
3. 2011 Annual Report of the Douglas County Land Use Hearing Examiner
4. 2012 Annual Report of the Douglas County Land Use Hearing Examiner
5. 2013 Annual Report of the Douglas County Land Use Hearing Examiner
6. Professional Services Contract for Yakima County Hearing Examiner
7. Amended Professional Services Agreement (Walla Walla County)

## PCM 2.3

### REQUEST FOR QUALIFICATIONS

Notice is hereby given that consultant qualifications will be received by the Okanogan County, Washington for:

### HEARING EXAMINER

by filing with the Clerk of the Board, 123 Fifth Avenue North, Room 150, Okanogan WA, 98840 until:

Date:

Time:

Qualifications submitted after the due date will not be considered. Consultants accept all risks of late delivery of mailed submittals regardless of fault.

A detailed Request for Qualifications (RFQ) information packet including general information, requested services, submittal requirements, and evaluation process is available on the County's website at [hyperlink for page].

Okanogan County reserves the right to reject any and all submittals and to waive irregularities and informalities in the submittal and evaluation process. This RFQ does not obligate the County to pay any costs incurred by respondents in the preparation and submission of their statement of qualifications. Furthermore, the RFQ does not obligate the County to accept or contract for any expressed or implied services.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2013.

Lalena Johns (or Perry?)  
Clerk of the Board, Okanogan County

Published:



The Consultant with whom the County contracts shall perform the duties of the Hearing Examiner as set forth in Okanogan County Code Chapter 2.65 as now or hereafter amended, together with such other Hearing Examiner services as may be provided by the Okanogan County Code and/or may be assigned from time to time by the County Commissioners or Director of Planning and Development.

- **SCOPE OF SERVICES:** The Hearing Examiner shall perform the duties of the Hearing Examiner set forth in Okanogan County Code Chapter 2.65, as now or hereafter amended, together with such other Hearing Examiner services as may be provided by the Okanogan County Code and/or assigned from time to time by the County Commissioners or Director of Planning and Development, in accordance with the Rules/Procedures and Performance Guidelines set forth below. The County shall pay the Hearing Examiner for such services at a rate to be negotiated.

Okanogan County will reimburse the Hearing Examiner for actual out of pocket expenses incurred in the conduct of the Examiner's duties (**including mileage, long distance telephone charges, facsimile transmission charges, and copying charges????**). All invoices shall set forth the basis of the charge and the matter or proceeding for which it was incurred.

The County shall provide administrative and other support services for the Examiner through the Office of the Hearing Examiner as staffed by personnel from the Department of Planning and Development. The Examiner is not authorized to incur secretarial or other support service expense without the express prior written approval of the (**BOCC or Perry?**).

## **RULES & PROCEDURES:**

### **1. Roles and Relationships:**

a. **Hearing Examiner.** The Hearing Examiner is the hearing officer for the County. As such, the Examiner conducts hearings on such matters as are assigned by the Director of Planning and Development, as the County Commissioner's representative, through the Office of the Hearing Examiner. The Examiner is responsible for all aspects of each matter assigned from the time of assignment through its conclusion, and issues reports thereon in the form of a decision or recommendation, with findings of fact and conclusions supporting the decision/recommendation, as provided in Okanogan County Code Chapter 2.65 and the Hearing Examiner's Rules of Procedure (**I think we'll need to develop something more extensive than OCC 2.65.080**) as adopted by the County Commissioners.

b. **County Prosecuting Attorney.** The County's Civil Deputy Prosecuting Attorney provides legal advice and assistance as requested by the Hearing Examiner. The Civil Deputy also provides representation and advice to departments/employees that appear before the Examiner and advises the County Commissioners in regard to decisions/recommendations of the Examiner. Should the Civil Deputy or any represented party believe that an apparent or real conflict of interest has arisen during the course of a matter referred to the Hearing Examiner, the Prosecuting Attorney shall either assign another deputy or secure a special deputy to represent the Hearing Examiner.

c. **Office of Planning and Development.** The Director of Planning and Development supervises the Office of the Hearing Examiner, assignments made to the Examiner, and through the Office of the Hearing Examiner, the scheduling of the Examiners' hearings

and of all proceedings. The Director is responsible for managing the contract(s) with the Hearing Examiner and reviewing the performance of the Examiner.

d. **County Commissioners.** The County Commissioners are responsible for the appointment of the Hearing Examiner, who serves at their pleasure.

**2. Hearing Examiner Meetings:**

The Hearing Examiner will meet periodically with the Director of Planning and Development to discuss procedures, rules, problems, and any matters that may be of concern to the Examiner, the Commissioners, the Director, and/or staff.

**3. Attendance at (BOCC/Planning Commission...?) Meetings:**

The Hearing Examiner will attend and participate when requested at ??????? meetings when the Examiner's report and recommendation/decision are being considered by the ???????. (**Need to pin down how broad his scope of services will be**).

**4. Rules of Procedure:**

The Hearing Examiner will from time to time review and make suggestions to the Director of Planning and Development for modifications to the Hearing Examiner Rules of Procedure as the Examiner feels necessary.

**5. Performance Guidelines:**

The following are the performance expectations for the Hearing Examiner should the County Commissioners decide to continue with the Hearing Examiner system after review of the one year trial period.

The performance of the Examiner will be evaluated at the conclusion of the one year trial period in accordance with the following guidelines and measures of effectiveness:

1. The logic of findings and conclusions and the reasoning of recommendations and decisions.
2. The decorum, demeanor and effectiveness of the Examiner in the management and conduct of the proceedings assigned.
3. The efficiency, effectiveness and service demonstrated, including cost effectiveness, timeliness, and responsiveness.
4. Preparation of reports, including format, clarity, comprehensibility, timeliness, thoroughness, completeness, grasp of and responsiveness to the issues presented, and familiarity with and application of applicable and relevant criteria, policies, regulations, and/or law.

- **SUBMITTAL REQUIREMENTS:** Responses to this RFQ must include the following information:

Respondents considered must provide the specific information requested below in their submittal.

To facilitate the evaluation process, please submit three (3) bound, and one (1) electronic copy (CD) of your submittal; submittals should be no longer than eight (8) double-sided pages, excluding sample reports, and should be organized according to the following subjects:

- Attorney or Professional Status: State name of school, year of graduation from law school, and in case of qualifications being submitted by a firm, provide the information for all attorneys anticipated to provide services to the County, OR, (**need some good criteria language for a non-attorney applicant**).

- Hearing Examiner Experience: List, chronologically, your Hearing Examiner experience.
- Land Use Law.
- Environmental Law, including\_\_ your experience with SEPA, NEPA, or similar environmental laws.
- Shoreline Laws, including\_your experience with the Shoreline Management Act, or similar federal and state laws.
- Land Use Code and Other County Regulations relating to land use or development for Okanogan County and/or other political subdivisions or municipal entities.
- Civil violation proceedings and Code enforcement.
- Other Hearing Examiner or administrative law judge experience.\_i.e., tax appeals, local improvement districts, etc.) Please list any other experience you have had as a Hearing Examiner or administrative law judge. Non-legal experience may be listed. Please list jurisdictions, types of experience, and approximate dates of service.

For each area of experience, please list jurisdictions, types of cases, approximate numbers of cases, hearings conducted, and approximate dates/timeframes in which services were provided. Non-legal experience may be listed.

- a. A statement describing your view of the roles and duties of a Hearing Examiner in a municipal setting and your approach to conducting public hearings.
- b. Up to three Hearing Examiner’s reports (recommendations or decisions) for hearings you have conducted, or other similar written report demonstrating similar experience.

Submittals shall be delivered in an envelope clearly marked with: **RFQ Hearing Examiner**, by the deadline listed above.

- **EVALUATION CRITERIA:** Evaluations of submittal packets will be based on the criteria listed below. All proposals will be evaluated using these criteria:

**General qualifications:**

- **Legal education and background**
- **Background, training and experience in:**
  - **Land Use, Environmental and Shorelines Law**
  - **LID, Street, and other Assessment Law**
  - **Tax Law**
  - **Code Enforcement Law**
- **Background, training, and experience as Hearing Examiner**
- **Experience working in public sector**

**Conduct of public hearings:**

- **View of the role and duties of Hearing Examiner**
- **Approach to conducting public hearings**
- **View of the principles that lead to good public hearings**
- **Approach to participants in public hearings**
- **Definition of a "good result" in a contested matter coming before the Hearing Examiner**

**Decision making**

- **Thoroughness of decisions**
- **Clarity of decisions**
- **Ability to identify issues, facts and relevant rules**
- **Application of the rules and law to the facts**

*The County may select a limited number of consultants for in-person interviews before the selection committee.*

- **RFQ SCHEDULE:**

<b>Event</b>	<b>Date</b>
RFQ Release	
Vendor Questions (if any) Due	
Responses to Vendor Questions posted on internet	
Submittals Due	

- **PROPRIETARY PROPOSAL MATERIAL:** Any proprietary information revealed in the proposal should, therefore, be clearly identified as such.

- **SIGNATURES:** RFQ's shall be signed by one of the legally authorized officers of said corporation.

If awarded the contract, the contract shall also be so executed.

- **QUESTIONS:** Questions regarding this project may be directed **in writing** to the RFQ coordinator **via e-mail** at [phustor@co.okanogan.wa.us](mailto:phustor@co.okanogan.wa.us). Unauthorized contact regarding this RFQ with other County employees or officials may result in disqualification. Any oral communications will be considered unofficial and non-binding on the County. Any questions will be answered in writing and posted on the County's website at (**HYPERLINK**). It is the responsibility of individual firms to check the website for any amendments or Q & A's to this RFQ. See the deadline chart above for specific deadlines.

- **REJECTION OF SUBMITTALS:** The County reserves the right to reject any and all submittals and to waive irregularities and informalities in the submittal and evaluation process. This RFQ does not obligate the County to pay any costs incurred by respondents in the preparation and submission of their qualifications. Furthermore, the RFQ does not obligate the County to accept or contract for any expressed or implied services.

- **CONTRACT AWARD:** The County reserves the right to make an award without further discussion of the submittals. The firm/individual selected as the apparently successful firm/individual will be expected to enter into a contract with the County. A sample County contract is provided on the County's (**website or with the Clerk/Perry**).

Please review this contract prior to submitting a statement of qualifications. The foregoing should not be interpreted to prohibit either party from proposing additional contract terms and conditions during the negotiations of the final contract. If the selected firm/individual fails to sign the contract within ten (10) business days of delivery of the final contract, the County may elect to negotiate a contract with the next-highest ranked firm/individual. The County shall not be bound, or in any way obligated, until both parties have executed a contract. No party may incur any chargeable costs prior to the execution of the final contract.

- **CONTRACT NEGOTIATION:** The County reserves the right to negotiate all elements of the submittals, proposals, terms and conditions, and/or scope of work as part of the contract negotiation process prior to any formal authorization of the contract by the County.
- **TITLE VI:** It is the Okanogan County's policy to assure that no person shall, on the grounds of race, color, national origin or sex, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its federally funded programs and activities.
- **NON-ENDORSEMENT:** As a result of the selection of a firm/individual to supply products and/or services to the County, firm/individual agrees to make no reference to the County in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the County.
- **NON-COLLUSION:** Submittal and signature of a statement of qualifications swears that the document is genuine and not a sham or collusive, and not made in the interest of any person not named, and that the firm/individual has not induced or solicited others to submit a sham offer, or to refrain from proposing.
- **COMPLIANCE WITH LAWS AND REGULATIONS:** In addition to nondiscrimination and affirmative action compliance requirements previously listed, the firm/individual ultimately awarded a contract shall comply with federal, state and local laws, statutes and ordinances relative to the execution of the work. This requirement includes, but is not limited to, protection of public and employee safety and health; environmental protection; waste reduction and recycling; the protection of natural resources; permits; fees; taxes; and similar subjects.
- **PUBLIC RECORDS:** Under Washington state law, the documents (including but not limited to written, printed, graphic, electronic, photographic or voice mail materials and/or transcriptions, recordings or reproductions thereof) submitted in response to this RFQ (the "documents") become a public record upon submission to the County, subject to mandatory disclosure upon request by any person, unless the documents are exempted from public disclosure by a specific provision of law. If the County receives a request for inspection or copying of any such documents it will promptly notify the person submitting the documents to the County (by U.S. mail and by fax if the person has provided a fax number) and upon the written request of such person, received by the County within five (5) days of the mailing of such notice, will postpone disclosure of the documents for a reasonable period of time as permitted by law to enable such person to seek a court order prohibiting or conditioning the release of the documents. The County assumes no contractual obligation to enforce any exemption.

**ATTACH PSA**

PROFESSIONAL SERVICES AGREEMENT  
HEARINGS EXAMINER

The Parties make and enter into this Agreement in consideration of the mutual promises and obligations hereinafter set forth.

1. Parties. The Parties to this Agreement are Okanogan County, a municipal subdivision of the State of Washington, hereinafter the "County", and the Office of the Hearing Examiner, hereinafter the "Hearing Examiner". (For purposes of this agreement, the hearing examiner(s) shall be XXXXXXXXXXXX.)

2. Scope of Professional Services. In accordance with the Okanogan County Code, the Hearing Examiner shall act as the County's hearing examiner and shall conduct hearings on such matters as assigned by the Director of Planning and Development, as the County Commissioner's representative, through the Office of the Hearing Examiner. The Examiner is responsible for all aspects of each matter assigned from the time of assignment through its conclusion, and issues reports thereon in the form of a decision or recommendation, with findings of fact and conclusions supporting the decision/recommendation, as provided in Okanogan County Code Chapter 2.65 and the Hearing Examiner's Rules of Procedure as adopted by the County Commissioners.

3. Term of Agreement and Termination. This Agreement shall be effective when signed by both Parties, and shall continue in force until XXXXXXXX, after which time this Agreement shall automatically renew on a biannual basis until either Party terminates this Agreement by providing written notice to the other Party.

The County shall have the right to terminate this agreement in the sole and absolute discretion of the Okanogan County Board of Commissioners, with or without cause, upon giving sixty (60) days notice to Hearings Examiner and by delivering notice of such termination to the Hearings Examiner or by mailing a copy of the same certified mail, return receipt requested, to the Hearing Examiner's last known address. All right to compensation ceases on the date stated in the notification. The Hearings Examiner shall have the right to terminate this agreement upon sixty (60) days written notice. Notice periods contained in this paragraph may be waived if done in writing.

4. Compensation and Administrative Expenses. As compensation for its services performed under this Agreement, the County shall pay the Hearing Examiner at a rate that is measured by the amount of time that the Hearing Examiner expends in providing services for the County. The hearing examiner rate shall be \$XXXXXXXX per hour of service provided for the County. The Hearing Examiner will measure the time that the Hearing Examiner expends in providing services for the County in a minimum amount of, and in increments of, one tenth of an hour. The County shall reimburse the Hearing Examiner for direct expenses advanced on the County's behalf. Representative examples include [mileage] and mailing costs. [suggestion A The Hearing Examiner shall be compensated for mileage at the rate established in federal Internal Revenue Service regulations.] [suggestion B The Hearing Examiner shall be paid a flat travel fee of \$XXXX per trip to the County.]

The County shall supply all equipment and personnel necessary for the Hearings Examiner to perform his professional services. Hearings Examiner agrees that upon termination of this Agreement, all equipment provided shall be returned in good condition and repair, except for

normal wear and tear.

5. Payment. In order to obtain payment for services, the Hearing Examiner shall submit a properly completed invoice to the County, which shall include supporting documentation that the County may require. The County shall be obligated to promptly pay the Hearing Examiner for its services and reimbursable expenses, but no more frequently than monthly. The County shall further be entitled to make payments through the County's ordinary payment process.

[If multiple/firm Each individual providing Hearing Examiner services under this agreement shall separately present to the County a monthly statement detailing the mileage and number of trips to the County for which the individual is eligible for reimbursement. Each individual providing Hearing Examiner services under this agreement shall be paid directly and promptly for the reimbursements detailed in the statement.]

6. Hearing Examiner Qualifications. The Hearing Examiner warrants that (s)he shall perform the Professional Services related services pursuant to this agreement, have sufficient education, training, skill, knowledge, ability, and experience to competently provide hearing examiner services for the County. The Hearing Examiner further warrants that (s)he has satisfied, and will continue to satisfy, all applicable statutory and regulatory requirements, including those set forth in RCW 42.23 and the appearance of fairness requirements of RCW 42.36.

7. Work Schedule and Conflicts. The Parties anticipate that the County will use the services of the Hearing Examiner on an on demand bases, and thus, the Parties agree to schedule hearings or related services within the time constraints or deadlines that are applicable to each matter, while making accommodations for the Parties' schedules. Otherwise, the Hearing Examiner shall work according to the Hearing Examiner's own schedule. However, nothing herein shall preclude the Parties from establishing a mutually agreeable hearing schedule.

The Hearing Examiner shall promptly notify the County of any conflicts of interest or other circumstances that prevent the Hearing Examiner from acting as the County's hearing examiner pursuant to this contract. If both of the above-identified hearing examiners have a conflict with a particular matter, or must recuse themselves or withdraw from a matter, the Hearing Examiner may suggest candidates to serve as pro-tempore examiners. The County shall have full authority to select any pro-tempore examiners.

8. Ownership of Materials. All County materials with which the Hearing Examiner interacts, including those that are modified by the Hearing Examiner, when such interaction occurs during the course of its services hereunder, or while using County property, shall be owned by the County and shall be "works for hire" as defined by the U.S. Copyright Act of 1976. These materials include, but are not limited to: books, computer programs, data, documents, films, pamphlets, records, reports, sound reproductions, studies, surveys, tapes, and/or the reports.

9. Confidentiality. The Hearing Examiner may use confidential information and other sensitive information gained by reason of its provision of services to the County, or by access to its property, only for County purposes. The Hearing Examiner shall not disclose, transfer, or sell any such information to any party, except as provided by law, or in the case of personal information, with the prior written consent of the person to whom the personal information pertains. The Hearing Examiner shall maintain the confidentiality of all personal information and other information gained by reason of its provision of services to the County, or by access to its property.

10. Hearing Examiner Certification Regarding Ethics. The Hearing Examiner certifies that it is in compliance with RCW 42.52, Ethics in Public Service, and that it shall continue to comply with RCW 42.52. The provisions of RCW 42.52 shall apply to the Hearing Examiner either expressly, or by analogy.

11. Independent Contractor. The Hearing Examiner acknowledges that it is an independent contractor and not an officer, employee, or agent of the County. The Hearing Examiner shall not claim any rights, privileges, or benefits that would accrue to an employee, officer or agent of the County, except those that are expressly identified in this Agreement.

12. Indemnification and Hold Harmless. The Hearing Examiner shall protect, defend, indemnify and save harmless the County, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the Hearing Examiner, its officers, employees and agents in performing this Agreement.

The County shall protect, defend, indemnify and save harmless Hearing Examiner(s) from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of County, its officers, employees or agents in performing this Agreement.

The Examiner does not assume liability or responsibility for, or in anyway release the County from liability or responsibility that arises, in whole or in part, from the existence or effect of the County's ordinances, code, policies, rules or regulations. If any cause, claim or action of any kind is commenced in which the enforceability and/or validity of any County ordinance, code, policy or regulation, including its constitutionality, is at issue, the County shall defend the same at its sole cost and expense, and if judgment is entered, or damages are awarded against the Hearing Examiner, or the Hearing Examiner and County jointly, the County shall promptly satisfy the same.

13. Notices. All notices that relate to this Agreement shall be personally delivered or mailed by certified or registered mail, postage prepaid to the following addresses, or to such other address as either party shall specify in a written notice so given:

If to the County, addressed to:  
Perry Huston  
Planning Director  
[address]

If to the Hearing Examiner, addressed to:  
Office of the Hearing Examiner  
[address]

14. Assignment. The Parties may not assign this Agreement, or any rights or obligations contained in this Agreement without the express written consent of the other Party.

15. Waiver. No waiver of any provision of this Agreement shall be valid unless it is in writing and signed by the person or party against whom it is charged. The failure of the County to require Hearing Examiner's strict compliance with the terms of this Agreement shall not constitute or be construed as a waiver or relinquishment of the County's right thereafter to enforce any such term, but the same shall continue in full force and effect.

16. Time. Time is of the essence for the performance of every provision of this Agreement.

17. Applicable Law and Venue. The venue for any legal action arising from this Agreement shall be Pierce County, Washington. This Agreement shall be governed, construed, and interpreted according to the laws of the State of Washington.

18. Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not effect the other provisions, and the remaining provisions of this Agreement shall be construed as if they are severed from the invalid or unenforceable provisions.

19. Modifications. This Agreement shall not be modified, unless such modification is in writing and signed by the County and the Hearing Examiner.

20. Complete Agreement. This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as herein contained.

21. Counterparts. This Agreement may be executed in any number of counterparts, and such counterparts shall collectively constitute the entire Agreement.

[signature blocks]

## Douglas County Hearing Examiner

Andrew L. Kottkamp, Hearing Examiner

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December 15, 2011

Commissioner Dale Snyder, Chair  
Commissioner Ken Stanton  
Commissioner Steve Jenkins  
Douglas County Commissioners  
P.O. Box 747  
Waterville, WA 98858-0747

Re: 2011 Annual Report of the Douglas County Land Use Hearing Examiner

Dear Commissioners:

Enclosed is the Douglas County Land Use Hearing Examiner Annual Report for 2011.

Should you have any questions or wish for me to attend a meeting, please let me know.

Sincerely,



ANDREW L. KOTTKAMP  
Douglas County Hearing Examiner

ALK:sbw

Enclosure

cc: Mr. Mark Kulaas, Director, Douglas County Transportation and Land Services, w/ Enc.  
File No. 2093.00

**DOUGLAS COUNTY LAND USE HEARING EXAMINER**  
**2011 ANNUAL REPORT**

**I. INTRODUCTION**

The office of Douglas County Land Use Hearing Examiner has been in existence for many years. I have been serving as the Douglas County Land Use Hearing Examiner since May, 2006. Prior to this date I was the Hearing Examiner Pro-Tem. My current contract with Douglas County is automatically renewed on a bi-annual basis, subject to being terminated by any party at any time.

Douglas County Code, Section 2.13.130 requires the Hearing Examiner to report, in writing, to the Board of Commissioners at least once per year. The purpose of this report is to review the administration of the County's land use policies and regulating resolutions, as well as reporting on the number and type of decisions rendered since the prior report.

This report is on all actions from January 1, 2011, through November 30, 2011.

Douglas County land use hearings are generally held once a month, on the third Thursday. So far this year, decisions have been rendered in the following areas (the numbers of each specific application are in parenthesis): SP - Shoreline Permit (10), P - Plat (3), CUP - Conditional Use Permit (4), APP - Administrative Appeal (1).

This report is on all actions from January 1, 2011, through November 30, 2011. During this time frame I have rendered decisions on 15 separate permit applications.

The total amount of Hearing Examiner billings from January 1, 2011, through November 30, 2011 is \$8034.00.

**II. ANALYSIS**

**Administrative Appeal**

There was one administrative appeal for this year. There were no administrative appeals in 2010. The total amount billed so far for this matter is \$91.00. This appeal arises out of a Notice of Violation that was sent to the appellants regarding numerous alleged shoreline development violations on property along the Columbia River near Rock Island. The appellants have hired an attorney which has necessitated the County getting

the County Prosecutor involved in this matter as well. The open record public hearing was held on November 17<sup>th</sup>, 2011 and I have left the record open for additional evidence and legal argument from the appellant and the County. A decision should be rendered by the end of the year.

### **Shoreline Permits**

There were 10 shoreline permit decisions. The total amount billed for those decisions was \$3952.00. This makes an average fee per application of \$395.20. In 2010 there were 12 Shoreline permit decisions.

As in years past, shoreline permit applications generally involved the placement of docks and/or boatlifts on the Columbia River. There were also permits relating to restoration of shoreline based upon work done on the shorelines that was not authorized.

### **Plats**

There were 4 separate plat decisions totaling fees of \$1898.00. This calculates out to \$523.25 per decision. In 2010, there was 1 plat application and 1 plat amendment.

The plat decision-making process was relatively straightforward, with rules and regulations imposed by the County Commissioners being implemented by the Hearing Examiner. However, I have found that applicants are now more aggressively challenging off-site improvements upon which agencies are suggesting that the projects be conditioned. Generally, these involve off-site street improvements and/or sewer and water line improvements. In 2011, I continued to notice an increase in significant plat developments being scattered throughout the County but primarily within the urban area of East Wenatchee.

1). Most recently, there was an application for a clustered plat development on property adjacent to the Highlander Golf Club. This project was approved with conditions of approval.

2). There was also a 7 lot cluster plat that was approved. This project is located on SR 173. Another plat, known as Riverview Ranch, Inc. is a cluster subdivision of 22 lots on approximately 72 acres. This project is located at the intersection of Rock Island Road and SR 28. This project was also approved subject to conditions of approval.

3). The final plat involved a 14 lot major subdivision on approximately 4.4 acres on property that is located off Badger Mountain Road. This project was also approved subject to conditions of approval.

4). Finally, there was a final plat submitted by Don and Laura Mounter for a 23 lot subdivision located on approximately 13 acres of property off of North Baker Avenue. That project was also approved subject to conditions of approval.

### **Conditional Use Permits**

There were 4 conditional use permit application decision with a billing of 2093.00. This calculates out to \$523.25 per decision. There were 4 conditional use permit applications in 2010.

