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COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

NO. 33653-1

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

EDWARD COYNE AND WEST RICHLAND CITIZENS FOR SMART
GROWTH,

Appellants,

v.

EASTERN WASHINGTON GROWTH MANAGEMENT HEARINGS
BOARD,

Respondent,

and

CITY OF WEST RICHLAND,

Respondent,

and

CHARLES GRIGG,

Respondent.

REPLY BRIEF

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I. REPLY TO RESPONDENTS' STATEMENT OF THE CASE

Respondents state, at p. 2 of their Brief, that on March 14, 2013 the 2012 Comprehensive Plan Amendment docket was "expanded from 2 lots to 3 lots." Actually, the expansion was from one lot, Lot 29, to later include Lot 1 and Lot 28.

II. REPLY ARGUMENT

A. Standard of Review

The City notes that the Growth Management Hearings Board must grant deference to local governments. As was said by Division III of the Court of Appeals: "While growth management hearings boards defer to local planning processes, such deference ' is neither unlimited nor does it approximate a rubber stamp.'" *Spokane County v. Eastern Washington Growth Management Hr'gs Board*, 188 Wn. App. 467, 481, 353 P.3d 680 (2015), citing *Swinomish Indian Tribal Cmty. v. W. Wash. Growth Mgmt. Hr'gs Bd.*, 161 Wn.2d 415, 435 n.8, 166 P.3d 1198 (2007).

"[D]eference ends when it is shown that a county's

actions are in fact a 'clearly erroneous' application of the GMA"
Quadrant Corp. v. State, Growth Mgmt. Hr'gs Bd., 154 Wn.2d 224,
238, 110 P.3d 1132 (2005).

In *Kittitas County v. Eastern Washington Growth Management
Hearings Board*, 172 Wn.2d 144,156, 256 P.3d 1199 (2011), the
Court stated that

[w]hile county actions are presumed compliant unless and
until a petitioner brings forth evidence that persuades a
board that the action is clearly erroneous, RCW
36.70A.320(3), deference to counties remains "bounded . . .
by the goals and requirements of the GMA," *King County [v.
Cent. Puget Sound Growth Mgmt. Hr'gs Bd.]*, 142 Wn.2d
543, 561, 14 P.3d 133 (2000).]

The paragraph above was quoted with approval in *Concerned
Friends of Ferry County and Futurewise v. Ferry County , Growth
Mgmt Hr'gs Bd.*, ___ Wn. App. ___, ___ P.3d ___ (December 15,
2015).

B. Compliance with RCW 36.70A.130

The City argues that adding two more lots, in 2013, to the change
properly proposed in 2012, does not violate the prohibition of RCW

36.70A.130(2)(a) that amendments be considered “no more frequently than once every year ... ” as if anything, according to the City, under the facts here, the process was less frequently than once per year, since the entire process lagged into two different calendar years.

Clearly the record indicates the changes were considered to be part of the 2012 docket. The only way the two additional lots are part of the 2012 docket are if they were retroactively added to the 2012 docket, regardless of any propriety in doing so. By adding lots after the normal process was closed, and calling those additions part of the 2012 docket, it means the City effectively considered amendments more than twice for the same calendar year.

Or, since there would have been a January 31st, 2013 deadline for amendments to the 2013 “docket,” pursuant to WRMC 14.09.030, then adding lots in March or April of 2013 mean changes were effectively considered more than once for 2013. Either way, adding lots anytime the City feels like it to a proposed zoning change and amendment to the GMP violates the requirement of RCW 36.70A.130(2)(a) for an identified “procedure” to be followed. Just what procedure can the City identify as what it was following?

The City cites WRMC 17.78.020(A)(3) in support of its outlandishly tardy expansion of the docket. But the docket procedure for amendments to the Growth Management Plan is under WRMC Chap. 14.09, entitled "Amending the Comprehensive Plan," not WRMC Chap. 17.78, which deals with zoning changes and amendments to boundaries, but does not set forth the public participation and notice procedures.

The purpose of WRMC Chap. 14.09 is clearly without limitation to only certain applications:

WRMC 14.09.010 Purpose.

The purpose of this chapter is to establish procedures for amending the city's comprehensive plan, including the comprehensive plan text and land use map, as well as the land use, housing, capital facilities plan, utilities, transportation, economic, and park/recreation elements of the comprehensive plan.

The docket procedures of WRMC 14.09.030, .060, .070 and .110 do not reference any exception to those amendments that supposedly originate under WRMC Chap. 17.78. WRMC Chap. 14.09 provides for an application deadline, for a docket, and for a final public hearing on that docket. There are exceptions to the

process listed in WRMC 14.09.020, none of which apply, and none of which refer to WRMC Chap. 17.78..