Conditional use permits are one of the most interesting and challenging areas in the land use decision process. Conditional uses are uses that are allowed within a particular zone unless there are no conditions that can be implemented to insure consistency of the use with the Comprehensive Plan and the Zoning Code and the character of the area. When deciding appropriate conditions of approval, I base those conditions upon the evidence that is submitted during the hearing process. They may be conditions that are suggested by staff, County departments, individual citizens, opponents and other experts and/or lay witnesses. In many applications there is no objection to the particular use and the conditions as proposed by the Zoning Code and Planning staff are implemented. When there are concerns by the public to a particular conditional use permit application, I must make a factual determination as to whether or not those concerns will factually and legally warrant placement of a condition. If conditions are factually and legally appropriate, it is then my responsibility to craft the language of a condition that will address the factual concerns and that can be appropriately monitored.

Conditional use permits this year included an application by Waste Management to amend their conditional use permit to increase the maximum annual volume of asphalt, concrete and soil to be crushed and processed on site.

There was also a conditional use permit for a veterinary clinic to be located on SE Fourth Street in East Wenatchee.

There was a conditional use permit issued for Sprint Boat Race Facility on property located on Grant Road near the airport.

There was also a conditional use permit requested by Selland Construction for an inert waste landfill on two locations on a subject property that when filled, would create a level building site.

All of the above referenced conditional use permits were approved subject to conditions of approval.

### **III. CONCLUSION**

Douglas County is completing its sixth year with myself serving as the Hearing Examiner. Throughout this year I have never been requested to remove myself as a Hearing Examiner, nor have been required to remove myself as a Hearing Examiner due to any conflict of interest/appearance of fairness issues.

Hearings have been held and evidence gathered in an orderly fashion. Written decisions have been rendered on a timely basis. In rendering all of my decisions, I apply the laws and regulations set by your Board and State legislatures to the facts of the case.

I would invite each of you to continue to attend hearings as you can. You will find that I consider it an important part of my duty to allow all members of the public to present the evidence and testimony they wish to be included into the record, so long as it is consistent with the laws as set forth in this state.

I recently attended the statewide conference of the Hearing Examiners Association of Washington. This is an association of all land use hearing examiners within the State of Washington. This was held in Chelan, Washington in October, 2011. This conference was held over two days. At this conference I was elected Secretary/Treasurer of the Hearing Examiners Association of Washington.

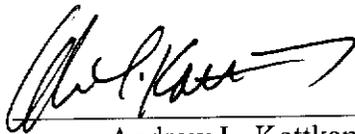
In 2011, I also served as Hearing Examiner for Chelan County, Grant County, Garfield County, Kittitas County, City of Chelan, City of Mattawa, City of Entiat, City of Wenatchee, City of East Wenatchee, City of Leavenworth, City of Cashmere, Town of Coulee City, City of Grand Coulee, City of Kittitas, City of Rock Island and the City of Quincy. I also serve as Hearing Examiner for Chelan-Douglas Health District.

Once again, I would like to commend the entire Douglas County Planning Department and staff for their professionalism in the preparation and presentation of their staff reports and their conduct at hearings. Their diligence and hard work make my job easier as they present the application materials and preliminary evidence in a succinct and easily comprehensible format. It allows me to do my job on a more efficient basis which saves the County money. They are always prepared and always professional at hearings. In short, we have a Planning Department of which the entire County can be proud.

In summary, the Hearing Examiner process continues to be successfully implemented in Douglas County.

Respectfully submitted this 14<sup>th</sup> day of December, 2011.

DOUGLAS COUNTY LAND USE HEARING EXAMINER



Andrew L. Kottkamp

# Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

## 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.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to the building code; replacing the Board of Adjustment with the Hearings Examiner as the office responsible for granting variances; amending Ordinance 282, Section 1 and BCC 3.04.056.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 282, Section 1 and BCC 3.04.056 are hereby amended to read as follows:

VARIANCES. (a) The Benton County (~~Board of Adjustment~~) Hearings Examiner may grant variances to the provisions of this chapter that require setbacks between structures or between structures and property lines.

Any person seeking such a variance shall submit to the (~~Building~~) Planning Department the following:

(1) A completed application supplied by the Benton County Building Department, which includes an accurate drawing, drawn at a scale to be determined by the Building Official, showing the following:

- (i) The boundaries and dimensions of the site.
- (ii) Existing streets, roads, and highways bordering or crossing the site.
- (iii) Interior private roads.
- (iv) Locations and uses of existing and proposed structures.
- (v) Location of parking facilities, including access points.
- (vi) Scale and North Arrow.
- (vii) Vicinity Map showing adjacent properties.
- (viii) Location of drainage facilities.
- (ix) Location of utilities easements.

(2) A non-refundable application fee as established by resolution of the Board of Benton County Commissioners.

(3) Additional information as required by the Planning Director.

(b) Before granting any variance under the provisions of this section, the (~~Board of Adjustment~~) Hearings Examiner shall hold an open record hearing, at which time the applicant and other interested parties will be given an opportunity to be heard. The open record hearing shall be held not less than ten (10) days after legal notice is given in the following manner:

(1) By United States mail addressed to the applicant and to the owners of all property within a distance of three hundred (300) feet in any direction from the subject property.

Notices addressed to the last known address of the person making the latest tax payment shall be deemed proper notice to the owner of such property.

(2) By publication of a legal notice in a paper of general circulation.

SECTION 3. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

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 the "Hearings Examiner"; amending Ordinance 165, Section 4, Ordinance 457, Section 3 and BCC 3.22.030; amending Ordinance 165, Section 6, Ordinance 457, Section 5 and BCC 3.22.050; amending Ordinance 165, Section 7, Ordinance 457, Section 6 and BCC 3.22.060; amending Ordinance 165, Section 8, Ordinance 457, Section 7 and BCC 3.22.070; amending Ordinance 165, Section 9, Ordinance 457, Section 8 and BCC 3.22.080; amending Ordinance 165, Section 10, Ordinance 457, Section 9 and BCC 3.22.090; amending Ordinance 165, Section 11, Ordinance 457, Section 10 and BCC 3.22.100; amending Ordinance 165, Section 12, Ordinance 457, Section 11 and BCC 3.22.110; and amending Ordinance 165, Section 14, Ordinance 457, Section 13 and BCC 3.22.130.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 165, Section 4, Ordinance 457, Section 3 and BCC 3.22.030 are hereby amended to read as follows:

DEFINITIONS. Whenever the words and phrases in this section appear in this chapter, they shall be given the meanings attributed them by this section. When not inconsistent with the context words used in the present tense shall include the future, singular shall include the plural, and the plural, singular.

~~((a))~~ "Board of Adjustment": ~~The Benton county Board of Adjustment.~~

~~((b))~~ (a) "Building Official": The Benton County ~~(Planning and)~~ Building Department ~~(Director)~~ Manager or his authorized representative.

~~((c))~~ (b) "Health Officer": The city, county, city-county or district health officer of the jurisdictional area in which the manufactured home/FAS park is or will be located, or his authorized representative.

~~((d))~~ (c) "Manufactured Home": Includes mobile home. A manufactured, relocatable living unit which, when erected on site, is designed to be connected to required utilities and used as a dwelling, exceeds forty (40) feet in length or eight (8) feet in width, does not meet International Residential Code standards; and, if manufactured after June 15, 1976, bears the insignia of the U.S. Department of Housing and Urban Development.

~~((e))~~ (d) "Manufactured Home/FAS Park": Includes mobile home park. A site, lot or tract of land under the common ownership or management of one or more persons, firms or corporations, intended for occupancy by five (5) or more manufactured homes/FAS for dwelling or sleeping purposes. This definition shall not include parks for the location of recreational vehicles for travel or recreation.

~~((f))~~ (e) "Manufactured Home/FAS Installation Inspector": A designated representative of the Benton County ~~(Planning and)~~ Building Department, whose qualifications are determined by the Benton County ~~(Planning and)~~ Building ~~(Director)~~ Manager.

~~((g))~~ (f) "Manufactured Home/FAS Space": Includes mobile home space. A space within a manufactured home/FAS park having fixed boundaries which are clearly marked and designated to accommodate one manufactured home/FAS.

~~((h))~~ (g) "Person": An individual, firm, corporation, partnership or association, and any agency of state, county or municipal government, and any agency of the federal government which is subject to the jurisdiction of the state.

~~((i))~~ (h) "Planning Department": The Benton County Planning Department.

~~((j))~~ (i) "Planning (~~Director~~) Manager": The Benton County Planning (~~and Building~~) Department (~~Director~~) Manager or his designated representative.

~~((k))~~ (j) "Recreational Vehicle": A vehicle or structure designed or used for recreational camping or travel use, whether self-propelled or mounted on or drawn by another vehicle, which has a body width of no more than eight (8) feet or a body length of no more than forty (40) feet; or, any structure inspected, approved and designated a recreational vehicle by and bearing the insignia of the State of Washington or any other state or federal agency having the authority to approve recreational vehicles.

SECTION 2. Ordinance 165, Section 6, Ordinance 457, Section 5 and BCC 3.22.050 are hereby amended to read as follows:

MANUFACTURED HOME/FAS PARK SITE REQUIREMENTS.

(a) Access.

(1) General. Any parcel of property being considered for a manufactured home/FAS park must be located adjacent to and have the legal right to access onto an improved and maintained county, state or city road. More than one direct access to a public road may be required where determined to be in the public interest.

(2) Dedication of County Road Right-of-Way. Proposed county road right-of-way shall be shown on the plans where a proposed manufactured home/FAS park occupies a location of a future road set forth in the circulation element of the Benton County Comprehensive Plan. County road right-of-way shall be dedicated where the proposed park would adjoin such road and such road is to be used for access to the park. Where the proposed park would adjoin such road, and such road is not to be used as access to the proposed park, right-of-way shall be dedicated to provided one-half the required right-of-way for the classification of that road on its side of the road centerline. Unimproved county road right-of-way to be used for access to the proposed park shall be constructed to county standards or bonded by the developer to guarantee construction.

(3) Private Roads. Private roads shall connect each manufactured home/FAS space. All private roads shall be privately constructed and maintained. Private two-way roads shall be a minimum of thirty (30) feet wide. Twenty (20) feet shall, at a minimum, be surfaced with 35/100 compacted depth rock and B.S.T. class A, or one (1) inch compacted depth A.C.P. class G. Private one-way roads shall be a minimum of twenty (20) feet wide and ten (10) feet shall, at a minimum, be surfaced with 35/100 compacted depth rock and B.S.T. class

A, or one (1) inch compacted depth A.C.P. class G. Paving of private roads shall be accomplished as soon as fifty (50) manufactured homes/FAS are placed within the manufactured home/FAS park or fifty (50%) percent of the spaces in the manufactured home/FAS park are occupied, whichever occurs first, for the phase or total development, if not phased. Until the roads are paved, they must be graveled with three (3) inches compacted depth of a well graded 5/8"-0" crushed rock. Two (2) feet wide graveled shoulders must be provided on each side of roads designated to provide on street parking. Turnarounds shall have a minimum radius of fifty-five (55) feet, with a forty-five (45) foot radius paved. Storm drainage facilities shall be provided by the developer and the design of storm drainage facilities and location of encroachment approved by the city, county or state owning the public road with which the private road intersects. Private roads shall be adequately lighted.

(4) Direct Access. No direct access from a manufactured home/FAS park space to a public road shall be allowed.

(b) Zoning. A Manufactured Home/FAS Park Permit shall not be issued by the Benton County ((Board of Adjustment)) Hearings Examiner except in those zones where the use may be allowed, according to the provisions of Title 11 BCC (Zoning Ordinance).

(c) Shorelines. Manufactured home/FAS parks, where applicable, shall meet the requirements of the Benton County Shorelines Management Master Program regulations and the State of Washington Shorelines Management Act of 1971, as amended.

(d) Floodway. Manufactured home/FAS parks shall not be located within any floodway as designated on the Flood Insurance Rate Map or Floodway and Flood Boundary Map by the Federal Flood Insurance Administration. Manufactured home/FAS parks located within the 100-year flood plain as designated on the Flood Insurance Rate Map or Floodway and Flood Boundary Map shall comply with the requirements of the Federal Flood Insurance Program and Chapter 6.50 BCC (Flood Control Ordinance).

(e) Density. Manufactured home/FAS park density shall not exceed the maximum density designated by the Benton County Comprehensive Plan for that area.

(f) Space Size. Manufactured home/FAS spaces shall be a minimum of three thousand (3,000) square feet in size and a minimum of forty (40) feet in width when serviced by a public or centralized sewer system.

(g) Setbacks. Manufactured homes/FAS, houses, office and recreational buildings, etc. shall be located a minimum of ten (10) feet apart. All detached accessory structures shall be set back at least ten (10) feet from structures located on an adjacent space. All structures shall be set back at least fifty-five (55) feet from the centerline of any city, county or state road right-of-way sixty (60) feet or narrower, at least twenty-five (25) feet from the right-of-way line of road right-of-way wider than sixty (60) feet and at least five (5) feet from a twenty (20) to thirty (30) foot wide one (1) way interior road. No minimum setbacks required from interior private roads with road widths wider than thirty (30) feet. Structures within a manufactured home/FAS park shall be placed no closer to the property boundary of the manufactured home/FAS park than allowed by Chapter 11 BCC (Zoning Ordinance) for other structures in the same zone.

(h) Parking.

(1) Resident Parking. There shall be a minimum of two (2) off-street parking spaces per manufactured home/FAS space for resident parking. Each space shall be a minimum of nine (9) feet by twenty (20) feet, and shall have a minimum of a 10 feet wide access to the private road.

(2) Visitor Parking. There shall be at least one (1) off-street parking space per five (5) manufactured home/FAS spaces for visitor parking where no on-street parking is provided. Each off-street parking space shall be a minimum of nine (9) feet by twenty (20) feet.

(3) Vehicle Storage. If vehicle storage is provided, a minimum parking area of ten (10) feet by thirty (30) feet per each five (5) manufactured home/FAS spaces shall be provided for storage of boats, recreational vehicles and other vehicles within manufactured home/FAS parks containing twenty-five (25) manufactured home/FAS spaces or more. A six (6) feet high fence with a lockable gate shall be erected around the perimeter of such storage areas, and such areas may be required to be screened from abutting public or private rights-of-way and abutting property owners by a greenbelt of vegetation or a sight-obscuring fence.

(4) Office Parking. There shall be a minimum of two (2) off-street parking spaces, each nine (9) feet by twenty (20) feet or larger, for the manufactured home/FAS park office, for manufactured home/FAS parks containing fifty (50) or fewer units, and one space per twenty-five (25) units in those containing more than 50 units.

(5) Surfacing. All parking areas shall, at a minimum, be surfaced with three (3) inches compacted depth, of 5/8 inch-0 inch crushed rock.

(i) Recreation Areas. Designated common recreation areas may be required by ~~((Board of Adjustment))~~ the Hearings Examiner in manufactured home/FAS parks with ten (10) or more manufactured home/FAS spaces. The applicant may propose and the ~~((Board of Adjustment))~~ Hearings Examiner may approve alternate recreational facilities in lieu of providing a recreation area.

(j) Walkways. Manufactured home/FAS parks containing 25 or more manufactured home/FAS spaces shall contain walkways to the manufactured home/FAS park office, recreational areas and other service facilities. All walkways shall be a minimum of two (2) feet wide, surfaced with concrete or other hard surface and adequately lighted.

(k) Sanitation. A public water system approved in accordance with WAC 246-290 shall be provided to each manufactured home/FAS space. On-site sewage disposal systems shall be approved by the applicable local or state agency (i.e., Department of Health, Department of Ecology or Benton-Franklin District Health Department) or any municipality providing sewer or water.

Garbage shall be stored in flytight, watertight, rodentproof containers and create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. If centrally located refuse containers are used, they must have sufficient capacity to serve all manufactured home/FAS park residents and must be designed to prevent spillage and container deterioration, and to facilitate cleaning. Garbage shall be removed from the park at least once per week.

(l) Storm Drainage. Storm drainage facilities must be designed to meet the requirements of the Benton County Hydrology Manual. All storm drainage occurring on site shall be maintained on site. Precautions shall be used during construction to prevent erosion and water pollution.

(m) Utilities. Electrical and telephone utilities and cable television, if used, shall be approved by the utility providing the service, and all electrical service installation and connections shall be in accordance with the National Electrical Code and inspected and approved by the Washington State Department of Labor and Industries.

(n) Commercial Services. Incidental commercial operations owned and operated by the park owner may be permitted when designated as part of the manufactured home/FAS park and limited to serving park residents and guests.

(o) Fire Prevention. The park shall be free of dry brush, leaves, weeds, combustible materials and other fire hazardous materials. Hydrants, extinguishers and fireflow shall be installed and maintained per the requirements of Chapters 3.16 and 3.18 BCC. Maintenance of the water system and fire hydrants shall be the responsibility of the manufactured home/FAS park owner.

(p) Mailboxes. Mailboxes shall be located within the manufactured home/FAS park. Adequate provision for mail carrier vehicle access and turnarounds shall be made per the requirements of the U.S. Postal Service and Benton County Engineer.

(q) Accessory Structures. Normal accessory structures for manufactured homes/FAS may be allowed, including awnings, cabanas, ramadas, porches, carports, decks, storage facilities, garages, etc. All accessory structures shall meet setback requirements in BCC 3.22.050(g).

(r) Signs. Signs and advertising structures shall be prohibited except:

(1) One identifying sign at each entrance. Signs may be indirectly lighted; flashing lights shall not be permitted.

(2) Directional or information signs for the convenience of tenants and the public relative to parking, office, traffic movement, park entrance, etc.

Signs shall not interfere with vehicle sight distance along any public or private road.

(s) Landscaping. Landscaping shall conform to and be installed in accordance with the overall site plan proposed by the applicant and approved by the (~~Board of Adjustment~~) Hearings Examiner.

SECTION 3. Ordinance 165, Section 7, Ordinance 457, Section 6 and BCC 3.22.060 are hereby amended to read as follows:

MANUFACTURED HOME/FAS PARK PERMIT REQUIRED. No person shall construct, modify by construction, or enlarge any manufactured home/FAS park within the unincorporated area of Benton County until approval has been given for said construction, modification or extension by the Benton County (~~Board of Adjustment~~) Hearings Examiner and the Benton County Planning (~~Director~~) Manager has issued a preliminary Manufactured Home/FAS Park Permit with conditions.

SECTION 4. Ordinance 165, Section 8, Ordinance 457, Section 7 and BCC 3.22.070 are hereby amended to read as follows:

MANUFACTURED HOME/FAS PARK PERMIT APPLICATION. Any person seeking a Manufactured Home/FAS Park Permit shall submit to the Planning Department the following:

(a) Thirty copies of an accurate drawing, at a scale of one (1) inch = One hundred (100) feet or larger and one reproducible copy no larger than an 11x17 sheet of paper, showing the following:

- (1) The boundaries and dimensions of the site.
  - (2) Existing streets, roads, and highways bordering or crossing the site.
  - (3) Interior private roads.
  - (4) Public road right-of-way dedications, if any.
  - (5) Location and uses of existing and proposed structures.
  - (6) Location of parking facilities, including access points.
  - (7) Location of recreation areas.
  - (8) Manufactured home/FAS space boundaries and dimensions and designation of each space by number or street address.
  - (9) Name of applicant, and dated signatures of land owners and of person preparing the drawing.
  - (10) Location and type of lighting facilities.
  - (11) Location and type of landscaping and walkways.
  - (12) Location of fire hydrants.
  - (13) Plot plan of a typical space, drawn to a scale of 1"=20' (one inch equals twenty feet) or larger.
  - (14) Detailed plans for water, sewage and garbage disposal.
  - (15) Name of the proposed manufactured home/FAS park.
  - (16) Legal description of property to be included in manufactured home/FAS park.
  - (17) Scale and North Arrow.
  - (18) Vicinity Map showing adjacent properties.
  - (19) Location of drainage facilities.
  - (20) Location of utility easements.
- (b) A completed Environmental Assessment Checklist.
- (c) A completed application supplied by the Benton County Planning ((and Building)) Department.
- (d) A non-refundable application fee as established by resolution of the Board of Benton County Commissioners.

(e) A completed Road Encroachment Permit Application, if the manufactured home/FAS park is to be served by a private road which intersects a county road.

(f) A certificate prepared by a title company no more than two months old at the time of application submittal, showing all persons holding ownership interests in the parcel, and all recorded easements and encumbrances upon the parcel.

(g) A completed preliminary Hydrology Report, prepared in accordance with the Benton County Hydrology Manual.

(h) Additional information as required by the Planning ~~((Director))~~ Manager.

SECTION 5. Ordinance 165, Section 9, Ordinance 457, Section 8 and BCC 3.22.080 are hereby amended to read as follows:

REVIEW AND PUBLIC HEARING. (a) Review. The Planning ~~((Director))~~ Manager shall provide copies of the application to and request comments from the involved agencies. The following agencies may be notified:

(1) The Department of Health or supplying municipality for review of the proposed water system.

(2) The applicable state or local agency for review of on-site sewage disposal systems, or any municipality providing sewer.

(3) Benton County Fire Marshal.

(4) Benton County Public Works Director.

(5) Electrical Utility.

(6) Telephone Utility.

(7) Irrigation district, if the parcel is located within an irrigation district.

(8) Agencies and utilities with recorded easements upon the parcel.

(9) City government, if the parcel is located within one mile of the city limits or is to be served by city water or sewer.

(10) Washington State Department of Transportation, if the parcel abuts or will access onto a state road.

(11) Benton County ~~((Planning and))~~ Building Department.

(12) Other agencies as may be appropriate.

(b) Public Hearing.

(1) General. Before granting or terminating any permit under the provisions of this chapter, the ~~((Board of Adjustment))~~ Hearings Examiner shall hold a public hearing.

(2) Notice. Notification of hearing shall be made in the following ways:

(a) Written notice of date, time, place and subject of the public hearing shall be sent by First Class U.S. Mail

at least twelve (12) days prior to the hearing to owners of real property, as shown in the records of the Benton County Assessor, located within three hundred (300) feet of any portion of the boundary of the proposed manufactured home/FAS park; provided, if the owner of property within the proposed manufactured home/FAS park owns another parcel or parcels adjacent the proposed manufactured home/FAS park, notice shall be mailed to owners of real property located within three hundred (300) feet of any portion of the boundaries of such adjacent parcel(s). Notice shall contain a statement that written materials may be submitted to the administrator within ten (10) working days.

(b) Notice shall be given by publication, not less than ten (10) days prior to the hearing, in a newspaper of general circulation within the county.

Failure to send notice to a person specified in this section or failure to receive the notice shall not invalidate any proceedings or decision in connection with the manufactured home/FAS park.

(3) Review. The (~~Board of Adjustment~~) Hearings Examiner shall hear all testimony regarding an application at the public hearing. The (~~Board~~) Hearings Examiner may continue a hearing when necessary to obtain further information or to notify additional property owners.

At the public hearing the (~~Board of Adjustment~~) Hearings Examiner shall review the staff memorandum by the Planning Department and all testimony and materials concerning the proposed park and shall determine whether:

(a) The proposal complies with the applicable regulations set forth in this chapter.

(b) The proposal complies with the Benton County Comprehensive Plan and zoning regulations.

(c) The proposal is compatible with the adjacent land use, existing or planned.

(d) Particular conditions exist on or in close proximity to the proposed manufactured home/FAS park site which justify additional or more restrictive requirements than those provided by this chapter.

(e) The proposed manufactured home/FAS park is served with adequate means of drainage, water supply, sewage disposal and other necessary services and utilities.

(f) The proposed park has adequate means of ingress and egress.

(g) The public health, safety and welfare will be served by the proposed park.

(4) (~~Board of Adjustment~~) Hearings Examiner Action. Based on its review of testimony and consideration of the foregoing factors, the (~~Board of Adjustment~~) Hearings Examiner shall approve the application as submitted, approve the application subject to conditions or limitations, or deny the application.

The (~~Board of Adjustment~~) Hearings Examiner shall make a decision within one hundred twenty (120) days of the Planning

~~((Director's))~~ Manager's acceptance of a complete application, pursuant to the provisions of Chapter 17.10 BCC. When an Environmental Impact Statement is required, or where the property is located within a flood control zone as determined by R.C.W. 86.16, the time spent preparing, distributing and reviewing the required documents shall not be included in the one hundred twenty (120) days.

SECTION 6. Ordinance 165, Section 10, Ordinance 457, Section 9 and BCC 3.22.090 are hereby amended to read as follows:

VARIANCE. (a) General. The ~~((Board of Adjustment))~~ Hearings Examiner may issue a variance from the manufactured home/FAS park requirements only where strict application of the ordinance results in unnecessary hardship to the property owner.

(1) Economics shall not be a basis for a variance.

(2) In granting a variance, the ~~((Board of Adjustment))~~ Hearings Examiner may designate conditions to secure the objectives of the regulations and application provisions as to light, air, character of the neighborhood, conformance with the Comprehensive Plan, and the public health, safety, comfort, convenience and welfare.

(3) The ~~((Board of Adjustment))~~ Hearings Examiner shall not grant a variance to the density requirements of the Comprehensive Plan.

(b) Findings. Before issuing a variance, The ~~((Board of Adjustment))~~ Hearings Examiner must determine that:

(1) there are special circumstances such as size, shape or topography which are the cause of the hardship.

(2) The hardship applies to the property involved, regardless of the owner, and is not common to the surrounding area.

(3) Denial of the variance would deny the preservation and enjoyment of substantial property rights.

(4) The granting of the variance will not adversely affect the health or safety of persons residing or working in the neighborhood, and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

(5) The variance does not allow the property to be used contrary to any Federal, State or County law.

SECTION 7. Ordinance 165, Section 11, Ordinance 457, Section 10 and BCC 3.22.100 are hereby amended to read as follows:

DECISION. (a) General. The ~~((Board of Adjustment's))~~ Hearings Examiner's decision to approve, approve with conditions, or deny the application shall be final unless timely appealed to the Superior Court in accordance with State law; provided, that a rehearing may be held as provided in the ~~((Board of Adjustment))~~ Hearings Examiner Rules of Procedure.

(b) Approvals. All manufactured home/FAS park approvals issued by the ~~((Board of Adjustment))~~ Hearings Examiner shall be conditioned on the approval of development permits, as provided in BCC 3.22.120. The preliminary Manufactured Home/FAS Park Permit shall be issued by the Planning ~~((Director))~~ Manager after approval or conditional approval of the proposed manufactured home/FAS park by

the (~~Board of Adjustment~~) Hearings Examiner. The (~~Board of Adjustment~~) Hearings Examiner shall have the power to place additional limitations or conditions on preliminary Manufactured Home/FAS Park Permits to secure adequate protection to the zone or locality in which such use is to be permitted. After receipt of the preliminary Manufactured Home/FAS Park Permit, the applicant may proceed with construction. No final Manufactured Home/FAS Park Permit shall be issued by the Planning (~~Director~~) Manager until all conditions have been satisfied for that phase and the original reproducible drawing of the manufactured home/FAS park has been submitted to the Planning (~~Director~~) Manager. The preliminary Manufactured Home/FAS Park Permit shall be valid for two (2) years. If the conditions set by the (~~Board of Adjustment~~) Hearings Examiner have not been met and a final Manufactured Home/FAS Park Permit issued within two (2) years after the date of (~~Board~~) Hearings Examiner approval, the approval shall expire.

(c) Phasing. When a developer or group of developers have in their control an area of land which they wish to develop as a manufactured home/FAS park, they may cause to be prepared a plan of the entire area of the development. Once the total plan is approved, the project may be developed in a number of phases without submitting an individual plan for each phase; provided that:

(1) Each phase is developed in accordance with the approved plan. Substantial change from the approved plan shall cause a new plan and application to be submitted.

(2) Each phase is developed to allow for the systematic and logical extension of roads and utilities.

(3) The first phase shall be completed within two (2) years of the date of approval of the manufactured home/FAS park plan. Each successive phase shall be completed within twenty-four (24) months of the previous phase. If more than twenty-four (24) months elapses between any two phase completions, the (~~Board of Adjustment~~) Hearings Examiner shall review the manufactured home/FAS park to determine if the conditions are still valid.

(4) Should the (~~Board of Adjustment~~) Hearings Examiner become aware of significant change in conditions which affect the manufactured home/FAS park, they may cause a new plan and application to be submitted.

(d) Extension. An extension of approval may be granted by the (~~Board~~) Hearings Examiner upon a written request submitted by the applicant at least one (1) month prior to the expiration date, and upon the (~~Board's~~) Hearings Examiner's determination that:

(1) Substantial construction has begun on the site;

(2) No change has occurred in the Benton County Comprehensive Plan or Zoning Ordinance, or in the objectives of the (~~Board of Adjustment~~) Hearings Examiner since approval which affects the manufactured home/FAS park proposal and warrants the denial of an extension; and

(3) Nothing new or substantially different has occurred in the actual impacts of the manufactured home/FAS park upon land uses in the area which warrants denial of the extension.

SECTION 8. Ordinance 165, Section 12, Ordinance 457, Section 11 and BCC 3.22.110 are hereby amended to read as follows:

TERMINATION OF PERMIT. A final Manufactured Home/FAS Park Permit shall be terminated by the ~~((Board of Adjustment))~~ Hearings Examiner for violation of the provisions of this chapter or noncompliance with the conditions and limitations of the preliminary permit. Before terminating any final permit, the ~~((Board of Adjustment))~~ Hearings Examiner shall hold a public hearing, as provided in this section.

SECTION 9. Ordinance 165, Section 14, Ordinance 457, Section 13 and BCC 3.22.130 are hereby amended to read as follows:

MANUFACTURED HOME/FAS PARK LICENSE. (a) General. No person shall operate a manufactured home/FAS park without first obtaining a Manufactured Home/FAS Park License.

Only a manufactured home/FAS park which has been issued a final Manufactured Home/FAS Park Permit shall receive a Manufactured Home/FAS Park License. The Planning ~~((Director))~~ Manager shall issue the final Manufactured Home/FAS Park Permit after all conditions required by the ~~((Board of Adjustment))~~ Hearings Examiner and all provisions of this chapter have been satisfied.

(b) Issuance. The Benton County Building Official shall issue the first Manufactured Home/FAS Park License upon receipt of the final Manufactured Home/FAS Park Permit signed by the Planning ~~((Director))~~ Manager and an annual license fee as established by resolution of the Board of Benton County Commissioners. The License shall be valid through the 31st day of December of the year of its issuance unless suspended or revoked for violating any section of this chapter or for not complying with the conditions or limitations of the preliminary Manufactured Home/FAS Park Permit. Subsequent licenses shall be obtained annually, providing the annual license fee is paid, and shall be valid from January 1 through December 31 of each year.

NOTE: This Ordinance is continued on the following page.

(c) Posting. The Permit and License for a manufactured home/FAS park shall be posted in a conspicuous place in the manufactured home/FAS park office, and must be readily available for inspection upon request by a designated representative of Benton County.

SECTION 10. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 11. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Ryan K Brown  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to swimming pools; replacing the Board of Adjustment with the Hearings Examiner as the office responsible for granting variances; replacing "Building Department" with "Planning Department"; replacing "Building Official" with "Planning Manager"; replacing "Planning Director" with "Planning Manager"; amending Ordinance 284, Section 1 and BCC 3.24.045.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 284, Section 1 and BCC 3.24.045 are hereby amended to read as follows:

VARIANCES. (a) The Benton County (~~Board of Adjustment~~) Hearings Examiner may grant variances to the provisions of this chapter that require setbacks between structures or between structures and property lines.

Any person seeking such a variance shall submit to the (~~Building~~) Planning Department the following:

(1) A completed application supplied by the Benton County (~~Building~~) Planning Department, which includes an accurate drawing, drawn at a scale to be determined by the (~~Building Official~~) Planning Manager, showing the following:

- (i) The boundaries and dimensions of the site.
- (ii) Existing streets, roads, and highways bordering or crossing the site.
- (iii) Interior private roads.
- (iv) Locations and uses of existing and proposed structures.
- (v) Location of parking facilities, including access points.
- (vi) Scale and North Arrow.
- (vii) Vicinity Map showing adjacent properties.
- (viii) Location of drainage facilities.
- (ix) Location of utilities easements.

(2) A non-refundable application fee as established by resolution of the Board of Benton County Commissioners.

(3) Additional information as required by the Planning (~~Director~~) Manager.

(b) Before granting any variance under the provisions of this section, the (~~Board of Adjustment~~) Hearings Examiner shall hold an open record hearing, at which time the applicant and other interested parties will be given an opportunity to be heard. The open record hearing shall be held not less than ten (10) days after legal notice is given in the following manner:

- (1) By United States mail addressed to the applicant and to the owners of all property within a distance of three hundred (300) feet in any direction from the subject property.

Notices addressed to the last known address of the person making the latest tax payment shall be deemed proper notice to the owner of such property.

(2) By publication of a legal notice in a paper of general circulation.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Ryan K Brown  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to flood damage prevention; amending certain sections by replacing the Board of County Commissioners with the Hearing Examiner as the office responsible for hearing appeals and requests for variances; replacing the "Planning and Building Department" with the "Planning Department" as set forth herein; replacing the "Planning and Building Director" with the "Planning Director"; amending Ordinance 376, Section 7, Ordinance 419, Section 6 and BCC 3.26.130; amending Ordinance 376, Section 8 and BCC 3.26.140; amending Ordinance 208, Section 16, Ordinance 376, Section 9 and BCC 3.26.160; amending Ordinance 208, Section 18, Ordinance 376, Section 10 and BCC 3.26.180; amending Ordinance 208, Section 19, Ordinance 376, Section 11 and BCC 3.26.190; amending Ordinance 295, Section 3, Ordinance 376, Section 12 and BCC 3.26.195.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 376, Section 7, Ordinance 419, Section 6 and BCC 3.26.130 are hereby amended to read as follows:

DEVELOPMENT PERMIT REQUIRED - INFORMATION NECESSARY. A development permit shall be obtained before construction or development begins within any area of special flood hazard. The permit shall be for all structures including manufactured homes, and for all other development including fill and other activities.

Applications for a development permit shall be made on forms furnished by the Planning ~~((and))~~ or Building Department and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (a) Elevation, in relation to mean sea level of the lowest floor (including basement) of all structures recorded on a current elevation certificate.
- (b) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (c) Certification by a registered professional engineer that the floodproofing methods for any nonresidential structure meet the floodproofing criteria herein; and,
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

SECTION 2. Ordinance 376, Section 8 and BCC 3.26.140 are hereby amended to read as follows:

ADMINISTRATION. Prior to the issuance of a building permit required for any construction or development falling within an area of special flood hazard, the ~~((Planning and))~~ Building Department

shall review the project for compliance with this chapter. Construction or development projects which do not require a building permit but involve some other local legislative or administrative approval (i.e., shorelines permit, special use permit, subdivision or short plat approval, etc.), shall be reviewed by the Planning ~~((and Building))~~ Department for compliance with this chapter.

SECTION 3. Ordinance 208, Section 16, Ordinance 376, Section 9 and BCC 3.26.160 are hereby amended to read as follows:

VARIANCE PROCEDURE. ~~((Appeal Board-))~~ (a) Except as provided in BCC 3.26.195, the ~~((Board of County Commissioners))~~ Hearing Examiner shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) The ~~((Board of County Commissioners))~~ Hearing Examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the reviewing department in the enforcement or administration of this chapter.

(c) Decisions of the ~~((Board of County Commissioners))~~ Hearing Examiner may be appealed to the Superior Court, pursuant to Chapter 36.70C RCW, or as otherwise permitted under Washington State law.

(d) In reviewing applications, the ~~((Board of County Commissioners))~~ Hearing Examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- (1) the danger that materials may be swept onto other lands to the injury of others;
- (2) the danger of life and property due to flooding or erosion damage;
- (3) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) the importance of the services provided by the proposed facility to the community;
- (5) the necessity to the facility of a waterfront location, where applicable;
- (6) the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
- (7) the compatibility of the proposed use with existing and anticipated development;
- (8) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (9) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(11) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(e) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 1 through 11 in BCC 3.26.160(d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance shall also increase.

(f) Upon consideration of the factors of BCC 3.26.160(d) and the purposes of this chapter, the ~~((Board of County Commissioners))~~ Hearing Examiner may add reasonable conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(g) The Planning ~~((and Building))~~ Department shall maintain the records of appeals to the ~~((Board of County Commissioners))~~ Hearing Examiner and report variances to the Federal Insurance Administration upon request.

SECTION 4. Ordinance 208, Section 18, Ordinance 376, Section 10 and BCC 3.26.180 are hereby amended to read as follows:

APPLICATIONS FOR VARIANCES. All variance applications must be made in writing and submitted to the ~~((office of the))~~ Planning ~~((and Building))~~ Director. Applications must be made on the form provided, with all information filled in and the necessary signatures obtained. A non-refundable application fee as established by resolution of the Board of Benton County Commissioners must be submitted with the application.

SECTION 5. Ordinance 208, Section 19, Ordinance 376, Section 11 and BCC 3.26.190 are hereby amended to read as follows:

HEARINGS, DATES, AND NOTICE OF VARIANCES. When an application has been filed in proper form and with the required information, the Planning ~~((and Building))~~ Department shall present the application to the ~~((Board of County Commissioners))~~ Hearing Examiner. The ~~((Board))~~ Hearing Examiner shall set the time and place for a public hearing. Notification of hearing shall be made in the following ways:

(a) A written notice of hearing shall be sent by United States mail to all property owners of record within a radius of three-hundred (300) feet of the exterior boundary of the subject property. The written notice shall be mailed not less than ten (10) days prior to the hearing. The County Assessors' records shall be used to determine property owners of record, and

(b) A legal notice shall be placed in the official county newspaper as designated by the (~~Board of County Commissioners~~) Hearing Examiner at least ten (10) days prior to the hearing date.

SECTION 6. Ordinance 295, Section 3, Ordinance 376, Section 12 and BCC 3.26.195 are hereby amended to read as follows:

PLANNING (~~AND BUILDING~~) DIRECTOR APPROVAL OF VARIANCES. (a) When the Benton County Board of Commissioners has declared a state of emergency as a result of a major flood within Benton County, the Planning (~~and Building~~) Director or his/her designee is authorized to approve requests for variances to the requirements of this chapter relating to the replacement or reconstruction of dwellings within a floodway in unincorporated Benton County.

(b) The Planning (~~and Building~~) Director or his/her designee may issue such a variance without a public hearing, but only after considering the factors set forth in BCC 3.26.160(d) and in accordance with the conditions set forth in BCC 3.26.170.

(c) The decision of the Planning (~~and Building~~) Director or his/her designee to issue or deny a variance is appealable to the (~~Board of County Commissioners~~) Hearing Examiner within ten (10) days from the date of the decision. The appellant shall submit a written request for appeal to the (~~Board of County Commissioners~~) Hearing Examiner who will then hold a public hearing and review the decision of the Planning and Building Director.

SECTION 7. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 8. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

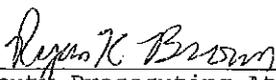
\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Constituting the Board of  
County Commissioners of  
Benton County, Washington

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

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); amending Ordinance 182, Section 23, Ordinance 285, Section 2, Ordinance 406, Section 2 and BCC 6.35.115; and amending Ordinance 406, Section 3 and BCC 6.35.118.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 182, Section 23, Ordinance 285, Section 2, Ordinance 406, Section 2 and BCC 6.35.115 are hereby amended to read as follows:

APPEALS FROM THRESHOLD DETERMINATION--NON-REFUNDABLE FEE. (a) Any interested citizen, administrative official, agency, or applicant may appeal to the ~~((Board of County Commissioners))~~ Benton County Hearings Examiner a Determination of Significance made by the responsible official by filing a written notice of appeal with the responsible official within fourteen (14) days from the date of the Determination of Significance. The appeal will be processed as follows:

(1) Upon receiving a written notice of appeal, the responsible official shall transmit all documents constituting the record upon which the Determination of Significance appealed from was made to the ~~((Board of County Commissioners))~~ Hearings Examiner.

(2) The ~~((Board of County Commissioners))~~ Hearings Examiner shall hold an open record hearing to consider the appeal of a Determination of Significance following the publication of notice of said hearing not less than ten (10) days prior to the date of hearing in a paper of general circulation within the county. At the hearing, the ~~((Board))~~ Hearings Examiner may receive such evidence as ~~((it))~~ he or she deems relevant. Following the public hearing, the ~~((Board of County Commissioners))~~ Hearings Examiner shall have the power to affirm the Determination of Significance, to remand the determination to the responsible official for further consideration, or to revise the threshold determination, provided its revision is in compliance with policies and provisions of Chapter 43.21C RCW and Chapter 197-11 WAC.

(3) All persons filing an appeal under BCC 6.35.115(a) shall at the time of filing submit a non-refundable fee as established by prior resolution of the Benton County Board of Commissioners.

(b) Appeals of mitigated determinations of non-significance must be made to the local authority that will hold an open record hearing on the related project permit applications, if such an open record hearing is required. This appeal must be made by filing a written notice of appeal with the responsible official within fourteen (14) days from the date of the threshold determination. If no open record hearing is required on the project permit application, the appeal will be filed and processed as required in

BCC 6.35.115(a). If an open record hearing is required for the project permit application, the appeal of a mitigated determination of non-significance shall be processed as follows:

(1) Upon receiving a written notice of appeal, the responsible official making the threshold determination shall transmit all documents constituting the record upon which the threshold determination was made to the local authority conducting the open record hearing on the project permit application.

(2) At the open record hearing, such local authority shall consider the appeal of the mitigated determination of non-significance. The public hearing notice for the project permit application shall include the threshold determination appeal and shall be published as required for the project permit application. Following the open record hearing, the local authority shall have the power to affirm the threshold determination, to remand the determination to the responsible official for further consideration, or to revise the threshold determination, provided its revision is in compliance with policies and provisions of RCW 43.21C and WAC 197-11.

(c) Administrative appeals of threshold determinations of non-significance are not allowed.

SECTION 2. Ordinance 406, Section 3 and BCC 6.35.118 are hereby amended to read as follows:

APPEAL OF ENVIRONMENTAL IMPACT STATEMENT (EIS) ADEQUACY--NON-REFUNDABLE FEE. (a) An open record hearing on appeals of the adequacy of a Final or Supplemental Environmental Impact Statement (EIS) issued in connection with a Type III, Type IV, Type V, Type VI and/or Type VII project permit application as set forth in BCC 17.10.050, will be heard by the local authority that will hold the open record hearing on the permit application. The appeal must be made by filing a written notice of appeal with the responsible official within twenty (20) days from the date the Final or Supplemental EIS is issued. The decision on an appeal of the adequacy of a Final or Supplemental EIS made under BCC 6.35.118(a) will be made in writing by the local authority that has authority pursuant to BCC 17.10.060 to make the last administrative decision on the project permit application that necessitated the EIS preparation. If this decision-making body does not hold the open record hearing on the EIS appeal, it will hold a closed record hearing before making its decision.

(b) Appeals of the adequacy of a Final or Supplemental EIS that is not issued in conjunction with any project permit application must be made to the ~~((Board of Benton County Commissioners))~~ Hearings Examiner. This appeal must be made by filing a written notice of appeal with the ~~((Clerk of the Board of Benton County Commissioners))~~ Planning Department within twenty (20) days from the date the Final or Supplemental EIS is issued. The ~~((Board of Benton County Commissioners))~~ Hearings Examiner shall hold an open record hearing to consider the appeal following the publication of notice of said hearing not less than ten (10) days prior to the date of hearing in a paper of general circulation within the county. The ~~((Board of Benton County Commissioners))~~ Hearings Examiner shall ~~((make))~~ issue ~~((its))~~ the final decision ~~((by resolution,))~~ and such decision shall be effective on the date the decision is mailed to the party initiating the appeal.

(c) There shall be no administrative appeal of the adequacy of a Final or Supplemental EIS issued in connection with a Type I or Type II project permit application, unless the applicant's project also requires submission of a Type III, Type IV, Type V, Type VI or Type VII project permit application. In such case, the appeal of the adequacy of the Final or Supplemental EIS must be appealed in accordance with BCC 6.35.118(a).

(d) All persons filing an appeal under BCC 6.35.118 shall at the time of filing submit a non-refundable fee as established by prior resolution of the Benton County Board of Commissioners.

SECTION 3. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

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; amending Ordinance 484, Section 5 and BCC 9.04.020, and amending Ordinance 103, Section 3.06, Ordinance 484, Section 12 and BCC 9.04.036.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 484, Section 5 and BCC 9.04.020 are hereby amended to read as follows:

DEFINITIONS. Whenever the following words and phrases appear in this chapter they shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "Shall" is always mandatory, and the word "May" indicates a use of discretion in making a decision.

(a) "Administrator" means the Benton County Planning Manager or his designated representative who shall be responsible for the administration of the Short Plat Code.

(b) "Block" means a piece or parcel of land entirely surrounded by public highways, streets, stream, railroad rights-of-way, park, etc., or a combination thereof.

(c) "Board of County Commissioners" means the Board of County Commissioners of Benton County, Washington.

(d) "Comprehensive Plan" means that plan or plans adopted by the Benton County Planning Commission and the Board of County Commissioners indicating the general locations recommended for major arterials, parks, streets, public buildings, other public improvements, and zoning districts.

(e) "County Auditor" shall have the definition as set forth in Chapter 36.22 RCW as it now exists or is hereafter amended.

(f) "County Engineer" shall have the definition as set forth in Chapter 36.80 RCW as it now exists or is hereafter amended.

(g) "County Treasurer" shall have the definition as set forth in Chapter 36.29 RCW as it now exists or is hereafter amended.

(h) "Cul-de-sac" means a street closed at one end with such closed end of sufficient size to allow vehicles of normal size to turn around.

(i) "Dedication" means the deliberate appropriation of land by its owner for any general or public uses, reserving unto himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by an owner's presentment for filing of a signed final short plat showing the dedication thereon; and, the acceptance by the public shall be evidenced by the final approval of the short subdivision.

(j) "Department" means the Benton County Planning (~~and Building~~) Department.

(k) "Developer," "Subdivider," or "Platter" means any person, firm, or corporation undertaking the subdivision or resubdivision of any lot, tract, or parcel of land.

(l) "Discrepancy" means a boundary hiatus, an overlapping boundary or a physical appurtenance, which indicates encroachment, lines of possession, or conflict of title.

(m) "Easement" means a grant by the property owner to the public, a corporation, or persons of the use of a strip of land for a specific purpose and on or over which the owner will not erect any permanent improvements which serve to interfere with the free exercise of that right.

(n) "Final Approval" means that approval given by the Administrator which authorizes recording of the short subdivision.

(o) "Final Short Plat" means the final drawing of the short subdivision and dedication prepared for filing for record with the County Auditor and containing all elements and requirements set forth in this chapter.

(p) "Improvements" means street grading or gravelling, permanent street and corner monuments, street pavement, curbs and sidewalks, pedestrian ways, water mains, and storm and sanitary sewers.

(q) "Lot" means a fractional part of subdivided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

(r) "Private Road" means a road not dedicated to nor maintained by Benton County.

(s) "Public Road" means any improved road maintained by a city, the state or County at public expense.

(t) "Registered Engineer" means an individual, licensed by the State of Washington to practice civil engineering.

(u) "Short Plat" means the map or representation of a short subdivision.

(v) "Short Subdivision" means the division or redivision of land into four (4) or fewer lots, tracts, parcels, sites, or divisions for the purposes of sale, lease, or transfer.

(w) "Surveyor," "Land Surveyor" or "Registered Land Surveyor" means a professional land surveyor registered in the State of Washington in accordance with Chapter 18.43 RCW.

(x) "Urban Growth Area" means an area designated as such by the Benton County Board of Commissioners pursuant to RCW 36.70A.110.

SECTION 2. Ordinance 103, Section 3.06, Ordinance 484, Section 12 and BCC 9.04.036 are hereby amended to read as follows:

PROCEDURE - APPEAL OF ADMINISTRATOR'S DECISION TO (~~BOARD OF COUNTY COMMISSIONERS~~) HEARINGS EXAMINER. (a) Not later than

fourteen (14) days following the mailing of the written decision of the Administrator regarding a short plat, the decision may be appealed to the Benton County (~~Board of Commissioners~~) Hearings Examiner by the applicant or any interested parties as defined below. The notice of appeal shall be on a form provided by the Department and shall be filed with the Administrator.

(b) Only persons or entities that have submitted written comments on the proposed short plat prior to the Administrator's decision shall be considered interested parties for the purpose of BCC 9.04.036.

(c) A written appeal shall include:

(1) A statement containing specific references to any portions of the written findings contained in the Administrator's decision alleged to be in error and any alleged errors of law.

(2) A statement of the relief sought, such as reversal of the Administrator's decision or modification of conditions.

(3) The signature, mailing address, and telephone number of the appellant or the appellant's representative.

(4) An appeal fee as set by resolution of the Board of County Commissioners.

(d) The Administrator shall notify the applicant and all interested parties, as defined in BCC 9.04.036(b) above, that an appeal has been filed. The Administrator shall also forward the appeal to the (~~Board of County Commissioners~~) Hearings Examiner and schedule an open record appeal hearing.

(e) The (~~Board of County Commissioners~~) Hearings Examiner shall conduct an open record appeal hearing to consider the appeal. Written notice of the open record appeal hearing shall be mailed to the appellant and all interested parties, as defined in BCC 9.04.036(b) above, and shall be published in the official county newspaper at least ten (10) days prior to the open record appeal hearing.

(f) The (~~Board of County Commissioners~~) Hearings Examiner shall review the written appeal, the record of the Administrator's decision, and receive any written or verbal public testimony at the open record appeal hearing. After reviewing the record and any testimony presented, the (~~Board of County Commissioners~~) Hearings Examiner shall either:

(1) Deny the appeal and affirm the Administrator's decision;  
or

(2) Amend, reverse, or remand the Administrator's decision.

**NOTE:** This ordinance is continued on the following page.

Ordinance No. \_\_\_\_\_  
Continued  
Page 4

(g) The (~~Board of County Commissioners~~) Hearings Examiner shall enter findings of fact and conclusions of law based in support of (~~its~~) his or her decision.

SECTION 3. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Ryan K Brown  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

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"; amending Ordinance 75, Section 2, Ordinance 507, Section 4 and BCC 11.04.020.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 75, Section 2, Ordinance 507, Section 4 and BCC 11.04.020 are hereby amended to read as follows:

DEFINITIONS. For the purpose of this title certain words and terms are defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular.

(1) "Accessory/Ancillary Use or Building" means a subordinate use or building clearly incidental to and located upon the same lot occupied by the main use or building.

(2) "Accessory Dwelling Unit" an additional room or set of rooms located within a single family structure and designed, arranged, occupied or intended to be occupied by not more than one (1) household as living accommodations independent from any other household and not exceeding 800 square feet in area.

(3) "Accessory Equipment Structure" means an un-staffed structure used to contain the equipment necessary for processing communication signals. The accessory equipment structure does not include guyed, lattice, or monopole towers.

(4) "Administrator Review" means the administrative review process in which the County Planning Director/Manager or his designee makes the administrative decision regarding a proposed use after all notifications to state and local agencies to assure consistency with applicable county, state and local requirements have been met.

(5) "Adult" means a person eighteen years of age and older.

(6) "Adult Family Home" means a regular family abode of a person or persons who are providing personal care, room and board to more than one but not more than six (6) adults who are not related by blood or marriage to the person or persons providing the services.

(7) "Agricultural Building" means a structure designed and constructed to store farm implements or hay, grain, poultry, livestock, fruit and other agricultural products. The structure shall not be used for human habitation, process, treating, or packaging agriculture products, nor shall it be a place to be used by the public.