WRMC Chap. 14.09 is an A to Z set of steps, that apply to *any* application to amend the Comprehensive Plan, initiated by *any* entity. See Appendix. If the docket procedure that culminates in the setting of the docket under WRMC 14.09.110 does not apply to City-initiated amendments, then by that same principle, then neither do other various provisions of WRMC Chap. 14.09., such as the criteria for approval, section .160, approval by ordinance, section .170, transmittal of proposed amendments, and ordinances, to the State, section .180, appeals, section .190, and revisions of the map, section .210.

Why would there be one detailed process for applications made by citizens or other agencies, and another, allowing late additions, if initiated by the city planning director? One way requires early and continuous public participation, but the other does not? No substantive explanation is offered by the City for its theory that mandatory procedures are somehow bypassed because the city planning director dreams up a scheme to belatedly triple the size of the area to be covered by a proposed amendment.

C. Failure to provide adequate public participation

RCW 36.70A.140 mandates that the City's public participation program provide "for **early and continuous** public participation" (Emphasis added.) Adding two lots to an amendment that originally only involved one lot, over a year after the application deadline, and many months after the docket was considered and approved by the City Council, cannot be "early" nor can it be "continuous." And since the City maintains that somehow WRMC 17.78.020(A)(3) allows it to do as it pleases, anytime it wants, then the City concedes to the Court that its program, in actual practice, does not require early and continuous public participation. Thus it cannot rely on "[e]rrors in exact compliance with the established program" not being fatal, as the program itself as described by the City allows late additions to invade the process at any time, voiding early participation in what is to later become an unknown process. This is worse than mere lack of "exact compliance."

The City fails to discuss the fact that there was a change to the proposed amendment, falling under RCW 36.70A.035(2)(a), requiring a new period for comment and review. Instead, the City lays out notices and procedures mostly taking place prior to the addition

of Lots 1 and 28 to the mix, which tripled the size of the proposed change to “commercial.”

This, despite the fact that the City does not claim there was any notice the “docket was expanded” until at least a March 14, 2013 Planning Commission “workshop.” Brief of Respondents, p. 2. Anything before that date cannot “count” towards the notice and public participation process needed for the amendment as a whole.

D. The change was an illegal spot zone

This change involves, at best, three parcels of land. (Two lots being added for the mere purpose of it not being only one lot.) WRMC 14.09.100, at least for the purposes of the type of hearing notice needed, considers less than five parcels to be “site-specific.”

“ For site-specific land use map amendment proposals (i.e., sites involving four or fewer parcels, or sites consisting of multiple contiguous parcels under a single ownership),” *Id.*

The parcels are all subject to protective covenants indicating they are residential lots.

The City asserts there are “many non-residential uses that already take place in Austin Drive.” Brief of Respondents, p. 13. The City

notes that Lots 28 and 29 are currently vacant. It is unknown how vacancy constitutes a non-residential use. The City also notes that Lot 1 has a home and a "shop," without further explanation of how a "shop" means there is a use other than residential. Nothing in the page of the record cited, CP 332, indicates the "shop" is non-residential in character. Certainly many homeowners have a "shop" to house their extra vehicles, recreational vehicles or boats, or to carry on hobbies or home repairs.

CP 333 contains a list of homes along Austin Drive for which the owners or occupants list the addresses for business licenses, for businesses such as a guide service, and a remodeler. The business assets present could be a cell phone, a personal computer, and a file cabinet for all the records shows. Nothing in the record shows the buildings on the lots are of a non-residential nature, or violate uses allowed in low-density residential zoning. Many of us would be surprised to learn that a small contractor coming to our home to do some remodeling needs to have their own home, from which he or she answers calls and parks a work truck, declared to be a commercial zone. The fact that the City needs to resort to such a tactic apparently means they had to grasp at straws to justify shattering the residential nature of Austin Drive by changing ten

percent of its lots to "commercial." Is the City going to review how many businesses have addresses at residences across the entire City, and change all those areas to commercial as well?

The City justifies its action by citing a survey, in which 67 percent of those responding (not 67 percent of the population), said they would support economic development "at this location" as described by the Brief of Respondents, p. 14. In fact the location that was the subject of the survey was "the corner of Bombing Range and Van Giesen," which is already commercial, and not the corner of Bombing Range and Austin Drive, where the affected lots lie. CP 334.

E. Inconsistency with Comprehensive Plan

The City states it was not shown what part of the existing Comprehensive plan the changes violated. Yet the City also cites, at p. 15 of its Brief, that a goal of the Comprehensive Plan is to "Encourage the use of previously passed-over parcels within areas characterized by urban growth." The objecting citizens pointed out in the proceedings below that there were unused commercial lots along Van Giesen, already a commercial zone, so that goal is clearly violated by reaping of residential lots for commercial purposes.