(8) "Agricultural Market" means a use primarily engaged in the retail sale of fresh agricultural products, grown either on or off the site, but may include as incidental and accessory to the principle use, the sale of factory sealed or prepackaged food products and some limited non-food items. This definition does not include the sale of livestock.

(9) "Agricultural Recreational Facility" means a facility where a fee is charged in return for access to agriculturally-related recreational opportunities, including but not limited to: enclosed arenas, rodeo, grounds and/or building for livestock exhibits, shows and competitions.

(10) "Agricultural Related Industry" means specifically:

- (a) Packaging Plants - may include but are not limited to the following activities: washing, sorting, crating, and other functional operations such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially unaltered. Does not include processing activities, or slaughter houses, animal reduction yards, and tallow works.
- (b) Processing Plants - may include but are not limited to those activities which involve the fermentation or other substantial chemical and physical alteration of the agricultural product. Does not include slaughter houses or rendering plants.
- (c) Storage Facilities - may include those activities which involve the warehousing of processed and/or packaged agricultural products.

(11) "Agricultural Stand" means a structure up to 1000 square feet in area used for the retail sale of agriculture products, excluding livestock, grown on the premises.

(12) "Agricultural Use" means raising crops and livestock, horticultural activities, viticulture, animal husbandry, beekeeping, the storage of equipment for the above and related activities normally and routinely a part of such uses.

(13) "Agricultural Wastes" means wastes on farms resulting from the production of agricultural products including but not limited to crop residues, manures, and carcasses of dead animals weighing each or collectively in excess of fifteen pounds.

(14) "Agriculture Lands" refer to lands that are not already characterized by urban growth and are of long term significance for the commercial production of horticulture, agronomy, silviculture, aquaculture, apiary, animal products, turf, seed, Christmas trees not subject to excise tax, or livestock.

(15) "Agronomic Rates" or fertilizer guide means the rates of application of sludges, manures, or crop residues in accordance with rates specified by the appropriate fertilizer guide or by recommendation from a qualified soil scientist, for the crop under cultivation.

(16) "Airport/Heliport" means a runway or landing area or other facility designed or used by public carriers for the landing and taking off of aircraft, including the following associated facilities: taxiways, aircraft storage and tie-down areas, hangars, servicing, and passenger and air freight terminals.

(17) "Airstrip (personal)" means a runway without normal airport functions maintained for the private use of the owner of the property on which it is located.

(18) "Airstrip commercial crop-dusting" means a private runway with service and maintenance facilities which serves the commercial crop-duster.

(19) "Allowable Use" means any use listed in BCC 11.18.050, which are allowed outright, i.e., the land use itself does not require obtaining planning director review and approval, or a conditional use permit.

(20) "Amateur (or Ham) Radio Facilities" means a radio transmission or receiving antenna or communication device operated for non-commercial purposes by individuals licensed by the Federal Communications Commission (FCC).

(21) "Animal Feedlot" refers to a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of Benton County, open lots used for feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these definitions. Seasonal use during the months of November through February is exempt from feedlot status.

(22) "Animal Unit" is the volume of waste produced over a period of time by a horse, slaughter steer, or heifer.

(23) "Animal Unit Equivalent" equals the number of other farm animals, (chickens, sheep, turkeys, etc.,) needed to produce the equivalent in waste of an animal unit; i.e., it takes fifty (50) chickens to produce the same volume of waste as a horse.

NOTE: This ordinance is continued on the following page.

For purposes of Benton County, the following equivalents apply:

ANIMAL UNIT EQUIVALENT CONVERSION TABLE	
Type of Livestock	Animal Unit Equivalent
<b>Cattle:</b>	
1 slaughter steer, or bull, or dairy cow, or heifer.....	1.0
2 weaned calves to yearlings.....	1.0
<b>Horses:</b>	
1 horse.....	1.0
<b>Sheep:</b>	
2 ewes, with or without unweaned lambs at side.....	1.0
1 ram.....	1.0
4 weaned lambs.....	1.0
<b>Swine:</b>	
2 brood sows.....	1.0
5 feeder pigs (up to 200 lbs.).....	1.0
1 boar.....	1.0
<b>Other:</b>	
2 goats.....	1.0
2 llamas.....	1.0
3 alpacas.....	1.0
1 ostrich.....	1.0
3 emus.....	1.0
5 rhea.....	1.0
40 ducks or geese.....	1.0
20 turkeys.....	1.0
50 chickens.....	1.0
50 rabbits.....	1.0
Other animals, not listed above.....	As may be determined by the Planning Adminis- trative Official

(24) "Antenna Array" means one or more rods, panels, discs or similar devices used for the transmission or reception of communication signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the communication tower.

(25) "Apartment House" means a building containing three or more family-dwelling units each of which, though independent of the other, is provided with joint service such as central heat, common hallways, common entrance or entrances to the building, janitor service, refuse disposal and similar services.

(26) "Aquifer" A body of rock or soil that contains sufficient saturated permeable material to conduct groundwater and to yield

economically significant quantities of groundwater to wells and springs.

(27) "Attached Communication Facility" means an antenna array that is attached to a building or structure. The building or structure may be but is not limited to a utility pole or a water tower.

~~((28) "Auto Wrecking Yard" means a lot, parcel of land or structure, or part thereof, larger than 200 square feet, used for the collecting, dismantling, storage, salvaging, and sale of parts of machinery or vehicles not in operable condition; provided that this definition shall not be deemed to include lots used for the outdoor display and sale of used vehicles in operable condition; nor shall it include that part of a farm used for the storage of agricultural machinery kept for salvage by the owner for his own use, and not for sale, on farms having an area of not less than forty (40) acres.))~~

~~((29))~~ (28) "Bakeries" means the conversion of raw materials through a baking process to finished consumable products and may include the marketing and sale or serving of such products and related accessory items on-site and/or off-site.

~~((30))~~ (29) "Bed and Breakfast" means an owner occupied single family dwelling in which not more than five bedrooms are rented for money or other valuable consideration to the traveling public and only one meal, breakfast, may be served to guests.

~~((31))~~ (30) "Best Management Practices (BMP's)" means physical, structural, and/or managerial practices that when used singularly or in combination, protect the functions and values of critical resources. Acceptable BMP's are found in the County's Administrative design Manual. BMP's are current and evolving conservation practices, or systems of practices, management or operational measures, or design and construction techniques; or normal and accepted industry standards that are applied to land uses and land use activity in a manner which:

(a) controls soil loss and reduces water surface and groundwater quality degradation caused by nutrients, animal wastes, toxins, and sediment; and

(b) mitigates adverse impacts to the natural chemical, physical and biological environment of the County.

(c) utilizes the county's natural resources on a long term, sustainable yield basis.

~~((32))~~ (31) "Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process, that can be beneficially recycled and meets all requirements of Chapter 70.95J RCW.

~~((33) "Board of Adjustment" means a board appointed by the Board of County Commissioners, authorized to hear and make decisions on variances, conditional use permits, and certain appeals.))~~

~~((34))~~ (32) "Buffer" means a designated area used to separate incompatible uses or protect resources or development. Buffers are

generally undeveloped areas. There are different types of buffers for different purposes:

(a) buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;

(b) buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, are setbacks which avoid the hazard;

(c) buffers to separate incompatible uses, such as residential from industrial, airports or certain activities common to commercial agriculture, are generally open or sparsely populated.

~~((35))~~ (33) "Business activity" means the production or sale of goods, or the sale of services that is clearly incidental and secondary to the use of the property for residential purposes and that complies with the criteria set forth in BCC 11.16A.050(w), and BCC 11.16B.050(g).

~~((36))~~ (34) "Child" means a person seventeen years of age and under.

~~((37))~~ (35) "Child Day Care Facility - Type A" means a dwelling unit where a childcare provider cares for twelve (12) or fewer children for periods of less than 24 hours a day.

~~((38))~~ (36) "Child Day Care Facility - Type B" means a dwelling unit where a childcare provider cares for thirteen (13) or more children for periods of less than 24 hours a day, or a building or structure other than a dwelling unit where a childcare provider cares for any number of children for periods of less than 24 hours a day.

~~((39))~~ (37) "Childcare provider" means an agency, person, or persons who regularly provide childcare for one or more children for compensation for periods of less than 24 hours a day while such children are apart from their parents or guardians.

~~((40))~~ (38) "Church" means a structure, or group of structures, which by design and construction are primarily used for religious services and instruction.

~~((41))~~ (39) "Citizen Band Radio" means two-way radio facilities used for short-range personal and business communications and operated without the need of a federal license.

~~((42))~~ (40) "Commercial Dairy" means any premises where three or more animal units are kept, milked, or maintained for licensed commercial sale of product.

~~((43))~~ (41) "Commercial Hog Ranch" means the keeping of six (6) or more feeder pigs exceeding six (6) weeks of age, or more than two (2) brood sows.

~~((44))~~ (42) "Commercial Poultry/ Rabbit Operation" means premises where more than one hundred (100) birds or fifty (50) rabbits are kept.

~~((45))~~ (43) "Commercial Significance, Long Term" means the growing capacity, productivity and soil composition of the land for long term commercial production in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

~~((46))~~ (44) "Communication Facility" means any facility used for the transmission and/or reception of communication services. Such facility usually, but not necessarily, consists of an antenna array, connection cables, and a communication tower to achieve the necessary elevation.

~~((47))~~ (45) "Communication Facility Height" means the distance measured from ground level to the highest point on the communication facility, including the antenna array.

~~((48))~~ (46) "Communication Services" means any communication services as defined in the Telecommunication Act of 1996, which includes: cellular services, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), radio and television towers, paging services and similar services that currently exist or that may in the future be developed.

~~((49))~~ (47) "Communication Tower" means a freestanding structure designed and constructed specifically to support an antenna array. The structure may include a monopole tower, self supporting (lattice) tower, guyed tower and other similar structures.

~~((50))~~ (48) "Compatibility" means the congruent arrangement of land uses and/or project elements to avoid, mitigate, or minimize (to the greatest extent reasonable) conflicts.

~~((51))~~ (49) "Comprehensive Plan" means the Benton County Comprehensive Plan and any amendments, addenda, or supplemental plans that are duly adopted under Chapter 36.70 RCW (as amended) and Chapter 36.70A RCW, for Benton County or any portion thereof.

~~((52))~~ (50) "Concentrated Animal Feeding Operation" means a structure or pens for the concentrated feeding or holding of animals or poultry, including but not limited to horses, cattle, sheep or swine. This definition includes dairy confinement areas, slaughterhouses, shipping terminal holding pens, poultry and/or egg production facilities and fur farms but does not include animal husbandry.

~~((53))~~ (51) "Condition(s) of Approval" means restrictions or requirements imposed by a reviewing official pursuant to authority granted by this title.

~~((54))~~ (52) "Conditional Use Permit" means a permit which is granted for a conditional use. The term "conditional use" means a use subject to specified conditions which may be permitted in one (1) or more classifications as defined by this Zoning Ordinance but which use, because of characteristics peculiar to it, or because of

size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, or impacts to ground or surface water requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones, and to assure that such use shall not be adverse to the public interest.

~~((55))~~ (53) "County" means Benton County.

~~((56))~~ (54) "Crisis Residential Center" means a facility operated as a temporary shelter within a single family dwelling and providing twenty-four (24) hour a day care for up to six (6) children that is established and licensed by the State of Washington in accordance with RCW 74.13.032 as now in effect or hereafter amended.

~~((57))~~ (55) "Designated Manufactured Home" means a new manufactured home constructed in accordance with state and federal requirements for manufactured homes, and which:

(a) is comprised of at least two (2) fully enclosed parallel sections each of which is not less than twelve (12) feet wide by thirty-six (36) feet long;

(b) is constructed with a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch;

(c) has exterior siding similar in appearance to siding materials commonly used on conventional site-built single-family residences under the International Residential Code;

(d) is set upon a permanent foundation, as specified by the manufacturer, and the space from the bottom of the home to the ground is enclosed by concrete or an approved concrete product which can be either load bearing or decorative; and,

(e) the manufactured home is thermally equivalent to the state energy code.

~~((58))~~ (56) "Development" means "use" as defined by this title.

~~((59))~~ (57) "Duplex" A single structure containing two (2) dwelling units, neither of which is defined as an accessory dwelling unit.

~~((60))~~ (58) "Dwelling Unit" A room or rooms located within a structure, designed, arranged, occupied or intended to be occupied by not more than one (1) household. The existence of food preparation and bathroom areas within the room or rooms shall be evidence of the existence of a dwelling unit.

~~((61))~~ (59) "Dwelling, Single-Family" or "Single Family Dwelling" or "One Family Dwelling" means one of the following types of buildings or structures designed to contain a single dwelling unit:

(a) a site built home - see "Site Built Home";

(b) a modular home - means a residential structure which meets the requirements of the Uniform Building Code or International Residential Code and is constructed in a factory and transported to the building site;

(c) a designated manufactured home - see "Designated Manufactured Home".

~~((62))~~ (60) "Dwelling, Single-Family Detached" means one dwelling located on one lot and not attached to any other dwelling unit.

~~((63))~~ (61) "Electric Vehicle Charging Station" means a parking space containing battery-charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle and that does not meet the definition of a Rapid Charging Station.

~~((64))~~ (62) "Equipment Rental Facility" means a facility that stores equipment that can be rented for a specified period of time in return for payment.

~~((65))~~ (63) "Factory Assembled Commercial Structure" means a factory assembled structure (FAS) designed or used for human habitation or human occupancy for industrial, educational, assembly, professional, or commercial purposes.

~~((66))~~ (64) "Family" means any number of individuals living together as a single housekeeping unit, and doing their own cooking on the premises exclusively as one household.

~~((67))~~ (65) "Farm labor housing" means living quarters such as apartments, cabins, manufactured homes, bunkhouses, tents, or recreational vehicles maintained or temporarily located in connection with farm work, providing for the annual or seasonal housing of farm employees.

~~((68))~~ (66) "Fire Department Facility" means a building housing all or a portion of a duly organized fire department, fire protection district or fire company regularly charged with the responsibility of providing fire protection to a jurisdiction.

~~((69))~~ (67) "Floodplain" means the total area subject to inundation by the base flood.

~~((70))~~ (68) "Floodway" means the channel or waterway or those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwaters of the watercourse without causing more than a one foot rise in the water surface elevation of a 100-year flood.

~~((71))~~ (69) "Front Property Line" means the front property line as shown upon the official recorded plat of the property. In all cases where the front property line cannot be determined from a recorded plat, it shall be the property line abutting or adjoining a public road, street, highway, or lane. If there be more than one property line adjoining or abutting a public road, street, highway or lane, the front property line shall be considered to be the

property line along the principal or main travelled public way. In the event there is question as to which public way is the principal one, the county planning commission shall, upon request from the county engineer or any interested party, designate the front property line for any specific lot and such designation shall be final for the purposes of this title.

~~((72))~~ (70) "Front Yard" means the required open space between the front property line and the nearest part of any building on the lot, save as elsewhere in this title excepted.

~~((73))~~ (71) "Golf Course" means a parcel or tract of land that is improved for the purposes of playing golf e.g., greens, tees or fairways, shelters, clubhouses, and ancillary maintenance buildings.

~~((74))~~ (72) "Growth Management Act (GMA) Agricultural District Ordinance" is that ordinance which, as mandated by the Growth Management Act, Chapter 36.70A RCW, requires the designation and conservation "by regulation" of agricultural lands of long term commercial significance.

~~((75))~~ (73) "Guyed Tower" means any structure, including but not limited to lattice towers or monopoles, which uses guy wires to connect above-grade portions of a communication tower diagonally with the ground in a radial pattern around the tower.

~~((76))~~ (74) "Hazardous Waste and/or Material" means all dangerous and extremely hazardous waste as defined in RCW 70.105.010 except for moderate-risk waste.

~~((77))~~ (75) "Hazardous Waste Storage" means the holding of hazardous waste for a temporary period as regulated by State Dangerous Waste Regulations, Chapter 173-303 WAC.

~~((78))~~ (76) "Hazardous Waste Treatment" means the physical, chemical, or biological processing of hazardous waste to make wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

~~((79))~~ (77) "Hazardous Waste Treatment and Storage Facility, Off site" means treatment and storage facilities that treat and store waste from generators on properties other than those on which the treatment and storage facilities are located.

~~((80))~~ (78) "Hazardous Waste Treatment and Storage Facility" means treatment and storage facilities that treat and store wastes.

(79) "Hearings Examiner" means an examiner appointed by the Board of County Commissioners, authorized to hear and make decisions on variances, conditional use permits, and certain appeals.

~~((81))~~ (80) "Holding pens" means enclosed areas used for short term occupation by livestock and customarily serves as a staging area when moving livestock from place to place or for general livestock maintenance activities.

~~((82))~~ (81) "Home Occupation" means any business use that is clearly incidental and secondary to the use of the property for residential purposes.

~~((83))~~ (82) "Hotel" means a facility providing lodging and usually meals for the public, especially transients.

~~((84))~~ (83) "Housing for People with Functional Disabilities" means housing used, or intended for use, by persons with functional disabilities. The term includes, but is not limited to, Adult Family Homes, Residential Care Facilities, and housing for any Supported Living Arrangement, as therein defined.

~~((85))~~ (84) "Hunting, Fee Access" means an activity where hunters pay a fee to lease private property from property owners allowing them access onto the property for hunting purposes.

~~((86))~~ (85) "Hunting Preserve" means a parcel or contiguous parcels encompassing at least three hundred and twenty (320) acres used for hunting.

~~((87))~~ (86) "Impervious Surface" means any material which reduces or prevents absorption of storm water into previously undeveloped land.

~~((88))~~ (87) "Industrial Solid Wastes" means waste by-products from manufacturing and processing operations such as scraps, trimmings, packing, and other discarded materials not otherwise designated as dangerous waste under chapter 173-303 WAC.

~~((89))~~ (88) "Infiltration" refers to the penetration of water into soil or other material.

~~((90))~~ (89) "Kennel, Commercial" means any premises on which more than three (3) dogs, each more than six (6) months old are housed, groomed, bred, boarded, trained, or sold.

~~((91))~~ (90) "Kennel, Private" means any premises on which one or more dogs are housed, groomed, bred, boarded, trained, or sold but that does not meet the definition of a commercial kennel as defined herein.

~~((92))~~ (91) "Land" means any lot, parcel or tract of real property (ground, soil, or earth).

~~((93))~~ (92) "Land Use" means the method or manner in which land and structures are occupied or utilized.

~~((94))~~ (93) "Landscaping" means the planting, removal, and maintenance of vegetation along with the movement and displacement of earth, topsoil, rock, bark, and similar substances done in conjunction with the planting, removal and maintenance of vegetation. Landscaping products would include trees, shrubs, topsoil, landscaping rock, bark, irrigation supplies, ornamental fixtures, and/or similar materials used in landscaping property.

~~((95))~~ (94) "Lattice Tower" means a structure that consists of a network of vertical and horizontal supports and crossed metal braces which form a tower that is usually triangular or square in cross-section.

~~((96))~~ (95) "Law Enforcement Facility" means an office for the administration of any public agency responsible for the public order and safety, i.e., police, sheriff, or state patrol. Law enforcement facilities do not include outdoor storage areas or maintenance shops.

~~((97))~~ (96) "Lot" means:

(a) a parcel of land on which a principal building and its accessory buildings are placed or are to be placed, together with the required open spaces; or a "lot" designated as such on an officially recorded plat;

(b) any subdivision of land by metes and bounds description prior to the adoption of this title and held under one ownership separate and distinct from the adjoining and abutting land shall be considered a "lot" as shown by the last conveyance of record; and,

(c) when a tract of land consisting of more than one platted lot held under one ownership is to be developed as one unit, all the parcels or lots shall be considered as one lot for the purpose of this title.

~~((98))~~ (97) "Lot Area" means the total horizontal area within the boundary lines of a lot.

~~((99))~~ (98) "Lot Coverage" means that portion of the lot that is covered by structures and other impervious surfaces.

~~((100))~~ (99) "Lot Depth" means the horizontal length of a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line.

~~((101))~~ (100) "Lot Line, Front:"

(a) in the case of an interior lot - the front lot line shall be the property line separating the lot from the road;

(b) in the case of a corner lot - the front lot line shall be the property line with the narrowest street frontage, except, the building official, or his/her designee, shall designate the front lot line for corner lots in residential districts.

(c) in the case of a flag lot, when an access easement or right-of-way extends across the lot, the front lot line shall be the line separating the lot from the right-of-way or access easement. When the right-of-way or access easement does not extend across the property, the front lot line shall be determined by the building official.

~~((102))~~ (101) "Lumber Yard" means facilities used for the storage and sale of dimensional lumber.

~~((103))~~ (102) "Manufactured Home" means a manufactured, relocatable living unit which, when erected on site, is designed to be permanently connected to required utilities and used as a dwelling, exceeds forty (40) feet in length and eight (8) feet in width, and bears the insignia of the U. S. Department of Housing and Urban Development.

~~((104))~~ (103) "Manufactured Home/FAS Park" includes mobile home park. A site, lot or tract of land under the ownership or management of one person, firm or corporation, intended for occupancy by five (5) or more manufactured (mobile) homes/FAS for dwelling or sleeping purposes. This definition shall not include parks for the location of recreational vehicles for travel or recreation.

~~((105))~~ (104) "Manure" means animal waste.

~~((106))~~ (105) "Manure Storage Area" refers to an area associated with an animal feedlot where animal manure or runoff containing animal manure is stored until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage.

~~((107))~~ (106) "Master Plan Resorts/Summer Resorts" means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities. A master planned resort may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.

~~((108))~~ (107) "Medical Facility" means an office from which emergency or routine health care services are provided and that does not involve overnight inpatient care.

~~((109))~~ (108) "Monopole Tower" means a structure that consists of a single pole to support antennas and connecting appurtenances.

~~((110))~~ (109) "Multi-family Dwelling" means a building arranged or designed to be occupied by more than two families, such as an apartment house, flat or rowhouse.

~~((111))~~ (110) "New Manufactured Home" means any manufactured home required to be titled under Title 46 RCW, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2).

~~((112))~~ (111) "Non-agricultural Accessory Use" means the production or sale of goods, or the sale of services that are not normally and routinely a part of the chain of production and harvesting of an agricultural or horticultural crop, or livestock.

~~((113))~~ (112) "Nursery" means an establishment where trees, shrubs and other plant materials are grown on site for the purpose of sale.

~~((114))~~ (113) "Parcel" means land having fixed boundaries created in accordance with Benton County Code and/or state law. The term includes lots or tracts.

~~((115))~~ (114) "Park" means a public or privately owned area with facilities for active or passive recreation by the public, including but not limited to: sports fields, skating facilities, water access facilities, trails for non-motorized uses, caretaker residences, and supporting infrastructure.

~~((116))~~ (115) "Pasture" refers to areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

~~((117))~~ (116) "People with Functional Disabilities" means a person who, because of a recognized chronic physical or mental condition or disease, is functionally disabled to the extent of:

(a) needing care, supervision or monitoring to perform activities of daily living or instrumental activities of daily living, or;

(b) needing support to ameliorate or compensate for the effects of the functional disability so as to lead as independent a life as possible, or;

(c) having a physical or mental impairment which substantially limits one or more of such person's major life activities, or;

(d) having a record of such an impairment, or;

(e) being regarded as having such an impairment, but such term does not include current illegal use of or active addiction to a controlled substance.

~~((118))~~ (117) "Permit" means written government approval issued by an authorized official empowering the holder thereof to take some action permitted.

~~((119))~~ (118) "Person" refers to any natural person, any state, municipality, or other governmental or other political subdivision or other public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, and any other entity.

~~((120))~~ (119) "Planning Commission" means the duly constituted and appointed Planning Commission of Benton County.

~~((121))~~ (120) "Planning Department" means the Benton County Planning Department.

~~((122))~~ (121) "Premises" means a lot, parcel, or plot of land together with the buildings and structures thereon.

~~((123))~~ (122) "Professional Office" means an office used as a place of business by the following licensed professionals or persons in the following generally recognized professions using training or knowledge of technical, scientific or other academic discipline as opposed to manual skills and that do not involve outside storage or fabrication or on-site sale or transfer or commodities:

- (a) Financial Services, Insurance and Real Estate Agents;
- (b) Accounting, Auditing, and Bookkeeping Services;
- (c) Legal Services;

- (d) Management and Public Relations Services; and
- (e) Engineering, Architectural, Planning and Surveying Services.

~~((124))~~ (123) "Public Garage" means any building or premises used for the storage or housing of more than three self-propelled vehicles (except farm implements used on the premises) or where such vehicles are repaired or kept for hire.

~~((125))~~ (124) "Public Hearing" means a meeting open to the public that is announced and advertised in advance as required by law at which the public is given the opportunity to participate.

~~((126))~~ (125) "Public Transit Center" means a facility where public transportation passengers interchange from one route or vehicle to another.

~~((127))~~ (126) "Rapid Charging Station" means a facility offering electrical outlets to be used by consumers for a fee to expeditiously recharge electric vehicle batteries through high power levels that meet or exceed applicable standards under state law.

~~((128))~~ (127) "Rear Property Line" means the property line of a lot most nearly parallel to the front property line of the same lot as defined in this title except that for a triangular shaped lot the rear property line shall be represented by the point of intersection of the two property lines which are not the front property line as defined in this title.

~~((129))~~ (128) "Rear Yard" means the required open space on a lot extending along the rear property line through the whole width of the lot.

~~((130))~~ (129) "Reception Facility" means a private building with restroom facilities and/or kitchen, and associated grounds used for social, educational, or cultural activities.

~~((131))~~ (130) "Recreational Vehicle" means a motorized or non-motorized vehicle designed and manufactured for recreational use, including but not limited to boats, travel trailers, snowmobiles, go carts, motorcycles (including three and four wheelers), and dunebuggies.

~~((132))~~ (131) "Recreational Vehicle (R.V.) Park" means any site, lot or parcel of ground occupied or intended for occupancy by two (2) or more recreational vehicles for travel, recreational or vacation uses, whether or not a fee is charged. Storage of two (2) or more unoccupied recreational vehicles does not constitute an R.V. park.

~~((133))~~ (132) "Recycling Center" means a facility used to recycle, reprocess, and/or treat the following materials to then return to a condition in which they may be used again: newspapers, magazines, books, and other paper products, glass, metal cans.

~~((134))~~ (133) "Rental Storage Facility" means a structure or structures containing separate, individual, and private storage spaces of varying sizes leased or rented individually for varying periods of time.

~~((135))~~ (134) "Resource Lands" refer to agricultural and mineral lands.

~~((136))~~ (135) "Retail Sales Establishment" means a facility used for the sale of goods directly to customers including, but not limited to: mini marts, farm supply and hardware stores, florists, and agricultural markets.

~~((137))~~ (136) "Sand" refers to large particles of soil from 0.5 to 2 millimeter in diameter. Sand soil contains at least 85 per cent sand with the percentage of silt plus 1.5 times the percentage of clay not exceeding 15 per cent.

~~((138))~~ (137) "Satellite Earth Station" means the facilities used for reception and processing of programming services from a satellite prior to transfer to terrestrial distribution systems or for processing of programming services from a terrestrial source before transmission via satellite.

~~((139))~~ (138) "School" means a public or private educational learning institution from which instruction is given to children no younger than three (3) years old, and includes high schools, colleges, and agricultural or technical schools or facilities.

~~((140))~~ (139) "Setback, Front" is the minimum horizontal distance measure perpendicularly from the centerline of the adjacent right-of-way to the nearest wall of the structure. Where there is a partial right-of-way, the setback shall be measured perpendicularly from the design centerline. When there is a partial right-of-way, the setback shall be measured perpendicularly from the design centerline.

~~((141))~~ (140) "Setback, Side and Rear" is the minimum horizontal distance measured perpendicularly from the nearest property line to the nearest wall of the structure. Except that a side setback on a corner lot, along the adjacent right-of-way shall be measured perpendicularly from the center line of right-of-way. When there is a partial right-of-way, the setback shall be measured perpendicularly from the design centerline.

~~((142))~~ (141) "Shooting Range Facility" means a range, building or location used for practice with firearms and/or archery equipment. The facility may include limited retail sales and services to support shooting and archery activities and operated only during the time the shooting range facility is open. All sales and service must comply with federal, state and local regulations.

~~((143))~~ (142) "Side Yard" means the required open space on a lot between the side wall line of a building and the side line of the lot, and extending from the front yard to the rear yard.

~~((144))~~ (143) "Site built home" means a dwelling primarily constructed on the site to be occupied by the structure and which is permanently affixed to the ground by footings and foundation.

~~((145))~~ (144) "Slaughterhouse" means a commercial establishment where animals are butchered.

~~((146))~~ (145) "Solar Power Generator" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries.

~~((147))~~ (146) "Solid Waste" means all putrescible and non putrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles, or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid materials which are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to woodwaste, dangerous waste, and problem wastes. Agricultural wastes are exempt from this definition provided the wastes are limited to manures and crop residues returned to the soil at agronomic (fertilizer) rates.

~~((148))~~ (147) "Solid Waste Handling Facility" means a parcel of land or structure, or part thereof, larger than two hundred (200) square feet used for the storage, collection, or abandonment of solid waste; provided, establishments for the sale, purchase, storage and dismantling of vehicles and machinery are not considered solid waste handling facilities.

~~((149))~~ (148) "Solid Waste Transfer Station" means a parcel of land or structure, or part thereof, used as a facility that receives and consolidates solid waste and at which solid waste may be loaded onto tractor trailers, railcars, or barges for long-haul transport to a distant disposal facility.

~~((150))~~ (149) "Stockyards" see "Animal Feedlots."

~~((151))~~ (150) "Structure" means that which is built or constructed.

~~((152))~~ (151) "Subsurface Water" refers to any water below the surface of the ground, including but not limited to water in the saturated and unsaturated zones.

~~((153))~~ (152) "Supported Living Arrangement" means a living unit owned or rented by one or more persons with functional disabilities who receive assistance with activities of daily living, and/or medical care from an individual or agency licensed and/or reimbursed by a public agency to provide such assistance.

~~((154))~~ (153) "Urban Growth Area" means an area designated by Benton County in its Comprehensive Plan where urban growth and municipal services are allowed and encouraged and where annexation by cities can occur.

~~((155))~~ (154) "Use" means the activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

~~((156))~~ (155) "Use District" means a portion of Benton County within which certain uses of land and structures are permitted and certain other uses of land and structures are prohibited, certain yards and other open space are required and specific lot areas are established, all as set forth and specified in this title. This definition also includes the term "zone" and "zoning district."

~~((157))~~ (156) "Utilities" means those business, institutions, or organizations which use pipes or conductors in, under, or along streets, alleys or easements to provide a product or service to the public.

~~((158))~~ (157) "Utility Substation Facility" means above or below ground structures that are necessary to provide or facilitate distribution, transmission, or metering of water, gas, sewage, and/or electric energy. Such facilities may consist of, but are not limited to, the following:

- (a) Water, gas, and electrical distribution or metering lines and sites;
- (b) Water or sewage pumping stations;
- (c) Water towers and reservoirs;
- (d) Public water wells and any accessory treatment facilities; and/or
- (e) Telephone switching facilities.

~~((159))~~ (158) "Veterinary Facility" means a business establishment or facility which renders surgical and medical treatment to animals and which includes inside or outside accommodations for animals.

~~((160))~~ (159) "Warehouse" means a structure used for the storage of goods and materials. Also see "Agricultural Building."

~~((161))~~ (160) "Wastes" see "Agricultural Wastes," "Industrial Solid Wastes," or "Solid Wastes."

~~((162))~~ (161) "Wind Turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution or transmission lines, or electrical substations.

~~((163))~~ (162) "Wind Turbine Farms" means two or more wind turbines on one parcel.

~~((164))~~ (163) "Wind Turbine Height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades.

~~((165))~~ (164) "Yard Sale" means the occasional sale of used household goods and personal items on the seller's premises. "Yard sale" includes but is not limited to garage sales, moving sales, patio sales, estate sales and rummage sales.

~~((166))~~ (165) "Wineries/Breweries" means facilities where fruit or other products are processed into wine or spirits and related storage, bottling, shipping, sampling, tasting and sale of such.

~~((28))~~ (166) "Wrecking Yard" means a lot, parcel of land or structure, or part thereof, larger than 200 square feet, used for the collecting, dismantling, storage, salvaging, or sale of machinery or vehicles not in operable condition or parts thereof; provided that this definition shall not be deemed to include lots used for the outdoor display and sale of used vehicles in operable condition; nor shall it include that part of a farm used for the storage of agricultural machinery kept for salvage by the owner for his own use, and not for sale, on farms having an area of not less than forty (40) acres.

(167) "Zoning District" means a portion of Benton County within which certain uses of land and structures are allowed or conditionally permitted, certain other uses of land and structures are prohibited, and certain development standards may be specified, and includes the terms "zone" and "use district".

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

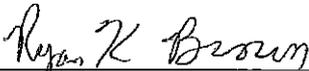
ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

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; amending Ordinance 486, Section 6, Ordinance 508, Section 1 and BCC 11.10.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 486, Section 6, Ordinance 508, Section 1 and BCC 11.10.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Community Center Residential District (CCR) if a conditional use permit is issued by the ((~~Board of Adjustment~~)) Hearings Examiner after notice and public hearing as provided in BCC 11.52.090.

- (a) School, library, community clubhouse, grange hall, senior center, and/or other non-profit organizational hall.
- (b) Multi-family dwelling containing three (3) or four (4) dwelling units.
- (c) Public transit center.
- (d) Child Day Care Facility, Type B, subject to the provisions of BCC 11.52.068.
- (e) Cemetery, columbarium and/or mausoleum.
- (f) A Park.
- (g) Bed and Breakfast Establishment.

NOTE: This ordinance is continued on the following page.

Ordinance No. \_\_\_\_\_  
Continued  
Page 2

(h) Home occupation involving the display and/or sale of products on the premises; provided, a home occupation permit is also required under BCC 11.10.090 through BCC 11.10.120.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

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; amending Ordinance 490, Section 6, Ordinance 512, Section 1 and BCC 11.13.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 490, Section 6, Ordinance 512, Section 1 and BCC 11.13.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Urban Growth Area Residential District (UGAR) if a conditional use permit is issued by the (~~Board of Adjustment~~) Hearings Examiner after notice and public hearing as provided in BCC 11.52.090:

- (a) School, library, community clubhouse, grange hall, senior center and/or other non-profit organizational hall.
- (b) Fire department facility, law enforcement facility, and/or medical facility.
- (c) Child Day Care Facility, Type B, subject to the provisions of BCC 11.52.068.
- (d) Public transit center.
- (e) Bed and Breakfast Establishment.
- (f) Home occupation involving the display and/or sale of products on the premises; provided, a home occupation permit is also required under BCC 11.13.090 through BCC 11.13.120.
- (g) Nursery.
- (h) Park.
- (i) Hiking and non-motorized biking trails.

NOTE: This ordinance is continued on the following page.

(j) Utility substation facility.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

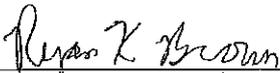
ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE relating to the Rural Lands One Acre District (RL); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits; amending Ordinance 487, Section 6, Ordinance 509, Section 1 and BCC 11.14.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 487, Section 6, Ordinance 509, Section 1 and BCC 11.14.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Rural Lands One Acre District (RL-1) if a conditional use permit is issued by the (~~Board of Adjustment~~) Hearings Examiner after notice and public hearing as provided by BCC 11.52.090.

- (a) School, library, community clubhouse, grange hall, senior center and/or other non-profit organizational hall.
- (b) Storage yard owned by a utility.
- (c) Public transit center.
- (d) Child Day Care Facility, Type B, subject to the provisions of BCC 11.52.068.
- (e) A Bed and Breakfast Establishment.
- (f) Cemetery, columbarium, and/or mausoleum.
- (g) Home occupation involving the display and/or sale of products on the premises; provided, a home occupation permit is also required under BCC 11.14.090 through BCC 11.14.120.
- (h) Sewage treatment facility for industrial and/or domestic waste.

NOTE: This ordinance is continued on the following page.

- (i) A Park.
- (j) Church, if not otherwise allowed under BCC 11.14.030.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to the Rural Lands Five Acre District (R1-5); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits; amending Ordinance 488, Section 6, Ordinance 510, Section 1 and BCC 11.16A.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 488, Section 6, Ordinance 510, Section 1 and BCC 11.16A.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Rural Lands Five Acre District (RL-5) if a conditional use permit is issued by the (~~Board of Adjustment~~) Hearings Examiner after notice and public hearing as provided by BCC 11.52.090.

- (a) A school.
- (b) A community clubhouse, grange hall, senior center and/or other non-profit organizational hall.
- (c) A storage yard owned and operated by a utility.
- (d) A sand or gravel pit, stone quarry and similar use for the development of natural resources extracted on-site.
- (e) A Bed and Breakfast Establishment.
- (f) Kennel, commercial.
- (g) Home occupation involving the display and/or sale of products on the premises; provided, a home occupation permit is also required under BCC 11.16A.090 through BCC 11.16A.120.
- (h) On-site hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210.
- (i) Child Day Care Facility, Type B, subject to the provisions of BCC 11.52.068.
- (j) Wineries/Breweries not otherwise allowed under BCC 11.16A.030.
- (k) Cemetary, columbarium, and/or mausoleum.
- (l) Sewage treatment facility for industrial and/or domestic waste.
- (m) Rodeo facilities.
- (n) Reception facility with a capacity not to exceed two hundred (200) attendees.
- (o) A Park.
- (p) A golf course.

- (q) Recreational Vehicle Park.
- (r) A public transit center.
- (s) Airport/Heliport.
- (t) Church, if not otherwise allowed under BCC 11.16A.030.
- (u) Business activities, other than those set forth above, that are compatible with the principal uses and purpose of the underlying zone and the surrounding land uses may be conducted from within an approved accessory building detached from all dwelling units if the following criteria as well as any other conditions required by the ((~~Board of Adjustment~~)) Hearings Examiner are satisfied:
  - (1) There must be a residence on site, and at least one (1) of the proprietors of the business must be the owner or lessee of the property where the business and the residence are located and must reside in said residence.
  - (2) No more than four (4) non-resident persons, whether they work on site or not, may be employed by or be partners in the business.
  - (3) The business activity, including all storage space, shall not occupy more than eighteen hundred (1800) square feet of total floor area within the detached accessory building.
  - (4) Only one (1) approved detached accessory building on a parcel may be used for business activities. If more than one (1) business will be conducted within an approved detached accessory building, then a separate application must be submitted for each business activity, provided that the total area used by all business activities shall not exceed that permitted by BCC 11.16A.050(w)(3).
  - (5) No more than two (2) non-illuminating signs, with a maximum area of four (4) square feet each, shall be permitted in connection with the business activity. The posting of such signs is limited to the parcel on which the approved detached accessory building is located. On-street (inside the road right-of-way) sign posting and sign posting which interferes with the line-of-site for road intersections are prohibited.
  - (6) Not more than three (3) vehicles marked to identify the business may be on the parcel at any one time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the business activity. This prohibition applies to, but is not limited to: lumber, plasterboard, pipe, paint, inoperable vehicles, and heavy equipment that are related to the business.
  - (7) The property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state and federal regulations pertinent to the business activity pursued. The requirements of or permission granted by the ((~~Board of Adjustment~~)) Hearings Examiner shall not be construed as an exemption from such regulations.

(8) Adequate off-street parking, as determined by the ((~~Board of Adjustment~~)) Hearings Examiner, must be provided.

(9) Any waste created as a result of the business activity must be disposed of off-site in compliance with all local, state and/or federal regulations.

(10) The presence of customers/clients and non-resident employees at the location of the business activity shall be limited to the days and hours of operation as determined by the ((~~Board of Adjustment~~)) Hearings Examiner.

(11) The business activity does not require a marijuana processor or retailer license from the Washington State Liquor Control Board.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

*Ryan K Brown*  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to zoning and the Rural Lands Twenty Acre District (RL-20); replacing the "Board of Adjustment" with the "Hearings Examiner" as the party responsible for the issuance of conditional use permits; amending Ordinance 489, Section 6 and BCC 11.16B.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 489, Section 6 and BCC 11.16B.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Rural Lands Twenty Acre District (RL-20) if a conditional use permit is issued by the (~~Board of Adjustment~~) Hearings Examiner after notice and public hearing as provided by BCC 11.52.090.

(a) A sand or gravel pit, stone quarry and similar use for the development of natural resources extracted on-site.

(b) Kennel, commercial.

(c) Child Day Care Facility, Type B, subject to the provisions of BCC 11.52.067.

(d) A Park.

(e) A Bed and Breakfast Establishment.

(f) Agricultural Market.

(g) Business activities, other than those set forth above, that are compatible with the principal uses and purpose of the underlying zone and the surrounding land uses may be conducted from within an approved accessory building detached from all dwelling units if the following criteria as well as any other conditions required by the (~~Board of Adjustment~~) Hearings Examiner are satisfied:

(1) There must be a residence on site, and at least one (1) of the proprietors of the business must be the owner or lessee of the property where the business and the residence are located and must reside in said residence.

(2) No more than four (4) non-resident persons, whether they work on site or not, may be employed by or be partners in the business.

(3) The business activity, including all storage space, shall not occupy more than eighteen hundred (1800) square feet of total floor area within the detached accessory building.

(4) Only one (1) approved detached accessory building on a parcel may be used for business activities. If more than one (1) business will be conducted within an approved detached accessory building, then a separate application must be submitted for each business activity, provided that the total

area used by all business activities shall not exceed that permitted by 11.16B.050(g)(3).

(5) No more than two (2) non-illuminating signs, with a maximum area of four (4) square feet each, shall be permitted in connection with the business activity. The posting of such signs is limited to the parcel on which the approved detached accessory building is located. On-street (inside the road right-of-way) sign posting and sign posting which interferes with the line-of-site for road intersections are prohibited.

(6) Not more than three (3) vehicles marked to identify the business may be on the parcel at any one time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the business activity. This prohibition applies to, but is not limited to: lumber, plasterboard, pipe, paint, inoperable vehicles, and heavy equipment that are related to the business.

(7) The property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state and federal regulations pertinent to the business activity pursued. The requirements of or permission granted by the ((Board of Adjustment)) Hearings Examiner shall not be construed as an exemption from such regulations.

(8) Adequate off-street parking, as determined by the ((Board of Adjustment)) Hearings Examiner, must be provided.

**NOTE:** This ordinance is continued on the following page.

(9) Any waste created as a result of the business activity must be disposed of off-site in compliance with all local, state and/or federal regulations.

(10) The presence of customers/clients and non-resident employees at the location of the business activity shall be limited to the days and hours of operation as determined by the ((~~Board of Adjustment~~)) Hearings Examiner.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Ryan K Brown  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to zoning and the GMA Agricultural District; replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits, special use permits, setting criteria, and imposing conditions and requirements; amending Ordinance 265, Section 6, Ordinance 499, Section 1 and BCC 11.18.060; and amending Ordinance 265, Section 7, Ordinance 439, Section 1, Ordinance 445, Section 7, Ordinance 499, Section 2 and BCC 11.18.070.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 265, Section 6, Ordinance 499, Section 1 and BCC 11.18.060 are hereby amended to read as follows:

USES REQUIRING PERMITS-DIRECTOR REVIEW AND APPROVAL REQUIRED(~~TO APPEAL TO THE BENTON COUNTY BOARD OF ADJUSTMENT~~). (a) The following uses shall be allowed in the GMA Agricultural District only when carried on as an operation which is clearly ancillary, and not in direct conflict with, the primary agricultural operation identified in BCC 11.18.050. The following uses are subject to the review and approval of the Planning Director pursuant to Benton County Code provisions as now in effect or hereinafter amended:

- (1) Temporary dwellings. BCC 11.52.091 through BCC 11.52.0941.
- (2) Two (2), three (3), and four (4) detached single-family dwellings per lot, including manufactured homes or factory assembled structures, subject to the provisions of BCC 11.52.065.
- (3) Child Day Care Facility-Type A, subject to the provisions of BCC 11.52.067.
- (4) Commercial sand and gravel pits, and stone quarries and other mineral extraction, subject to the provisions of BCC 11.52.065(b) (1), (b) (2), and (b) (5), BCC 11.52.065(c) through BCC 11.52.065(g).
- (5) Seasonal outdoor retail sales, subject to the provisions of BCC 11.52.095.
- (6) Home occupations meeting the criteria set forth in BCC 11.10.090 through BCC 11.10.120.
- (7) Communication facilities, subject to Chapter 11.65 BCC.

SECTION 2. Ordinance 265, Section 7, Ordinance 439, Section 1, Ordinance 445, Section 7, Ordinance 499, Section 2 and BCC 11.18.070 are hereby amended to read as follows:

USES REQUIRING PERMITS--CONDITIONAL USE PERMIT REQUIRED. Upon issuance of a conditional use permit by the (~~Board of Adjustment~~) Hearings Examiner, the following uses shall be permitted within the GMA Agricultural District; provided that they are located in a manner that minimizes adverse impacts to agricultural productivity on adjacent lands:

- (1) Slaughterhouses, commercial meat-packing plants, animal feedlots; provided, that they are not located in the floodway and floodplain as shown on the FEMA maps, or within two hundred (200) feet of a naturally occurring body of water, or a well used for domestic or municipal purposes and shall be designed to prevent infiltration or other movement of livestock wastes into the aquifer, or directly into surface waters.
- (2) Commercial dairy, hog, poultry, and rabbit operations, propagation of fur bearing species for commercial purposes, or livestock auction yard; provided, that at least the following setbacks are met as well as all other conditions imposed in connection with the issuance of the conditional use permit: one hundred (100) foot setbacks from any lot line to any animal enclosure, except for fenced pasture; and a five hundred (500) foot setback from any existing residential structure on adjacent property not under applicant's ownership.
- (3) Commercial establishments for the transportation of agricultural products other than those produced on the premises, or agricultural supplies or equipment, together with the maintenance, storage, repair and servicing of the necessary trucks and equipment.
- (4) The following agriculturally based recreational and sales facilities: covered arenas, rodeo events, livestock sales rings, and working animal events. The following accessory uses may be permitted during one or more of the above events: veterinary service, food concessions, R.V. parking area, and event related novelty/accessory sales.
- (5) Airstrips (commercial crop dusting).
- (6) Facilities for treatment of industrial solid wastes with associated spray fields related to the on-site processing of agricultural products.
- (7) Solid waste disposal site; except on lands designated as having less than 160 acre minimum parcel size.
- (8) Off-site hazardous waste treatment and storage facilities may be allowed by special permit issued by the Benton County (~~Board of Adjustment~~) Hearings Examiner after notice and public hearing as provided in BCC 11.52.090; provided, that such facilities must comply with the state siting criteria adopted in accordance with RCW 70.105.210.
- (9) Asphalt manufacture in conjunction with rock, sand and gravel mining.
- (10) Facilities for power generation, other than nuclear fueled, wind fueled or solar fueled.
- (11) Child Day Care Facility, Type B, subject to the provisions of BCC 11.52.068.
- (12) Farm labor housing, to the extent that the farm laborers are needed for the agricultural operation on premise.

- (13) Manufactured (mobile) home and factory assembled structure parks occupied by farm laborers and their families and pursuant to Chapter 3.22 BCC (Manufactured Home Park Ordinance).
- (14) Recreational vehicle parks occupied by farm laborers and their families).
- (15) Off-premise directional signs.
- (16) The production of bio-diesel and alcohol fuels from agricultural products.
- (17) The commercial maintenance, repair, servicing, and storage of agricultural machinery, implements, and equipment for use off the premises.
- (18) Commercial establishments for the storage, sale and off-site application of agricultural chemicals, including but not limited to herbicides, fertilizers, insecticides, and pesticides.
- (19) Underground natural gas storage facilities.
- (20) One (1) wind turbine or a wind turbine farm with turbine heights of more than three hundred and fifty (350) feet and related support structures and other improvements meeting the conditions set forth in BCC 11.18.050(27)(i) and BCC 11.18.050(27)(iii) through BCC 11.18.050(27)(x) and all other conditions that may be imposed by the (~~Board of Adjustment~~) Hearings Examiner.
- (21) Non-agricultural accessory uses that promote or sustain the continuation of the agricultural uses of a parcel if the accessory uses meet the following criteria as well as any other conditions required by the (~~Board of Adjustment~~) Hearings Examiner:
  - (a) The non-agricultural accessory use shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;
  - (b) The non-agricultural accessory use must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;
  - (c) The parcel on which the non-agricultural accessory use is located meets one of the following:
    - (i) the parcel is no less than twenty (20) acres in size with eighty (80) percent of the acreage primarily committed to agricultural use and has produced gross income equivalent to two hundred (200) dollars or more per acre each year for three (3) of the five (5) calendar years preceding the date of application;
    - (ii) the parcel is currently enrolled in the County's Agricultural Open Space program pursuant to Chapter 84.34 RCW; or

- (iii) the parcel is not less than one hundred (100) contiguous acres that has been in agricultural use for three (3) of the last five (5) years.
- (d) The non-agricultural accessory use, including any new buildings, parking or supportive uses associated therewith, shall be located within one thousand (1000) feet of the nearest existing buildings or residential structures and shall not otherwise convert more than one (1) acre of agricultural land to non-agricultural uses;
- (e) The non-agricultural accessory uses, including any storage space associated therewith, shall not collectively occupy more than fifteen thousand (15,000) square feet of building space;
- (f) No more than three (3) vehicles marked to identify the non-agricultural accessory use(s) may be on the parcel at any time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the non-agricultural accessory use;
- (g) No person may possess more than one valid permit at a time under this section and all non-agricultural accessory use permits issued under this section for any given parcel must be authorized in one permit;
- (h) No more than two (2) signs of a size determined by the ~~((Board of Adjustment))~~ Hearings Examiner shall be permitted in connection with the non-agricultural accessory use. Illumination of a sign shall be only by hooded directional lighting so that only the sign surface is illuminated. The posting of such sign is limited to the parcel on which the non-agricultural accessory use is located. On-street (inside the road right-of-way) sign posting is prohibited, and no sign outside of a road right-of-way may interfere with the line of sight for road intersection;
- (i) The parcel and non-agricultural accessory use owner shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the non-agricultural accessory use being pursued. The requirements of or the permission granted by the ~~((Board of Adjustment))~~ Hearings Examiner shall not be construed as an exemption from such regulations;

NOTE: This ordinance is continued on the following page.

- (j) Adequate off road parking, as determined by the ((~~Board of Adjustment~~)) Hearings Examiner, must be provided;
- (k) Any waste created as a result of the non-agricultural accessory use must be disposed of off-site in compliance with all local, state, and/or federal regulations; and,
- (l) The days and hours of operation shall be determined by the ((~~Board of Adjustment~~)) Hearings Examiner with the granting of a Conditional Use Permit.

SECTION 3. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Ryan K Brown  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE 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; amending Ordinance 492, Section 6 and BCC 11.22.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 492, Section 6 and BCC 11.22.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the General Commercial District (GC) if a conditional use permit is issued by the (~~Board of Adjustment~~) Hearings Examiner after notice and public hearing as provided by BCC 11.52.090.