F. Inadequacy of GMHB's Findings of Fact

This situation is unlike that in *Spokane County v. Eastern Washington Growth Management Hr'gs Board*, 188 Wn. App. at 477. There, "[t]he Board meticulously outlined its reasoning." Here, the Board, for the most part, dodged making meaningful findings and conclusions by inaccurately repeating that the Appellants offered no legal argument in support of their positions, to excuse their own lack of meaningful findings and conclusions. In fact, the Appellants diligently did so before the Board, to no avail.

In Appellants' Brief before the Board, they organized the long list of issues into four categories, beginning at CP 239. Under category "B. Failure to Comply with Adopted Procedures," CP 241, Appellants list and discuss Issue 11. CP 242-44. The statement of Issue 11 at CP 242 is more detailed than in the Petition for review, citing RCW 36.70A.130, and WRMC 14.09.030. The detailed statement of the issue essentially sets forth the argument itself, that only one of the three lots at issue was properly on the Comprehensive Plan Amendment Docket, since an application for only one lot was submitted by the legal deadline. CP 242. At CP 243-44, the

Appellants went over the essential facts in support of that issue, and set forth cogent argument.

Yet on the critical issue, identified before the Board as Issue II, the Board found: "Petitioners did not present any legal arguments, showing how the adoption of Ordinance Nos. 25-13 and 26-13 violated specified provisions of RCW 36.70A.040, 36.70A.130 or WAC 365-196-640 (1)(b)." CP 15. This is but one example of how the Board simply perfunctorily dealt with the specific issues raised below by Mr. Coyne and the West Richland Citizens for Smart Growth.

G. Respondents' Request for Attorney Fees

Respondents cite RCW 4.84.350(1) as the basis for an award of attorney fees in the event they prevail. But that statute provides in part: "A qualified party shall be considered to have prevailed if the qualified party obtained relief on a significant issue that achieves some benefit that the qualified party sought." The City is not seeking to obtain "relief" or a "benefit" that it did not already have prior to Mr. Coyne and the West Richland Citizens for Smart Growth bringing this appeal. The City did not seek cross-review. Their request, in the unlikely event they some "prevail" should be denied.

III. CONCLUSION

Because the amendments for two lots were not on the approved 2012 docket, and adequate notice and public participation was not afforded for the changes to the amendments, and the changes are inconstant with the Growth Management Plan and the Growth Management Act, the Growth Management Hearing Board's decision should be reversed and the ordinances allowing the amendment and the re-zone should be declared invalid, or alternatively, the case should be remanded to the Growth Management Review Board for entry of adequate findings of fact and conclusions of law.

Respectfully submitted,

Dated December 24th, 2015



William Edelblute WSBA 13808

Attorney for Appellants

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that I served a copy of the foregoing document, by mailing via US Mail First Class, postage prepaid, to Bronson Brown, Attorney for Respondent City of West Richland, at 410 N. Neel St., Ste. A, Kennewick WA 99336, and Brian Davis, Attorney for Respondent Charles Grigg, at 2415 W. Falls Ave., Kennewick WA 99336, and emailed a copy to Dionne Padilla-Huddleston, Assistant Attorney General, at dionnep@atg.wa.gov and amyp4@atg.wa.gov, on December 24th, 2015.

A handwritten signature in black ink, appearing to read "William Edelblute", is written over a horizontal line.

William Edelblute

Chapter 14.09

AMENDING THE COMPREHENSIVE PLAN

Sections:

- 14.09.010 Purpose.
- 14.09.020 Exceptions to the amendment process.
- 14.09.030 Submission deadlines.
- 14.09.040 Types of amendments.
- 14.09.050 Annual review process and SEPA review.
- 14.09.060 Initiation of amendments.
- 14.09.070 Docket.
- 14.09.080 Amendment applications.
- 14.09.090 Determination of completeness for proposed amendments.
- 14.09.100 Public notice of public hearing(s).
- 14.09.110 Public hearing on docket.
- 14.09.120 Considerations for decision to initiate processing.
- 14.09.130 Selecting the applications for further processing during annual review.
- 14.09.140 Planning commission action.
- 14.09.150 City council action.
- 14.09.160 Criteria for approval.
- 14.09.170 Adoption and rejection.
- 14.09.180 Transmittals to the state.
- 14.09.190 Appeals.
- 14.09.200 Applications for amendments located within the urban growth area and outside of the city limits.
- 14.09.210 Map revisions.
- 14.09.010 Purpose.