- (a) Recreational vehicle park.
- (b) Dwelling unit within a structure also used for commercial purposes that meets the following criteria is eligible to apply for a conditional use permit:
  - (1) The dwelling unit may not be located on the ground level or below;
  - (2) The number of dwelling units may not exceed one (1) dwelling unit.
  - (3) The dwelling unit must meet Benton-Franklin Health District requirements for septic systems and domestic water usage.
  - (4) The dwelling unit shall comply with all of the applicable building code requirements.
- (c) Rental storage facility.
- (d) Solid waste transfer station.
- (e) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210 and only treat waste generated on the same parcel or a contiguous parcel.

NOTE: This ordinance is continued on the following page.

Ordinance No. \_\_\_\_\_  
Continued  
Page 2

(f) Indoor shooting range.

(g) Sewage treatment facility for industrial and/or domestic waste.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

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; amending Ordinance 491, Section 6, Ordinance 513, Section 2 and BCC 11.25.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 491, Section 6, Ordinance 513, Section 2 and BCC 11.25.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Community Commercial District (CC) if a conditional use permit is issued by the (~~Board of Adjustment~~) Hearings Examiner after notice and public hearing as provided by BCC 11.52.090.

(a) Child Day Care Facility, Type B, subject to the provisions of BCC 11.52.068.

(b) Kennel, commercial.

(c) Public transit center.

(d) Dwelling unit within a structure also used for commercial purposes that meets the following criteria is eligible to apply for a conditional use permit:

(1) The dwelling unit may not be located on the ground level or below.

(2) The number of dwelling units may not exceed one (1) dwelling unit.

(3) The dwelling unit must meet Benton-Franklin Health District requirements for septic systems and domestic water usage.

(4) The dwelling unit shall comply with all of the applicable building code requirements.

(e) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210 and only treat waste generated on the same parcel or a contiguous parcel.

(g) School.

(h) Sewage treatment facility for industrial and/or domestic waste.

NOTE: This ordinance is continued on the following page.

- (i) Utility substation facility.
- (j) Community clubhouse, grange hall and/or senior center.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

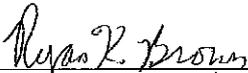
ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

**PCM 1.17**

ORDINANCE NO. \_\_\_\_\_

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; amending Ordinance 493, Section 6 and BCC 11.27.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 493, Section 6 and BCC 11.27.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Interchange Commercial District (IC) if a conditional use permit is issued by the ((Board of Adjustment)) Hearings Examiner after notice and public hearing as provided by BCC 11.52.090.

- (a) Recreational vehicle park.
- (b) Public transit center.
- (c) Sewage treatment for industrial and/or domestic waste.
- (d) Fire department facility, law enforcement facility, and/or medical facility.
- (e) Utility substation facility.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

*Ryan K Brown*  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

**ORDINANCE NO. \_\_\_\_\_**

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; amending Ordinance 494, Section 6 and BCC 11.30.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 494, Section 6 and BCC 11.30.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Light Industrial District (LI) if a conditional use permit is issued by the ~~((Board of Adjustment))~~ Hearings Examiner after notice and public hearing as provided by BCC 11.52.090.

- (a) Race track facility for automotive, motocross, or horse racing.
- (b) Agricultural recreational facility.
- (c) Sand and/or gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.
- (d) Solid waste transfer station.
- (e) Airport/Heliport.
- (f) Asphalt plant.
- (g) Concrete plant.

NOTE: This ordinance is continued on the following page.

- (h) Sewage treatment plant for industrial and/or domestic waste.
- (i) (~~(Auto wrecking)~~) Wrecking yard.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE relating to zoning and the Heavy Industrial District (HI); amending "Auto wrecking yard" to read "Wrecking yard" as an allowed use within the Heavy Industrial District (HI); replacing the Board of Adjustment with the Hearings Examiner as the party responsible for issuing conditional use permits; amending Ordinance 495, Section 4 and BCC 11.34.030; and amending Ordinance 495, Section 6 and BCC 11.34.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 495, Section 4 and BCC 11.34.030 are hereby amended to read as follows:

ALLOWABLE USES. The following uses are allowed within the Heavy Industrial District (HI) on a single parcel of record:

- (a) The processing, assembly and/or manufacturing of raw materials, semi-finished materials, and/or finished materials, except for the manufacturing reprocessing and/or storage of radioactive waste.
- (b) Ironwork, drop forge industry, and/or metal fabrication.
- (c) Repair of machinery equipment, automobiles and/or trucks.
- (d) Food processing facility, cannery and/or cold storage facility.
- (e) Agricultural uses.
- (f) Retail sales of goods manufactured on the premises; provided, that the floor space devoted to such use does not exceed ten (10) percent of the gross floor area of all buildings on the parcel.
- (g) Wholesale sales of products.
- (h) Transportation facilities for handling cargo and/or passengers, including mooring facilities, grain elevator, or barge terminal.
- (i) Warehouse.
- (j) Accessory/ancillary use or building.
- (k) Utility substation facility.
- (l) Production of alcohol fuels, biodiesel, or ethanol.
- (m) Hiking and non-motorized biking trails.
- (n) Sewage treatment plant for industrial and/or domestic waste.
- (o) Solid waste transfer station and/or recycling center.
- (p) ((Auto-wrecking)) Wrecking yard.

(q) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210 and only treat waste generated on the same parcel or a contiguous parcel.

(r) Rapid Charging Station.

SECTION 2. Ordinance 495, Section 6 and BCC 11.34.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Heavy Industrial District (HI) if a conditional use permit is issued by the ~~((Board of Adjustment))~~ Hearings Examiner after notice and public hearing as provided by BCC 11.52.090.

(a) Facilities for generating power for sale to the public, including solar power generators; provided, that such power cannot be nuclear fueled.

(b) Hazardous waste treatment and/or hazardous waste storage facility treating waste not generated on the same or a contiguous parcel; provided, that such facility must comply with Washington State siting criteria set forth in RCW 70.105.210.

(c) Sand and/or gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.

(d) Asphalt plant.

(e) Concrete plant.

(f) Airport/Heliport.

NOTE: This ordinance is continued on the following page.

(g) Railroad switch yards, maintenance and/or repair facilities.

(h) State and/or local correctional facility, and/or Secure Community Transition Facility as described by RCW 36.70A.200.

SECTION 3. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

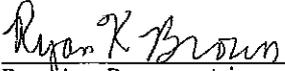
ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

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; amending Ordinance 496, Section 6 and BCC 11.46.050.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 496, Section 6 and BCC 11.46.050 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Park District (P) if a conditional use permit is issued by the (~~Board of Adjustment~~) Hearings Examiner after notice and public hearing as provided by BCC 11.52.090:

- (a) Sewage treatment plant.
- (b) Sand, gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.
- (c) Recreational Vehicle Park.
- (d) Golf course.
- (e) Museum.
- (f) Grain elevator.

NOTE: This ordinance is continued on the following page.

- (g) Reception facility.
- (h) Irrigation pumping station.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

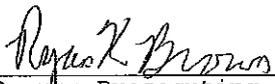
ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

ORDINANCE NO. \_\_\_\_\_

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", amending Ordinance 497, Section 4 and BCC 11.48.070.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 497, Section 4 and BCC 11.48.070 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Unclassified District (U) if a conditional use permit is issued by the ((Board of Adjustment)) Hearings Examiner after notice and public hearing as provided by BCC 11.52.090:

(a) All uses of a parcel not specified in ((Section 2 or 3 above)) BCC 11.48.010 or BCC 11.48.060 and not otherwise prohibited by laws of Benton County or the State of Washington may be allowed only by conditional use permit issued by the ((Board of Adjustment)) Hearings Examiner after notice and public hearing provided by BCC 11.52.090.

SECTION 2. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

# PCM 1.22

ORDINANCE NO. \_\_\_\_\_

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 permits, granting variances, and hearing appeals; replacing the title of the planning director with that of planning administrator; amending Ordinance 167, Section 14, Ordinance 371, Section 12 and BCC 11.52.065; amending Ordinance 485, Section 2 and BCC 11.52.068; amending Ordinance 369, Section 1 and BCC 11.52.088; amending Ordinance 369, Section 2, Ordinance 391, Section 1, Ordinance 521, Section 1 and BCC 11.52.089; amending Ordinance 369, Section 3, Ordinance 521, Section 2 and BCC 11.52.090; amending Ordinance 173, Section 7, Ordinance 371, Section 14 and BCC 11.52.0941; amending Ordinance 169, Section 2, Ordinance 185, Section 13 and BCC 11.52.095; amending Ordinance 173, Section 2, Ordinance 371, Section 15 and BCC 11.52.096; and amending Ordinance 173, Section 8, Ordinance 371, Section 16 and BCC 11.52.131.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 167, Section 14, Ordinance 371, Section 12 and BCC 11.52.065 are hereby amended to read as follows:

PLANNING (~~(DIRECTOR)~~) ADMINISTRATOR APPROVAL OF A SPECIFIED USE. Where stated in this title that two (2), three (3), or four (4) detached single-family dwellings on an individual lot or two (2), three (3), or four (4) manufactured (mobile) homes on an individual lot may be permitted upon compliance with this section, the following procedure shall apply:

(a) Application. The property owner shall submit a completed application form supplied by the Benton County Planning Department. The application shall accompany a plot plan, drawn to a scale of one inch equals fifty (1" = 50') feet showing the proposed use, all existing and proposed structures and means of access. The applicant's name, address, and telephone number, the signatures of all persons holding an ownership interest in the real property, and a non-refundable application fee as established by resolution of the Board of Benton County Commissioners shall be required. Each dwelling unit must have frontage on a county, city or state road or easement in a short plat.

(b) Review by Planning (~~(Director)~~) Administrator. The planning (~~(director)~~) administrator shall refer the matter to appropriate agencies for their comments, and shall determine the following:

- (1) The proposed use does not have an adverse effect on other uses permitted in the applicable zoning district.
- (2) The proposed use conforms with all applicable ordinances and regulations of Benton County which also apply to other permitted uses in the applicable zoning district.
- (3) The proposed use complies with the density requirements of the Benton County Comprehensive Plan.

(4) The lot size equals or exceeds the total square footage and setbacks required by this chapter for the total proposed dwellings as if the dwellings were located on separate parcels.

(5) . The proposed use complies with all applicable requirements of the Benton Franklin District Health Department, Department of Social and Health Services, Department of Ecology or any municipality providing water or sewer.

(c) Notification. If the planning ~~((director))~~ administrator determines all the above are satisfied, written notification of the proposed use shall be sent by first class U.S. Mail to owners of real property, as shown in the records of the Benton County Assessor, located within three-hundred (300) feet of any portion of the boundary of the proposed use; provided, if the owner of the property for which the proposed use is requested owns another parcel or parcels adjacent the property, notification shall be mailed to owners of real property located within three-hundred (300) feet of any portion of the boundaries of such adjacent parcels. The notification shall contain a statement that the proposed use shall be approved without holding a public hearing if no objection is submitted to the planning ~~((director))~~ administrator within seven (7) calendar days following date of mailing of notification.

Failure to send notice to a person specified in this section or failure to receive the notice shall not invalidate any proceedings or decision in connection with the proposed use.

(d) Approval by Planning ~~((Director))~~ Administrator. If no objection is received by the planning ~~((director))~~ administrator within seven (7) days following mailing of notification, the proposed use shall be approved or conditionally approved. If conditional approval is given, the applicant shall have six (6) months to satisfy the conditions. The planning ~~((director))~~ administrator shall endeavor to issue his decision on the proposed use within fifteen (15) working days from the date of submittal of a complete application.

(e) Referral to the ~~((Board of Adjustment))~~ Hearings Examiner. If, after notification by the planning ~~((director))~~ administrator, any objection to the proposed use is received within seven (7) days following the mailing thereof, the planning ~~((director))~~ administrator shall refer the request to the ~~((Board of Adjustment))~~ Hearings Examiner and the ~~((Board of Adjustment))~~ Hearings Examiner shall act upon the request as if it were a request for special permit, pursuant to BCC 11.52.090.

(f) Denial. If, after reviewing the application, the planning ~~((director))~~ administrator determines that the proposal does not meet the requirements of BCC 11.52.065(b), he shall deny the request and inform the applicant in writing the reasons for the denial.

(g) Appeal. Anyone aggrieved by the ~~((director's))~~ administrator's decision shall have fourteen (14) days from the date of decision to appeal to the ~~((Board of Adjustment))~~ Hearings

Examiner. The ~~((board))~~ Hearings Examiner shall hear the appeal pursuant to BCC 11.52.131.

SECTION 2. Ordinance 485, Section 2 and BCC 11.52.068 are hereby amended to read as follows:

CHILD DAY CARE FACILITY, TYPE B--CONDITIONAL USE PERMIT REQUIRED. No Child Day Care Facility, Type B, shall be permitted unless a conditional use permit has been approved by the Benton County ~~((Board of Adjustment))~~ Hearings Examiner that meets the following criteria and any other conditions required by the ~~((Board of Adjustment))~~ Hearings Examiner:

- (1) The proposed use has received all necessary approvals from Washington State regarding child care facilities.
- (2) The proposed use conforms with all applicable ordinances and regulations of Benton County that also apply to other permitted uses in the applicable zoning district.
- (3) The proposed use complies with all applicable requirements of the Benton-Franklin District Health Department, Department of Social and Health Services, and any municipality or agency providing water or sewer.
- (4) Signage is limited to no more than one non-illuminating sign with a maximum area of four (4) square feet and a maximum sign height of six (6) feet above grade. The posting of such sign is limited to the parcel on which the approved Type B Child Day Care Facility is located. On-street (inside the road right-of-way) sign posting and any sign posting that interferes with the line of sight for a road intersection are prohibited.
- (5) Off-street parking areas shall be provided so as to allow one (1) space for every employee and one (1) space for every five (5) children that will be attending the facility.
- (6) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.
- (7) The facility shall conform to International Fire Code (IFC), State, and local fire standards for fire prevention as now adopted or hereafter amended.
- (8) The facility must comply with International Building Code (IBC) requirements as now adopted or hereafter amended.

SECTION 3. Ordinance 369, Section 1 and BCC 11.52.088 are hereby amended to read as follows:

VARIANCES AND MINOR SETBACK VARIATIONS. (a) *Minor Setback Variations.* The Planning ~~((Director))~~ Administrator may approve without notice a minor variation consisting of a reduction in setback not exceeding ten (10) percent of the standards of the zoning district in which the use is located. Minor variations may not allow an increase in the number of dwelling units on a parcel. If the Planning ~~((Director))~~ Administrator denies a minor

variation, the applicant may apply for a variance as provided in BCC 11.52.088(d). Any person requesting a minor variation shall submit a completed application on a form supplied by the Planning Department. The Planning (~~Director~~) Administrator shall approve a minor setback variation only if the findings in BCC 11.52.088(e)(1)(i) through BCC 11.52.088(e)(1)(viii) are met.

(b) ~~Variance-General Standards~~. The variance application process allows the (~~Board of Adjustment~~) Hearings Examiner in specific cases, as provided in (~~RCW 36.70.810~~) RCW 36.70.970, to grant a variance to the provisions of this title when it can be demonstrated that such variance is in harmony with the general purposes and intent of this title and is in accordance with the requirements of this section. However, the (~~Board of Adjustment~~) Hearings Examiner shall not grant variances to land uses or density requirements.

(c) ~~Variance-Application Required-Non-Refundable Application Fee~~. The Planning Department shall provide application forms for variances and prescribe the type of information to be provided in the application. No application shall be processed unless it complies with the requirements of this section. A completed application for a variance shall be filed with the Planning Department accompanied by a non-refundable fee as set by resolution of the Board of County Commissioners.

(d) ~~Variance-Application-Site Plan Required~~. Whenever a variance to the provisions of this title is sought, the Planning Department shall require the applicant to submit a site plan for the variance as part of the application. The site plan drawing shall be at a scale of not less than one inch equals fifty feet (1" = 50'), unless an alternate scale is approved by the Planning (~~Director~~) Administrator. The site plan drawing shall include the following:

- (1) boundaries, dimensions and square footage of the property proposed to be developed;
- (2) all proposed and existing buildings and setback lines;
- (3) size and location of the variance requested;
- (4) all existing and proposed easements;
- (5) locations of all utility structures and lines;
- (6) all means of vehicular and pedestrian ingress and egress to and from the site and the size and location of driveways, existing streets bordering or crossing the site;
- (7) location and design of off-street parking areas showing their size and locations of internal circulation and parking spaces;
- (8) location of all loading/unloading areas, including, but not limited to, loading platforms and loading docks where trucks will load or unload, if applicable; and,

- (9) topographic maps, when the Planning ~~((Director))~~ Administrator deems the maps necessary for adequate review, which delineate existing and proposed contours, at intervals of two (2) feet and show the location of existing lakes, streams, and storm water drainage systems from existing and proposed structures, together with an estimate of existing maximum storm runoff, and any other information deemed pertinent for adequate review.
- (e) *Variance-Permit Granted.* (1) A variance shall be granted only if the ~~((Board of Adjustment))~~ Hearings Examiner concludes that based on ~~((its))~~ his or her findings and the conditions imposed, if any, that:
- (i) granting of the proposed variance will not permit a use that is not classified as an allowable or conditional use in the zoning district wherein the use would be located;
  - (ii) special circumstances such as lot size, slope, topography or necessary size or shape of the building prevent compliance with the applicable property development standards;
  - (iii) due to special circumstances applicable to the subject property, strict application of the zoning district property development standards would deprive the subject property of rights and privileges enjoyed by other properties in the vicinity and under the same zoning district classification;
  - (iv) the problem sought to be addressed by the variance is related to the physical features of the particular property or building and would exist regardless of the identity of the owner;
  - (v) the problem sought to be addressed is not common for other property in the surrounding area;
  - (vi) the variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity under the same zoning classification;
  - (vii) the variance will not adversely affect the health or safety of persons residing or working in the neighborhood in which the variance is being requested; and,
  - (viii) the variance would not deny the preservation and enjoyment of substantial property rights of those owning property in the vicinity.
- (2) The ~~((Board of Adjustment))~~ Hearings Examiner may grant a variance subject to specified conditions designed to ensure that the purpose and intent of this title and the Comprehensive Plan will not be violated; provided, the specified conditions are needed to make the conclusions required by BCC 11.52.088(e) (1).

SECTION 4. Ordinance 369, Section 2, Ordinance 391, Section 1, Ordinance 521, Section 1 and BCC 11.52.089 are hereby amended to read as follows:

PROCEDURES-VARIANCE AND CONDITIONAL USE/SPECIAL PERMITS. (a) *Variance or Conditional Use/Special Permit-Application-Urban Growth Area-Notice to City.* When a proposal requiring review under BCC 11.52.088 or BCC 11.52.090 is submitted with respect to a parcel within or partially within an Urban Growth Area, as designated on the Benton County Comprehensive Plan map, the Planning Department shall refer the variance or conditional use/special permit application to the respective city for comment. The ~~((Board of Adjustment))~~ Hearings Examiner shall consider comments from such city unless the respective city fails to supply comments to the ~~((Board of Adjustment))~~ Hearings Examiner prior to, or at the open record hearing. In such case, the ~~((Board of Adjustment))~~ Hearings Examiner will assume that the city intends to make no comment.

(b) *Variance or Conditional Use/Special Permit-Application-Open Record Hearing-Notice Required.* The ~~((Board of Adjustment))~~ Hearings Examiner will hold an open record hearing consistent with Title 17 BCC (Permit Review Process) on all variance and conditional use/special permit applications. The notice of such open record hearing shall be given as follows:

- (1) The Planning Department shall provide written notification for an open record hearing, subject to the rules and regulations set forth in RCW 36.70. Written notice shall be mailed at least twelve (12) days in advance of the open record hearing to the applicant and the owner of the parcel(s) to which the proposed variance or conditional use/special permit would apply, and to all owners of real property, as shown in the records of the Benton County Assessor, located within a distance of three hundred (300) feet of any portion of the applicable parcel, provided that if the owner of the parcel for which the proposed variance or conditional use/special permit is requested owns another parcel or parcels adjacent the parcel at issue, notification shall be mailed to owners of real property located within three hundred (300) feet of any portion of such adjacent parcels as well. Failure to receive the notice shall not invalidate any proceedings or decision in connection with the proposed variance or conditional use/special permit.

Notices addressed to the last known owner of record as shown on the County Assessor's records shall be deemed proper notice to the owner of such property; and,

- (2) By publication of a legal notice in a newspaper of general circulation in the County at least ten (10) days prior to the open record hearing date.

(c) *Variance or Conditional Use/Special Permit-Application-Approval or Denial-Decision Final.*

- (1) Following the conclusion of an open record hearing on a variance or conditional use/special permit application, the ~~((Board of Adjustment))~~ Hearings Examiner shall

approve, approve with conditions, or deny the requested variance or conditional use/special permit. If the ~~((Board of Adjustment))~~ Hearings Examiner grants a variance or a conditional use/special permit, ~~((it))~~ he or she shall also recite the conditions and limitations that are imposed. The decision shall be in writing and shall include the ~~((Board of Adjustment's))~~ Hearings Examiner's conclusions and the findings of fact supporting such conclusions. Upon receipt of a written request from an applicant stating the reasons for requesting the reconsideration, it is within the discretion of the ~~((Board of Adjustment))~~ Hearings Examiner to re-open the open record hearing on any matter prior to the adoption of such written decision; provided, written notice of such request and any hearing to consider the request must be given to all persons providing evidence to the Planning Department for submittal to the ~~((Board of Adjustment))~~ Hearings Examiner or who provided evidence at a hearing on such matter.

- (2) Each conditional use/special permit approved by the ~~((Board of Adjustment))~~ Hearings Examiner shall specify the location, nature and extent of the conditional use, together with all conditions that are imposed to ensure the proposed use is consistent with all applicable state laws, the Benton County Code, the Benton County Comprehensive Plan and any other information deemed necessary for the issuance of the permit.
- (3) The written decision of the ~~((Board of Adjustment))~~ Hearings Examiner on an application for a variance or conditional use/special permit shall be final. There are no administrative appeals on applications for variances or conditional use/special permits. Judicial appeals of the ~~((Board of Adjustment's))~~ Hearings Examiner's decision on variances or conditional use/special permits must be made in accordance with state law.

*(d) Variance or Conditional Use/Special Permit Application-Conditions of Approval-Noncompliance-Permit Issuance or Non-Issuance.* Any conditions imposed by the ~~((Board of Adjustment))~~ Hearings Examiner that must be met prior to issuance of a variance or conditional use/special permit shall be so specified. In such case, the Planning Department shall not issue a variance or conditional use/special permit until those specified conditions of approval, as set by the ~~((Board of Adjustment))~~ Hearings Examiner, have been met. No variance or conditional use/special permit shall become effective until issued by the Planning Department.

If such specified conditions have not been met and the Planning Department does not issue the variance or conditional use/special permit within one (1) year from the time the ~~((Board of Adjustment))~~ Hearings Examiner conditionally approved the variance or conditional use/special permit, the ~~((Board of Adjustment))~~ Hearings Examiner may declare its approval null and void ~~((at a regular Board of Adjustment meeting))~~. Prior to doing so, the applicant shall be notified in writing at the applicant's last known address at least twelve (12) days in advance ~~((of the~~

~~upcoming Board of Adjustment meeting~~). If the ~~((Board of Adjustment))~~ Hearings Examiner finds that the conditions have not been met, it shall adopt a written decision and findings of fact to support that decision.

(e) *Variance or Conditional Use/Special Permit-Violations and Penalties-Permit Revocation.* Any person who violates any term or condition of a variance or conditional use/special permit shall be considered in violation of this title and shall be subject to the penalties prescribed in Chapter 11.54 BCC.

If the variance or conditional use/special permit has been issued by the Planning Department and violations exist, the ~~((Board of Adjustment))~~ Hearings Examiner may revoke the permit after an open record hearing with notice as set forth in BCC 11.52.089(b).

SECTION 5. Ordinance 369, Section 3, Ordinance 521, Section 2 and BCC 11.52.090 are hereby amended to read as follows:

CONDITIONAL USE/SPECIAL PERMITS. (a) *Conditional Use/Special Permit-General Standards.* The conditional use/special permit application process allows the ~~((Board of Adjustment))~~ Hearings Examiner to review the location and design of certain proposed uses, the configuration of improvements, and the potential impacts on the surrounding area. The application process also allows the ~~((Board of Adjustment))~~ Hearings Examiner to ensure that development in each zoning district protects the integrity of that district. The notice, hearing, decision and enforcement procedures are as set forth herein and in BCC 11.52.089.

Certain uses are classified as conditional uses/special uses because of their unusual nature, infrequent occurrence, special requirements, or potentially significant impacts to the environment, public infrastructure or adjacent properties, and/or possible safety hazards and other similar reasons.

Once granted, a conditional use/special permit may be transferred by a holder thereof after written notice to the ~~((Board of Adjustment))~~ Hearings Examiner; provided the use and location must remain the same and the transferee must continue to comply with the conditions of the permit and, if applicable, the requirements set forth in BCC 11.52.070.

(b) *Conditional Use/Special Permit-Application Required-Non-Refundable Application Fee.* The Planning Department shall provide application forms for conditional use/special permits and prescribe the type of information to be provided in the application. No application shall be processed unless it complies with the requirements of this section. A completed application for a conditional use/special permit shall be filed with the Planning Department accompanied by a non-refundable fee as set by resolution of the Board of County Commissioners.

(c) *Conditional Use/Special Permit-Application-Site Plan Required.* The Planning Department shall require the applicant to submit an application and a site plan as part of the application whenever such a permit is required for that use under the applicable zoning district. The application and site plan shall contain the following information;

- (1) Identify the proposed use and associated facilities, together with the names, addresses and telephone numbers of the owner or owners of record of the land and of the applicant, and, if applicable, the names, addresses and telephone numbers of the architect, planner, designer, and/or engineer;
- (2) the proposed use or uses of the land and buildings; and,
- (3) a site plan drawing or drawings at a scale of not less than one inch equals fifty feet (1" = 50'), unless an alternate scale is approved by the Planning (~~Director~~) Administrator. The site plan drawing(s) shall include the following:
  - (i) location of all existing and proposed structures, including, but not limited to, buildings, fences, culverts, bridges, roads and streets;
  - (ii) boundaries, dimensions and square footage of the parcel or parcels involved;
  - (iii) all setback lines;
  - (iv) all areas, if any, to be preserved as buffers or to be dedicated to a public, private or community use, or for open space under the provisions of this title;
  - (v) all existing and proposed easements;
  - (vi) locations of all utility structures and lines;
  - (vii) all means of vehicular and pedestrian ingress and egress to and from the site and the size and location of driveways;
  - (viii) location and design of off-street parking areas showing their size and locations of internal circulation and parking spaces;
  - (ix) location of all loading/unloading areas, including, but not limited to, loading platforms and loading docks where trucks will load or unload;
  - (x) topographic maps, when the Planning (~~Director~~) Administrator deems the maps necessary for adequate review, which delineate existing and proposed contours, at intervals of two (2) feet and show the location of existing lakes, streams, and storm water drainage systems from existing and proposed structures, together with an estimate of existing maximum storm runoff, and any other information deemed pertinent for adequate review.

- (xi) identification of all special districts, such as fire, school, sewer, drainage improvements, and irrigation districts, in which the proposed use would be located; and,
- (xii) the proposed number of square feet of paved or covered surfaces, whether covered by buildings, driveways, parking lots or any other structure covering land.

(d) *Conditional Use/Special Permit-Permit Granted or Denied.* A conditional use/special permit shall be granted only if the ((~~Board of Adjustment~~)) Hearings Examiner can make findings of fact based on the evidence presented sufficient to allow the ((~~Board of Adjustment~~)) Hearings Examiner to conclude that, as conditioned, the proposed use:

- (1) is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;
- (2) will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district;
- (3) would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district;
- (4) will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and
- (5) would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the applicable zoning district.

It is the applicant's burden to present sufficient evidence to allow the above conclusions to be made. If such evidence is not presented or all necessary reasonable conditions are not identified by the applicant so as to allow the ((~~Board of Adjustment~~)) Hearings Examiner to make the conclusions required above, the conditional use/special permit application shall be denied.

SECTION 6. Ordinance 173, Section 7, Ordinance 371, Section 14 and BCC 11.52.0941 are hereby amended to read as follows:

-----PERMITS - APPEAL. Any person aggrieved by the issuance, denial or revocation of a temporary dwelling permit may appeal the decision to the Benton County ((~~Board of Adjustment~~)) Hearings Examiner within fourteen (14) days from the date of the

decision or the date the temporary dwelling is moved onto and/or hooked up on site, whichever is later, and the appeal shall be conducted in accordance with BCC 11.52.131.

SECTION 7. Ordinance 169, Section 2, Ordinance 185, Section 13 and BCC 11.52.095 are hereby amended to read as follows:

TEMPORARY OUTDOOR RETAIL SALES. Temporary outdoor retail sales of Christmas trees or fire works may be approved by the Planning ~~((Director))~~ Administrator after receipt of an application, supplied by the Planning Department, signed by all record owners of the real property upon which the sales are to be conducted, a non-refundable fee as established by resolution of the Board of Benton County Commissioners and upon the Planning ~~((Director's))~~ Administrator's determination that:

(a) The Engineer from Benton County, the State Department of Transportation (D.O.T.) or municipality with roads within three hundred (300) feet has approved the proposed access location and has determined the traffic generated will have no adverse effect on vehicular circulation;

(b) Proposed parking areas are adequate for the volume and character of the business;

(c) The applicant has complied with all applicable federal, state and local licensing requirements and other ordinances and regulations, including approval from the state and county Fire Marshal.

(d) The proposed use, in the duration proposed, will not foreseeably adversely affect adjacent properties and is compatible with allowed uses in that zoning designation; and,

(e) The sales activity is conducted wholly outdoors; or partially within a structure or structures which will be totally removed at the end of the approved period. Temporary outdoor retail sales shall not exceed thirty (30) days in duration. The approved duration period shall apply to the use and location rather than to the applicant.

SECTION 8. Ordinance 173, Section 2, Ordinance 371, Section 15 and BCC 11.52.096 are hereby amended to read as follows:

TEMPORARY OUTDOOR RETAIL SALES - APPEAL OF PLANNING ~~((DIRECTOR'S))~~ ADMINISTRATOR'S DECISION. Anyone aggrieved by the ~~((director's))~~ Administrator's decision shall have fourteen (14) days from the date of decision to appeal to the ~~((Board of Adjustment))~~ Hearings Examiner. The board shall hear the appeal pursuant to BCC 11.52.

SECTION 9. Ordinance 173, Section 8, Ordinance 371, Section 16 and BCC 11.52.131 are hereby amended to read as follows:

APPEAL OF ADMINISTRATIVE DECISION TO ~~((BOARD OF ADJUSTMENT))~~ HEARINGS EXAMINER. When the provisions of this title allow approval, conditional approval or denial of a use to be made by the Planning ~~((Director))~~ Administrator or his designated representative, that decision may be appealed by any person

aggrieved to the Benton County (~~Board of Adjustment~~) Hearings Examiner, and the following procedure shall apply:

(a) Appeals shall be filed within fourteen (14) days of the date of the decision being appealed. All appeals shall be in writing, in duplicate, shall be accompanied by a non-refundable fee as established by resolution of the Board of Benton County Commissioners, and shall be filed with the (~~Board of Adjustment~~) Hearings Examiner.

(b) Upon the filing of an appeal, the (~~Board of Adjustment~~) Hearings Examiner shall set the time and place at which the matter will be considered. At least a ten (10) day notice of such time and place together with one copy of the written appeal, shall be given to the official whose decision is being appealed and to the adverse parties of record, if any. The official whose decision is appealed shall transmit to the (~~Board of Adjustment~~) Hearings Examiner all of the records pertaining to the decision, together with such additional written report as he deems pertinent.

(c) Notice shall be given not less than twelve (12) days before the hearing date, in the following manner:

(1) By United States Mail addressed to the applicant and to the owners of all property within a distance of three-hundred (300) feet in any direction from the subject property. (Notices addressed to the last known address of the person making the latest tax payment shall be deemed proper notice to the owner of such property.)

(2) By publication of a legal notice in a paper of general circulation.

**NOTE:** This ordinance is continued on the following page.

(d) Upon hearing the appeal, the (~~Board of Adjustment~~) Hearings Examiner may reverse or affirm, wholly or in part, or may modify the decision appealed, and may make such decision as should be made and, to that end, shall have all the powers of the officials whose decision is appealed, as to the particular issue.

(e) The (~~Board of Adjustment~~) Hearings Examiner shall keep in a written record of the case the findings of fact upon which the action is based.

SECTION 10. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 11. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Ryan K Brown  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

# PCM 1.23

ORDINANCE NO. \_\_\_\_\_

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; amending Ordinance 370, Section 6 and BCC 11.65.050; amending Ordinance 370, Section 8 and BCC 11.65.070; amending Ordinance 370, Section 9 and BCC 11.65.080; and amending Ordinance 370, Section 10 and BCC 11.65.090.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 370, Section 6 and BCC 11.65.050 are hereby amended to read as follows:

PLANNING ((DIRECTOR)) ADMINISTRATOR REVIEW AND APPROVAL. Where stated in this title that an attached communication facility and/or communication towers may be permitted upon compliance with this section, the procedures set forth in BCC 11.65.060 through BCC 11.65.090 shall apply((+)).

SECTION 2. Ordinance 370, Section 8 and BCC 11.65.070 are hereby amended to read as follows:

NOTICE TO OTHER AGENCIES--ISSUANCE OF PERMIT. The Planning ((Director)) Administrator shall refer the matter to appropriate agencies, allowing fourteen (14) calendar days for their comments. The Planning ((Director)) Administrator shall issue a communication facility permit if he or she determines that the proposed attached communication facility and/or communication tower will conform with the development regulations set forth in BCC 11.65.040 and all other applicable BCC provisions.

SECTION 3. Ordinance 370, Section 9 and BCC 11.65.080 are hereby amended to read as follows:

PERMIT ISSUANCE OR DENIAL--NOTICE TO APPLICANT--NOTICE TO ADJACENT PROPERTY OWNERS--APPEAL. (a) Notice of the Planning ((Director's)) Administrator's decision as to whether the communication facility meets the necessary criteria and of the Planning ((Director's)) Administrator's decision to issue or deny the permit shall be sent by first class mail to all persons signing the application.

(b) Notice of the Planning ((Director's)) Administrator's decision will also be sent to the owners of all real property, as shown in the records of the Benton County Assessor, located within three hundred (300) feet of any boundary of the property for which the proposed communication facility will be located; provided, if the owner of the property for which the proposed facility will be located owns another parcel or parcels adjacent to such property, notification also shall be mailed to owners of real property located within three hundred (300) feet of any boundaries of such adjacent parcels.

(c) The notification shall contain a statement as to whether the proposed use is allowed or is not allowed.

(d) The notification shall state that any person with standing shall have fourteen (14) calendar days to file a written appeal of the Planning ((Director's)) Administrator's decision.

(e) The Planning (~~Director's~~) Administrator's decision shall be deemed final upon the date of mailing of the written decision, unless an appeal is filed pursuant to BCC 11.65.090.

SECTION 4. Ordinance 370, Section 10 and BCC 11.65.090 are hereby amended to read as follows:

APPEAL OF PLANNING (~~DIRECTOR'S~~) ADMINISTRATOR'S DECISION-NON-REFUNDABLE FEE. (a) Any person with standing aggrieved by the Planning (~~Director's~~) Administrator's decision shall have fourteen (14) calendar days from the date the Planning (~~Director's~~) Administrator's decision was mailed to file a written appeal with the Planning Department.

(b) Said appeal must be accompanied by a non-refundable fee as established by resolution of the Board of County Commissioners.

(c) Said appeal is considered filed upon receipt.

(d) The (~~Board of Adjustment~~) Hearings Examiner shall act upon the appeal pursuant to BCC 11.52.131.

SECTION 5. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

# PCM 1.24

## ORDINANCE NO. \_\_\_\_\_

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 Applications - 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 connection with a Type III, Type IV or Type V project permit application; amending Ordinance 281, Section 4 and BCC 17.10.030; amending Ordinance 281, Section 6, Ordinance 388, Section 1, Ordinance 503, Section 1 and BCC 17.10.050; amending Ordinance 281, Section 7 and BCC 17.10.060; amending Ordinance 281, Section 12, Ordinance 336, Section 1, Ordinance 405, Section 3 and BCC 17.10.110; amending Ordinance 281, Section 13, Ordinance 405, Section 4 and BCC 17.10.120; and amending Ordinance 281, Section 15, Ordinance 405, Section 6 and BCC 17.10.140.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 281, Section 4 and BCC 17.10.030 are hereby amended to read as follows:

DEFINITIONS. The following definitions shall apply to this Title:

(a) "Building Department Manager" means the Manager of the Benton County Building Department or appointed designee.

~~((a))~~ (b) "Closed Record Appeal" means an appeal to the Benton County Board of Commissioners, on the record where no new evidence or information being submitted, of a decision made following an open record hearing on a project permit application.

~~((b))~~ (c) "County" means the County of Benton, a political subdivision of the State of Washington.

~~((c))~~ (d) "Open Record Hearing" means a hearing, conducted by a single hearing body or officer authorized by the Benton County Board of Commissioners, wherein a record will be created through the receipt of testimony and other appropriate evidence and information under procedures prescribed by the Benton County Code or by such body's or officer's rules of procedure.

~~((d))~~ (e) "Planning Director/Administrator" means the ~~((Director))~~ Manager of the Benton County ~~((Planning/Building))~~ Planning Department or appointed designee.

~~((e))~~ (f) "Project Permit Application" means any application made for a permit, license or approval required in connection with a proposed land use action. This includes, but is not limited to, building permits, subdivisions, planned unit developments, special permits, conditional use permits, shoreline substantial development permits, approvals required by critical area ordinance, or site

specific rezones authorized by a comprehensive plan or subarea plan. The adoption of or amendments to a comprehensive plan, subarea plan, or development regulations are not classified as project permit applications.

SECTION 2. Ordinance 281, Section 6, Ordinance 388, Section 1, Ordinance 503, Section 1 and BCC 17.10.050 are hereby amended to read as follows:

TYPES OF PROJECT PERMIT APPLICATIONS. For the purpose of project permit application review processing, all project permit applications shall be classified as shown in Table 17-1 below.

Table 17-1 Project Permit Application Types

Type I	Type II	Type III	Type IV	Type V	Type VI	Type VII
FACTORY ASSEMBLED STRUCTURES INSTALLATION AND PLACEMENT PERMITS	BUILDING/SIGN PERMITS	BOUNDARY LINE ADJUSTMENT	FLOODWAY DEVELOPMENT PERMIT APPEAL	CONDITIONAL USE PERMIT	((FLOODWAY DEVELOPMENT VARIANCE))	PLANNED DEVELOPMENT PERMIT
		CHILD DAY CARE FACILITY, TYPE A - PERMIT	SHORT PLAT	SPECIAL USE PERMIT	SHORT PLAT VACATION	PRELIMINARY PLAT
		HOME OCCUPATION PERMIT	SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT	SHORELINE CONDITIONAL USE PERMIT	SUBDIVISION ALTERATION	SITE SPECIFIC ZONE CHANGE
		CRITICAL AREAS AND RESOURCES REVIEW AND DETERMINATION OF CONSISTENCY		SHORELINE VARIANCE PERMIT	SUBDIVISION VACATION	
		TEMPORARY DWELLING PERMIT		ZONING CODE VARIANCE		
		MINERAL RESOURCE PROTECTION DESIGNATION		SWIMMING POOL VARIANCE		
		MULTIPLE DETACHED DWELLING PERMIT		FLOODWAY DEVELOPMENT VARIANCE		
		COMMUNICATIONS FACILITIES				
		TEMPORARY OUTDOOR RETAIL SALES PERMIT				
		MINERAL EXTRACTION PERMIT				
		MINOR SETBACK VARIATIONS				

SECTION 3. Ordinance 281, Section 7 and BCC 17.10.060 are hereby amended to read as follows:

PROJECT PERMIT APPLICATION PROCESSING FRAMEWORK. Table 17-2 below shows the general process and hearing body for each category of project permit application. Except as otherwise required under BCC 17.10.070, the administrative process for each project permit application is governed by the Benton County Code provisions governing the application at issue.

Table 17-2 - Project Permit Applications - Administrative Process

	Type I	Type II	Type III	Type IV	Type V	Type VI	Type VII
Recommendation made by	N/A	N/A	N/A	N/A	N/A	N/A	Planning Commission
Final Decision made by	<del>((Planning Director))</del> Building Department Manager	<del>((Planning Director))</del> Building Department Manager	<del>((Planning Director))</del>	<del>((Planning Director))</del>	<del>((Board of Adjustment))</del> Hearings Examiner	Board of County Commissioner	Board of County Commissioner
Notice of Application	No	Yes, if SEPA required	No	Yes, if SEPA required	Yes, if SEPA required	Yes, if SEPA required	Yes
Open Record Public Hearing	No	If appealed, open record hearing before Board of appeals	If appealed, open record hearing before <del>((Board of Adjustment))</del> Hearings Examiner	If appealed, open record hearing before <del>((Board of County Commissioner))</del> Hearings Examiner	Yes, before <del>((Board of Adjustment))</del> Hearings Examiner	Yes, before Board of County Commissioner	Yes, before Planning Commission
Closed Record Appeal/Final Decision	No	No	No	No	No	No	Yes, Before Board of County Commissioner
Judicial Appeal	Yes	Yes	Yes	Yes	Yes	Yes	Yes

SECTION 4. Ordinance 281, Section 12, Ordinance 336, Section 1, Ordinance 405, Section 3 and BCC 17.10.110 are hereby amended to read as follows:

ADMINISTRATIVE APPROVAL AND APPEALS. (a) The ~~((Planning Director))~~ Building Department Manager may approve, approve with conditions, or deny Type I ~~((,))~~ and Type II ~~((, Type III and Type IV))~~ project permit applications.

(b) The Planning Director may approve, approve with conditions, or deny Type III and Type IV project permit applications.

~~((b))~~ (c) Any decision by the ~~((Planning Director))~~ Building Department Manager on a Type I project permit application shall be final on the date notice of decision is delivered or mailed. No administrative appeals of such decisions are allowed. Any decision of the ~~((Planning Director))~~ Building Department Manager on Type II ~~((,))~~ or the Planning Director on Type III ~~((,))~~ and Type IV project permit applications shall be final on the date delivered or mailed, unless a timely appeal is filed with the Planning Director.

~~((e))~~ (d) The decision/interpretations of the ~~((Planning Director))~~ Building Department Manager on Type II permits must be appealed to the Board of Appeals under Chapter 3.04 of the Benton County Code within fourteen (14) days of the ~~((Planning Director's))~~ Building Department Manager's decision.

~~((d))~~ (e) The decision of the Planning Director on Type III and Type IV permits must be appealed to the Benton County ~~((Board of Adjustment))~~ Hearings Examiner within fourteen (14) days of the date of the decision; provided, that BCC ~~((17.10.110(d)))~~ 17.10.110(e) shall not extend the time period to appeal the adequacy of a Final or Supplemental EIS set forth in BCC 6.35.118.

~~((c) The decision of the Planning Director on Type IV permits must be appealed to the Benton County Board of Commissioners within fourteen (14) days of the date of the decision; provided, that BCC 17.10.110(c) shall not extend the time period to appeal the adequacy of a Final or Supplemental EIS set forth in BCC 6.35.118.-))~~

SECTION 5. Ordinance 281, Section 13, Ordinance 405, Section 4 and BCC 17.10.120 are hereby amended to read as follows:

~~((BOARD OF ADJUSTMENT))~~ HEARINGS EXAMINER ACTIONS. (a) The Benton County ~~((Board of Adjustment))~~ Hearings Examiner shall conduct an open record hearing and approve, approve with conditions, or deny Type V project permit applications, shall hear appeals of decisions on all appeals of Type III and Type IV project permit applications, and shall hear appeals of the adequacy of any Final or Supplemental EIS issued in connection with a Type III, Type IV or Type V project permit application. The appeal of the adequacy of a Final or Supplemental EIS issued in connection with a Type III, Type IV or Type V application must be heard as part of an open record hearing or open record appeal hearing on those applications.

(b) A decision by the ~~((Board of Adjustment))~~ Hearings Examiner shall be effective on the date the ~~((Board))~~ Hearings Examiner provides a written notice of decision on the project permit application. The notice of decision for project permit applications considered by the ~~((Board of Adjustment))~~ Hearings Examiner shall be mailed to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

SECTION 6. Ordinance 281, Section 15, Ordinance 405, Section 6 and BCC 17.10.140 are hereby amended to read as follows:

BOARD OF COUNTY COMMISSIONERS. (a) Upon receiving a recommendation from the Planning Commission or notice of any matter requiring the attention of the Board of County Commissioners, the Board shall ~~((perform the following actions as appropriate.-))~~

~~((1) Hold an open record appeal hearing on Determinations of Significance in accordance with BCC 6.35 and RCW 43.21C.-))~~

~~((2) Hold open record appeals hearings with respect to the ((Planning Director's)) decisions on Type IV project permit applications and/or the adequacy of any Final or Supplemental EIS issued in connection therewith.-))~~

~~((3) Make make final decisions on all Type VI and VII project permit applications and on appeals of the adequacy of a Final or Supplemental EIS issued in connection therewith, provided the Board may not hold an open record hearing if an open record hearing was held by the Planning Commission on the project permit application. If no open record hearing is held by the Board of County Commissioners, the Board will make its decisions after closed record appeals.~~

(b) The Benton County Board of Commissioners shall make its final decision by motion, resolution, or ordinance as appropriate. The

final decision of the Benton County Board of Commissioners shall be effective on the date stated in the decision, motion, resolution, or ordinance, provided that the date from which the appeal period shall be calculated shall be the date the Board makes written determination on the project permit application. The notice of decision for project permit applications considered by the Board shall be mailed to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

SECTION 7. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 8. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Rayen K Brown  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

# PCM 1.25

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to the the creation of the office of Benton County Hearing Examiner; setting standards and procedures; and adding a new chapter to Title 17 of the Benton County Code.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. PURPOSE. The purpose of this ordinance is to establish a hearing examiner system.

SECTION 2. OFFICE OF EXAMINER. Pursuant to Chapter 36.70 RCW and Chapter 58.17 RCW, the office of Benton County Hearing Examiner is created. Unless the context requires otherwise, the term Hearings Examiner as used herein shall include deputy examiners.

SECTION 3. APPOINTMENT. The Board of County Commissioners shall appoint a Hearings Examiner and may appoint deputy examiners who shall serve during the absence, disqualification, or inability of the Hearing Examiner to timely process the volume of applications. The qualifications of a deputy shall be the same as for the examiner. The Hearings Examiner, and any deputies, serve at the pleasure of the Board of County Commissioners.

SECTION 4. QUALIFICATIONS. The Hearings Examiner shall be appointed solely with regard to his or her qualifications for the duties of his or her office and have such training and experience as will qualify him or her to conduct administrative or quasi-judicial hearings utilizing land use regulatory codes. The Hearings Examiner shall have expertise and experience in land use planning and land use/environmental law. The Hearings Examiner shall hold no other elective or appointed office or position with any local governmental agency located in Benton County.

SECTION 5. DUTIES OF THE HEARINGS EXAMINER. The Hearings Examiner shall receive and examine available relevant information, including, but not limited to, environmental documents; conduct public hearings; cause preparation of a record thereof; and adopt findings and conclusions for the following:

- (a) applications for variances from the provisions of Chapter 3.24 BCC;
- (b) applications for mobile home park permits under Chapter 3.22 BCC;
- (c) applications for variances from Chapter 3.26 BCC;
- (d) appeals from determinations of significance under BCC 6.35.115(a) and, if applicable, mitigated determinations of non-significance under BCC 6.35.115(b);
- (e) short plat appeals under BCC 9.04.036;
- (f) decisions regarding multiple detached dwelling permits under BCC 11.52.065(e);
- (g) conditional use permits for Child Care Facilities, Type B, under BCC 11.52.068;

- (h) applications for conditional use permits under BCC 11.52.089 and 11.52.090;
- (i) applications for variances under BCC 11.52.088 and BCC 11.52.089;
- (j) appeals of temporary dwelling permit decisions under BCC 11.52.0941;
- (k) appeals of administrative decisions under BCC 11.52.131;
- (l) appeals of temporary outdoor retail sales permit decisions under BCC 11.52.096;
- (m) appeals of Planning Administrator's decisions regarding communication facilities under BCC 11.65.090; and
- (n) such other matters as the Board of County Commissioners may from time to time authorize.

SECTION 6. HEARINGS EXAMINER - CONFLICT OF INTEREST. The Hearings Examiner shall not conduct or participate in any hearing or decision in which the Hearings Examiner has a direct or indirect personal interest which might exert such influence upon the Hearings Examiner that might interfere with his or her decision-making process. Any actual or potential conflict of interest shall be disclosed by the Hearings Examiner to the parties immediately upon discovery of such conflict.

Participants in a land use regulatory process have the right, insofar as possible, to have the Hearings Examiner free from personal interest and pre-hearing contacts on land use regulatory matters considered by him or her. It is recognized that there is a countervailing desire for public access to public officials on any matter. Therefore, the Hearings Examiner shall attempt to avoid ex parte pre-hearing contacts and shall reveal any substantial interest or prehearing contact made with him or her concerning the matters at the commencement of each hearing. If such interest or contact impairs the Hearings Examiner's ability to act on the matter, the Hearings Examiner shall so state and shall abstain therefrom to the end so that the proceeding is fair and has the appearance of fairness.

Immediately after the announcement of any interest or pre-hearing contact, any person who objects to said interest or prehearing contact shall state the objection and any reasons supporting the objection. The failure to state such objection at the time of the announcement is deemed to be a waiver of said objection, and this objection cannot be raised at a subsequent time.

The Hearings Examiner, upon receiving an objection, shall decide whether the interest or contact will impair his or her ability to be fair and impartial, and shall hear the case or abstain accordingly.

No county commissioner, county official or any other person shall interfere with or attempt to influence the Hearings Examiner in the performance of his or her designated duties; provided that a county

official or employee may, in performance of his or her own official duties, provide information for the Hearings Examiner as part of the case before the Hearings Examiner.

SECTION 7. APPLICATIONS. Applications and appeals requiring a determination by the Hearings Examiner shall be filed with the Planning Department as required by the Benton County Code.

SECTION 8. REPORT TO THE HEARINGS EXAMINER. When an application or appeal has been set for public hearing, the Planning Department shall coordinate and assemble the comments and recommendations of other county departments, agencies and affected utilities and shall prepare a report summarizing the issues involved, Planning Department proposed findings of fact, recommended conditions and/or recommended action.

SECTION 9. PUBLIC HEARING. The Hearings Examiner shall hold an open record hearing if required by the Benton County Code. The Hearings Examiner shall have the authority to prescribe rules and regulations for the conduct at the hearings before the Hearings Examiner, and also to administer oaths and preserve order.

SECTION 10. HEARINGS EXAMINER FINDINGS AND DECISION. When the Hearings Examiner renders a decision, he or she shall adopt written findings of fact and conclusions of law in support of such decision. The findings and conclusions shall set forth and demonstrate the manner in which the decision carries out the standards set forth in the various land use regulatory codes and any other relevant codes and policies. Each final decision of a Hearings Examiner, unless a longer period is mutually agreed to in writing by the applicant and Hearings Examiner, shall be rendered within ten (10) working days following the conclusion of all testimony and hearings.

SECTION 11. RECONSIDERATION. (a) Any aggrieved party of record may request a reconsideration of the Hearings Examiner's decision. A party of record is any person who attended one or more of the public hearings on the matter, submitted written testimony or presents oral testimony.

(b) A request for reconsideration shall be in writing on a form provided by the Planning Department and must be accompanied by the required reconsideration fee as set by resolution of the Board of County Commissioners. Requests for reconsideration must be filed with the Planning Department within ten (10) calendar days of the date of adoption of the Hearings Examiner's final decision. If a request for reconsideration is timely filed, the date of final decision by the Hearings Examiner will be deemed to occur on the date a decision is entered on the request for reconsideration, and not the date of the original decision for which the request for reconsideration was filed.

(c) The grounds for seeking reconsideration shall be limited to the following:

- (1) The Hearings Examiner exceeded his or her jurisdiction;
- (2) The Hearings Examiner failed to follow the applicable procedures in reaching a decision;

(3) Irregularity in the proceedings before the Hearings Examiner caused a party to not obtain a fair hearing.

(4) The Hearings Examiner committed an error of law or misinterpreted the applicable statute, county code section, ordinance or resolution, law or regulation;

(5) The Hearings Examiner's findings, conclusion or conditions are not supported by the record;

(6) Discovery of new information not available at the time of the hearing that could be material to the outcome;

(7) Clerical mistake in the official file or record transmitted to the Hearings Examiner, including error arising from inadvertence, oversight, or omission, which may have materially affected the Hearings Examiner's decision on the matter.

(d) The Planning Department shall provide mailed notice that a request for reconsideration has been filed to all parties of record.

(e) The Hearings Examiner may consider the request for reconsideration without a hearing.

(f) Reconsideration of the decision is wholly within the discretion of the Hearings Examiner. The Hearings Examiner can choose to deny the motion without comment or choose to reconsider. He or she may revise the decision as they deem appropriate and may issue a revised record of decision. If a request for reconsideration is filed, a decision is not final until a decision on the reconsideration is issued.

(g) The decision of the Hearings Examiner shall be subject to request for reconsideration only during the ten day period set forth above, and no such request may be filed after a decision is made on a request for reconsideration.

NOTE: This ordinance continued on the following page.

Ordinance No. \_\_\_\_\_  
Continued  
Page 5

SECTION 12. APPEAL OF EXAMINER'S DECISION. The decision of the Hearings Examiner shall be final unless an appeal is filed in accordance with applicable county and state codes.

SECTION 13. ANNUAL REPORT TO THE BOARD OF COUNTY COMMISSIONERS. The Hearings Examiner shall annually report in writing to the Board of County Commissioners. The written report shall include a summary of Hearings Examiner decisions during the preceding period.

SECTION 14. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 15. EFFECTIVE DATE. This ordinance shall take effect and be in full force as of January 1, 2015.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Chairman of the Board.

\_\_\_\_\_  
Chairman Pro-Tem.

\_\_\_\_\_  
Member.

Approved as to Form:

Ryan K Brown  
Deputy Prosecuting Attorney

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

DETERMINATION OF NONSIGNIFICANCE

Description of proposal: Ordinances to amend BCC 3.04, BCC 3.22, BCC 3.24, BCC 3.26, BCC 6.35, BCC 9.04, BCC 11.04, BCC 11.10, BCC 11.13, BCC 11.14, BCC 11.16A, BCC 11.16B, BCC 11.18, BCC 11.22, BCC 11.25, BCC 11.27, BCC 11.30, BCC 11.34, BCC 11.46, BCC 11.48, BCC 11.52, BCC 11.65, BCC 17.10, relating to replacing the references to Board of Adjustment and Board of County Commissioners with the Hearings Examiner as the party responsible for making decision on various permits, decisions and appeals and to add a new Chapter to Title 17 setting up the Hearings Examiner System. Also updating the names of various County Personnel positions and department names. BCC 11.04, 11.30 and 11.34 are also being amended to delete references to "Auto Wrecking Yard" and replacing it with "Wrecking Yard".

Proponent Benton County Planning Department  
P.O. Box 910  
Prosser WA 99350

File No. **EA 2014-025**

Location of proposal, including street address, if any: The proposed amendments are development regulations that will apply to applications for Comprehensive Plan Amendments of industrial purposes only within a City's Urban Growth Area.

Lead agency **BENTON COUNTY**

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under WAC197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by August 25, 2014.

Responsible Official

**Michael Shuttleworth, Planning Manager**  
**Benton County Planning Dept.**

Post Office Box 910           PHONE: (509) 786-5612  
Prosser, WA 99350-0910       (509) 736-3086

Date August 11, 2014

Signed by: Michael Shuttleworth

**THERE IS NO AGENCY APPEAL.**

DISTRIBUTION:

Applicant  
News Media (Encl. map or plot plan)  
Benton County Building Office  
Dept. of Natural Resources-Olympia  
Dept. of Natural Resources -Ellensburg  
Benton Clean Air Authority  
Bureau of Reclamation  
Benton County Public Works  
City of Kennewick  
City of Richland  
City of Benton City  
City of Prosser  
City of West Richland  
Benton-Franklin Dist. Health Dept.  
Kennewick Irrigation District  
Kiona Irrigation District  
Benton Irrigation District  
Badger Mountain Irrigation District  
Columbia Irrigation District  
Sunnyside Valley Irrigation District  
Roza Irrigation District  
Department of Transportation  
Port of Benton  
Port of Kennewick  
Washington State Department of Health  
Department of Ecology - Olympia  
Department of Ecology - Yakima  
Corps of Engineers  
Yakama Indian Nation  
Fire District 1  
Fire District 2  
Fire District 3  
Fire District 4  
Fire District 5  
Fire District 6  
Fire Marshal  
Prosser School District No. 116  
Bureau of Land Management  
Department of Fish and Wildlife  
Office of Arch. & Historic Preservation  
Futurewise  
Dept. of Commerce

## SEPA ENVIRONMENTAL CHECKLIST

*UPDATED 2014*

### A. background

1. Name of proposed project, if applicable:\_\_\_  
Ordinances to amend BCC 3.04, BCC 3.22, BCC 3.24, BCC 3.26, BCC 6.35, BCC 9.04, BCC 11.04, BCC 11.10, BCC 11.13, BCC 11.14, BCC 11.16A, BCC 11.16B, BCC 11.18, BCC 11.22, BCC 11.25, BCC 11.27, BCC 11.30, BCC 11.34, BCC 11.46, BCC 11.48, BCC 11.52, BCC 11.65, BCC 17.10, relating to replacing the references to Board of Adjustment and Board of County Commissioners with the Hearings Examiner as the party responsible for making decision on various permits, decisions and appeals and to add a new Chapter to Title 17 setting up the Hearings Examiner System. Also updating the names of various County Personnel positions and department names. BCC 11.04, 11.30 and 11.34 are also being amended to delete references to "Auto Wrecking Yard" and replacing it with "Wrecking Yard".
2. Name of applicant:  
Benton County
3. Address and phone number of applicant and contact person:  
Clark A. Posey, Senior Planner  
Benton County Planning Department  
P.O. Box 910  
Prosser, WA 99350 (509) 786-5612 or (509) 736-3086
4. Date checklist prepared: July 28, 2014
5. Agency requesting checklist:  
Benton County
6. Proposed timing or schedule (including phasing, if applicable):  
January 1, 2015
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.  
No
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.  
None
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

These are County-wide ordinance amendments and affect those actions that would be heard by the Board of Adjustment in various zoning designations throughout unincorporated Benton County.

10. List any government approvals or permits that will be needed for your proposal, if known.  
The approval of the proposed ordinance amendments is required by the Board of County Commissioners.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

Benton County is amending its development regulations by removing references to the Board of Adjustment and replacing it with a Hearings Examiner. Minor wording changes are also proposed that refer to various management positions within the County Offices. This ordinance amendment proposal is to modify text in the existing Benton County Code and as such, is not site specific or project related.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The proposed amendments are development regulations that will apply to uses requiring a public hearing before the Board of Adjustment in various zoning designations within unincorporated Benton County. The amendment will change the hearing process to a hearing before the Hearings Examiners instead of the Board of Adjustment.

## **B. ENVIRONMENTAL ELEMENTS**

### **1. Earth**

a. General description of the site

(circle one): Flat, rolling, hilly, steep slopes, mountainous, other

General topographic characteristics vary greatly within Benton County and environmental evaluations for future site-specific projects will need to be conducted if a site-specific project is proposed.

b. What is the steepest slope on the site (approximate percent slope)?

Not applicable, this is not a site-specific project.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any

agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

Not applicable, this is not a site-specific project.

- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Not applicable, this is not a site-specific project.

- e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Not applicable, this is not a site-specific project.

- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not applicable, this is not a site-specific project.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Not applicable, this is not a site-specific project.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Not applicable, this is not a site-specific project.

## **2. Air**

- a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

Not applicable, this is not a site-specific project.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

Not applicable, this is not a site-specific project.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Not applicable, this is not a site-specific project.

## **3. Water**

- a. Surface Water:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Not applicable, this is not a site-specific project.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Not applicable, this is not a site-specific project.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not applicable, this is not a site-specific project.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Not applicable, this is not a site-specific project.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

Not applicable, this is not a site-specific project.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Not applicable, this is not a site-specific project.

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Not applicable, this is not a site-specific project.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not applicable, this is not a site-specific project.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable, this is not a site-specific project.

2) Could waste materials enter ground or surface waters? If so, generally describe.

Not applicable, this is not a site-specific project.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

Not applicable, this is not a site-specific project.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

Not applicable, this is not a site-specific project.

#### 4. Plants

a. Check the types of vegetation found on the site:

\_\_\_deciduous tree: alder, maple, aspen, other

\_\_\_evergreen tree: fir, cedar, pine, other

\_\_\_shrubs

\_\_\_grass

\_\_\_pasture

\_\_\_crop or grain

\_\_\_ Orchards, vineyards or other permanent crops.

\_\_\_ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other

\_\_\_water plants: water lily, eelgrass, milfoil, other

\_\_\_other types of vegetation

Not applicable, this is not a site-specific project.

b. What kind and amount of vegetation will be removed or altered?

Not applicable, this is not a site-specific project.

c. List threatened and endangered species known to be on or near the site.

Not applicable, this is not a site-specific project.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Not applicable, this is not a site-specific project.

e. List all noxious weeds and invasive species known to be on or near the site.

Not applicable, this is not a site-specific project.

#### 5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include:

birds: hawk, heron, eagle, songbirds, other: \_\_\_\_\_

mammals: deer, bear, elk, beaver, other: \_\_\_\_\_

fish: bass, salmon, trout, herring, shellfish, other \_\_\_\_\_

Not applicable, this is not a site-specific project.

b. List any threatened and endangered species known to be on or near the site.

Not applicable, this is not a site-specific project.

c. Is the site part of a migration route? If so, explain.

If any threatened or endangered species are found for site-specific projects, compliance

with Benton County Code Title 15 (Protection of Critical Areas and Resources) will be required.

- d. Proposed measures to preserve or enhance wildlife, if any:  
Not applicable, this is not a site-specific project.
- e. List any invasive animal species known to be on or near the site.  
Not applicable, this is not a site-specific project.

## **6. Energy and natural resources**

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.  
Not applicable, this is not a site-specific project.
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.  
Not applicable, this is not a site-specific project.
- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:  
Not applicable, this is not a site-specific project.

## **7. Environmental health**

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.  
Not applicable, this is not a site-specific project.
- 1) Describe any known or possible contamination at the site from present or past uses.  
Not applicable, this is not a site-specific project.
  - 2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.  
Not applicable, this is not a site-specific project.
  - 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.  
Not applicable, this is not a site-specific project.
  - 4) Describe special emergency services that might be required.  
Not applicable, this is not a site-specific project.

- 5) Proposed measures to reduce or control environmental health hazards, if any:  
Not applicable, this is not a site-specific project.

**b. Noise**

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?  
Not applicable, this is not a site-specific project.
- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)?  
Indicate what hours noise would come from the site.  
Not applicable, this is not a site-specific project.
- 3) Proposed measures to reduce or control noise impacts, if any:  
Not applicable, this is not a site-specific project.

**8. Land and shoreline use**

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.  
Not applicable, this is not a site-specific project.
- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?  
Not applicable, this is not a site-specific project.
- 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:  
Not applicable, this is not a site-specific project.
- c. Describe any structures on the site.  
Not applicable, this is not a site-specific project.
- d. Will any structures be demolished? If so, what?  
Not applicable, this is not a site-specific project.
- e. What is the current zoning classification of the site?  
Not applicable, this is not a site-specific project.
- f. What is the current comprehensive plan designation of the site?  
Not applicable, this is not a site-specific project.

- g. If applicable, what is the current shoreline master program designation of the site?  
Not applicable, this is not a site-specific project.
- h. Has any part of the site been classified as a critical area by the city or county? If so, specify.  
Not applicable, this is not a site-specific project.
- i. Approximately how many people would reside or work in the completed project?  
Not applicable, this is not a site-specific project.
- j. Approximately how many people would the completed project displace?  
Not applicable, this is not a site-specific project.
- k. Proposed measures to avoid or reduce displacement impacts, if any:  
Not applicable, this is not a site-specific project.
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:  
Not applicable, this is not a site-specific project.
- m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:  
The regulations must be consistent with the Benton County Comprehensive Plan policies and guidelines.

## **9. Housing**

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.  
None
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.  
None
- c. Proposed measures to reduce or control housing impacts, if any:  
None

## **10. Aesthetics**

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?  
None
- b. What views in the immediate vicinity would be altered or obstructed?  
Not applicable, this is not a site-specific project.
- c. Proposed measures to reduce or control aesthetic impacts, if any:  
Not applicable, this is not a site-specific project.

## 11. Light and glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?  
Not applicable, this is not a site-specific project.
- b. Could light or glare from the finished project be a safety hazard or interfere with views?  
Not applicable, this is not a site-specific project.
- c. What existing off-site sources of light or glare may affect your proposal?  
Not applicable, this is not a site-specific project.
- d. Proposed measures to reduce or control light and glare impacts, if any:  
Not applicable, this is not a site-specific project.

## 12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?  
Not applicable, this is not a site-specific project.
- b. Would the proposed project displace any existing recreational uses? If so, describe.  
Not applicable, this is not a site-specific project.
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:  
Not applicable, this is not a site-specific project.

## 13. Historic and cultural preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.  
Not applicable, this is not a site-specific project.
- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.  
Not applicable, this is not a site-specific project.
- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.  
Not applicable, this is not a site-specific project.
- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.  
Not applicable, this is not a site-specific project.

## 14. Transportation

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.  
Not applicable, this is not a site-specific project.
- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?  
Not applicable, this is not a site-specific project.
- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?  
Not applicable, this is not a site-specific project.
- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).  
Not applicable, this is not a site-specific project.
- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.  
Not applicable, this is not a site-specific project.
- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?  
Not applicable, this is not a site-specific project.
- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.  
Not applicable, this is not a site-specific project.
- h. Proposed measures to reduce or control transportation impacts, if any:  
Not applicable, this is not a site-specific project.

**15. Public services**

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.  
Not applicable, this is not a site-specific project.
- b. Proposed measures to reduce or control direct impacts on public services, if any.  
Not applicable, this is not a site-specific project.

**16. Utilities**

- a. Circle utilities currently available at the site:  
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other  
Not applicable, this is not a site-specific project.

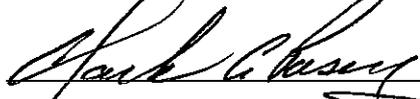
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Not applicable, this is not a site-specific project.

### **C. Signature**

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: \_\_\_\_\_



Name of signee Clark A. Posey, Senior Planner

Position and Agency/Organization Benton County Planning Department

Date Submitted: July 28, 2014

## D. supplemental sheet for nonproject actions

(IT IS NOT NECESSARY to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Not applicable, this is not a site-specific project.

Proposed measures to avoid or reduce such increases are:

Not applicable, this is not a site-specific project.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

Not applicable, this is not a site-specific project. However, if any threatened or endangered species are found during the review of a site-specific project, compliance with Benton County Code Title 15 (Protection of Critical Areas and Resources) is required.

3. How would the proposal be likely to deplete energy or natural resources?

Not applicable, this is not a site-specific project.

Proposed measures to protect or conserve energy and natural resources are:

Not applicable, this is not a site-specific project.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.

Proposed measures to protect such resources or to avoid or reduce impacts are:

Not applicable, this is not a site-specific project. However, mitigation measures may be required as condition of approval for a site-specific project through the SEPA review process if determined necessary.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Not applicable, this is not a site-specific project.

Proposed measures to avoid or reduce shoreline and land use impacts are:

Not applicable, this is not a site-specific project.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Not applicable, this is not a site-specific project.

Proposed measures to reduce or respond to such demand(s) are:

Not applicable, this is not a site-specific project.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

Not applicable, this is not a site-specific project. However, if any threatened or endangered species are found during the review of a site-specific project, compliance with Benton County Code Title 15 (Protection of Critical Areas and Resources) is required. Also, the project will need to comply with all local, state, and federal laws.

## ESA LISTED SALMONIDS CHECKLIST

The Listed Salmonids Checklist is provided in order that the county may initially identify a project's potential impacts (if any) on salmonids that have been listed as "threatened" or "endangered" under the Federal Endangered Species Act (ESA). A salmonid is any fish species that spends part of its life cycle in the ocean and returns to fresh water. Potential project impacts that may result in a "taking" of listed salmonids must be avoided, or mitigated to insignificant levels. Generally, under ESA, a "taking" is broadly defined as any action that causes the death of, or harm to, the listed species. Such actions include those that affect the environment in ways that interfere with or reduce the level of reproduction of the species.

If ESA listed species are present or ever were present in the watershed where your project will be located, your project has the potential for affecting them, and you need to comply with the ESA. The questions in this section will help determine if the ESA listing will impact your project. The Fish Program Manager at the appropriate Department of Fish and Wildlife (DFW) regional office can provide information for the following two questions. Please contact the Dept. of Fish and Wildlife at 1701 S. 24th, Yakima WA 98902-5720, Phone No. 509-575-2740.

1. Are ESA listed salmonids currently present in the watershed in which your project will be?  
YES \_\_\_ NO \_\_\_  
Please Describe.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.
  
2. Has there ever been an ESA listed salmonid stock present in this watershed?  
YES \_\_\_ NO \_\_\_  
Please Describe.  
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.

If you answered "yes" to either of the above questions, you should complete the remainder of this checklist.

**PROJECT SPECIFIC:** The questions in this section are specific to the project and vicinity.

A1. Name of watershed \_\_\_\_\_

A2. Name of nearest waterbody \_\_\_\_\_

A3. What is the distance from this project to the nearest body of water?  
\_\_\_\_\_  
\_\_\_\_\_

Often a buffer between the project and a stream can reduce the chance of a negative impact to fish.

A4. What is the current land use between the project and the potentially affected water body (parking lots, farmland, etc.)

A4. What is the current land use between the project and the potentially affected water body (parking lots, farmland, etc.)

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A5. Is the project above a:

Natural permanent barrier (waterfall)	YES _____	NO _____
Natural temporary barrier (beaver pond)	YES _____	NO _____
Man-made barrier (culvert, dam)	YES _____	NO _____
Other (explain)		

A6. If yes, are there any resident salmonid populations above the blockage?  
YES \_\_\_\_\_ NO \_\_\_\_\_ Don't Know \_\_\_\_\_

A7. What percentage of the project will be impervious surface (including pavement & roof area)?

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**FISH MIGRATION:** The following questions will help determine if this project could interfere with migration of adult and juvenile fish. Both increases and decreases in water flows can affect fish migration.

B1. Does the project require the withdrawal of

a. Surface water? Yes \_\_\_\_\_ No \_\_\_\_\_  
Amount \_\_\_\_\_  
Name of surface water body \_\_\_\_\_

b. Ground water? Yes \_\_\_\_\_ No \_\_\_\_\_  
Amount \_\_\_\_\_  
From Where \_\_\_\_\_  
Depth of well \_\_\_\_\_

B2. Will any water be rerouted? YES \_\_\_\_\_ NO \_\_\_\_\_  
If yes, will this require a channel change?

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B3. Will there be retention ponds? YES \_\_\_\_\_ NO \_\_\_\_\_  
If yes, will this be an infiltration pond or a surface discharge to either a municipal storm water system or a surface water body?

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If to a surface water discharge, please give the name of the waterbody.

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B4. Will this project require the building of new roads? Increased road mileage may affect the timing of water reaching a stream and may, thus, impact fish habitat.

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B5. Are culverts proposed as part of this project? Yes \_\_\_\_\_ No \_\_\_\_\_

B6. Will topography changes affect the duration/direction of runoff flows?  
Yes \_\_\_\_\_ No \_\_\_\_\_

If yes describe the changes.

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B7. Will the project involve any reduction of the floodway or floodplain by filling or other partial blockage of flows? Yes \_\_\_\_\_ No \_\_\_\_\_

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If yes, how will the loss of flood storage be mitigated by your project?

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**WATER QUALITY:** The following questions will help determine if this project could adversely impact water quality. Such impacts can cause problems for listed species. Water quality can be made worse by runoff from impervious surfaces, altering water temperature, discharging contaminants, etc.

C1. Do you know of any problems with water quality in any of the streams within this watershed? YES \_\_\_\_\_ NO \_\_\_\_\_

If yes please describe.

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C2. Will your project either reduce or increase shade along or over a waterbody?  
YES \_\_\_\_\_ NO \_\_\_\_\_ Removal of shading vegetation or the building of structures such as docks or floats often result in a change in shade.

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C3. Will the project increase nutrient loading or have the potential to increase nutrient loading or contaminants (fertilizers, other waste discharges, or runoff) to the waterbody?

YES \_\_\_\_\_ NO \_\_\_\_\_

C4. Will turbidity be increased because of construction of the project or during operation of the project? In-water or near water work will often increase turbidity. YES \_\_\_\_\_ NO \_\_\_\_\_

C5. Will your project require long term maintenance, i.e., bridge cleaning, highway salting, chemical sprays for vegetation management, clearing of parking lots?

YES \_\_\_\_\_ NO \_\_\_\_\_

Please Describe.

**Vegetation:** The following questions are designed to determine if the project will affect riparian vegetation, thereby, adversely impacting salmon.

D1. Will the project involve the removal of any vegetation from the stream banks?

YES \_\_\_\_\_ NO \_\_\_\_\_

If yes, please describe the existing conditions and the amount and type of vegetation to be removed.

D2. If any vegetation is removed, do you plan to re-plant? YES \_\_\_\_\_ NO \_\_\_\_\_

If yes, what types of plants will you use?

**FOR OFFICIAL USE ONLY:**

Critical Area Review Completed by \_\_\_\_\_ on \_\_\_\_\_

Application approved for processing by Jack Atkinson on 7/31/2014

Zoning and Comp Plan Designation County wide Zoning Established

2011

## PCM 1.28

**From:** [Mike Shuttleworth](#)  
**To:** [Donna Hutchinson](#)  
**Subject:** FW: 20503, Benton County, Expedited Review Granted, DevRegs  
**Date:** Tuesday, August 26, 2014 7:56:20 AM

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**From:** COM GMU Review Team [mailto:reviewteam@commerce.wa.gov]  
**Sent:** Tuesday, August 26, 2014 6:15 AM  
**To:** Mike Shuttleworth  
**Cc:** Andersen, Dave (COM)  
**Subject:** 20503, Benton County, Expedited Review Granted, DevRegs

Dear Mr. Shuttleworth:

Benton County has been granted expedited review for the Proposed amendments to replace references to "Board of Adjustments" and "County Commissioners" with "Hearings Examiner: as the party responsible for making decisions on various permits. Add a new Chapter to Title 17 setting up the Hearings Examiner system. This proposal was submitted for the required state agency review under RCW 36.70A.106.

As of receipt of this email, Benton County has met the Growth Management Act notice to state agency requirements in RCW 36.70A.106 for this submittal. For the purpose of documentation, please keep this email as confirmation.

If you have any questions, please contact Paul Johnson at 360.725.3048 or by email at [paul.johnson@commerce.wa.gov](mailto:paul.johnson@commerce.wa.gov)

Thank you.

Review Team, Growth Management Services  
Department of Commerce  
P.O. Box 42525  
Olympia WA 98504-2525  
(360) 725-3000  
FAX (360) 664-3123

August 12, 2014

Michael Shuttleworth, Planning Manager  
Benton County Planning Dept.  
P.O. Box 910  
Prosser, WA 99350-0910

Re: **File No:** EA 14-025 – Benton County Code Amendments  
**Parcels:** Unincorporated areas of Benton County within T 09, R24 & R25;  
T08, R24& R25  
**Landowners:** Various

Dear Mr. Shuttleworth:

This office has reviewed the proposed project. Sunnyside Valley Irrigation District (SVID) has the following comments:

1. SVID does have facilities within the proposed zoning districts of the unincorporated areas of Benton County located in T 09, R24 & R25; T08, R24& R25. The location of these facilities may hinder proposed development. Please contact the District for the location of and specific information about crossing and/or encroaching upon these SVID facilities.
2. Runoff and/or crossings into or across any SVID facility will not be allowed unless it is approved through the permitting process.
3. Storm drainage will not be allowed to discharge into SVID drains without permits.
4. Buildings will not be allowed within SVID easements or rights-of-way.
5. Obstructions will not be allowed within SVID easements or rights-of-way without permits.
6. Access for plats and/or subdivisions will not be allowed on SVID operation and maintenance roads.

Thank you for the opportunity to comment on this proposed project. If you have any questions, please feel free to contact Tinker Kouyian at (509) 837-6980 or [Kouyiant@SVID.org](mailto:Kouyiant@SVID.org).

Sincerely,



Ron C. Cowin, P.E.  
Assistant Manager – Engineering

RECEIVED

AUG 14 2014

Benton County  
Planning Department