The purpose of this chapter is to establish procedures for amending the city's comprehensive plan, including the comprehensive plan text and land use map, as well as the land use, housing, capital facilities plan, utilities, transportation, economic, and park/recreation elements of the comprehensive

plan. The Growth Management Act (GMA) generally allows amendments to comprehensive plans only once per year, except as otherwise provided in RCW 36.70A.130(2)(a), so that the cumulative impacts of all proposed amendments can be analyzed. This chapter is intended to provide a process to docket proposed amendments for annual review, to provide timelines, to identify public participation procedures, application requirements, and review criteria for consideration of amendments to the various comprehensive plans. [Ord. 38-07 § 1, 2007].

14.09.020 Exceptions to the amendment process.

The city council may amend the comprehensive plan(s) more frequently than once per year under the following circumstances (consistent with RCW 36.70A.130(2)):

A. Initial adoption of an identified subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;

B. The adoption or amendment of a shoreline master program under the procedures set forth in Chapter 90.58 RCW;

C. The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of the city's budget; and

D. Any other circumstance specifically described in RCW 36.70A.130. For purposes of RCW 36.70A.130(2)(b), an emergency may be declared by the city council when delaying action until the next annual review process would jeopardize human safety or property, or otherwise result in substantial harm to the public. [Ord. 38-07 § 1, 2007].

14.09.030 Submission deadlines.

Proposed amendments to the comprehensive plan or land use plan map may be submitted at any time. Applications received by January 31, 2008, will be considered during the current annual review period. Applications received thereafter will be considered during the subsequent annual review period with the last working day in January being the deadline for submittal for each annual review period thereafter. [Ord. 38-07 § 1, 2007].

14.09.040 Types of amendments.

There are two amendment types: text and map. Both amendments require docketing and will be considered annually. All comprehensive plan amendments are considered legislative processes and are

not subject to deadlines for issuance of a final decision or project permit applications in Chapter 14.05 WRMC. While the city may consider amendments only once a year, there is no deadline for the city's final decision on the amendments, nor is there any limitation on the number of hearings that the city may hold to consider the amendments. [Ord. 38-07 § 1, 2007].

14.09.050 Annual review process and SEPA review.

Once provided with city council direction, staff shall proceed with the formal amendment process including research, public participation, analysis, development of alternatives, if necessary, and recommendations.

A. Annually, the comprehensive plan amendment proposals shall be considered concurrently so that the cumulative effect of all amendments may be ascertained. Environmental review (SEPA) shall be conducted on all proposed amendments at the same time to consider the cumulative impacts of all amendments. Proposals may be considered at separate meetings and hearings, so long as the final action taken considers the cumulative effect of all the proposed amendments.

B. Proposed comprehensive plan amendments are subject to the following:

1. Proportional Share of Costs. Individual applicants will be required to pay for their proportionate share of the costs involved in the SEPA analysis, which may include the preparation of an environmental impact statement if deemed necessary by the responsible SEPA official. If an EIS is deemed necessary, the city will contact the applicant(s) to provide them with an estimate on the cost of the EIS and will require the applicant(s) to pay their proportionate cost before proceeding with the preparation of the EIS. Lack of payment in the time specified by the city will be deemed a withdrawal of the nonpaying applicant's application. If actual costs of the EIS exceed the estimated cost, the city may bill each applicant for their proportional share of the cost overrun. Payments exceeding actual costs shall likewise be reimbursed proportionately. If payments for all cost due to the city are not paid, the proposed comprehensive plan amendments of the nonpaying applicant shall not be approved.

C. Assessment of Impacts. Except for those land use map amendments associated with a development agreement that limit development to specified uses and floor areas, the most intense use and development of the site allowed under the proposed land use designation will be assumed when reviewing potential impacts to the environment and to public facilities. [Ord. 38-07 § 1, 2007].

14.09.060 Initiation of amendments.

Amendments may be initiated by any interested person, including applicants, citizens, and staff of other agencies. [Ord. 38-07 § 1, 2007].

14.09.070 Docket.

Proposed amendments will be assigned an application number and placed on a docket. A current copy of the docket shall be maintained by the planning department and shall be available for public inspection during regular city business hours. [Ord. 38-07 § 1, 2007; Ord. 27-99 § 4, 1999].

14.09.080 Amendment applications.

A. General Application Requirements. All map and text amendment applications shall be accompanied by a completed application form as provided by the city along with the following additional information:

1. Name and address of the person or persons proposing the amendment;
2. An environmental checklist (SEPA);
3. All associated fees as established by the city;
4. A written statement explaining the following:
 - a. The purpose of the proposed amendment;
 - b. How the amendment is consistent with the Washington State Growth Management Act;
 - c. How the amendment is consistent with the adopted county-wide planning policies;
 - d. How the amendment furthers the purpose of the city's comprehensive plan;
 - e. How the amendment is internally consistent with the city's comprehensive plan, as well as other adopted city plans and codes;
 - f. If applicable, how the project will meet concurrency requirements for transportation; and

g. Supplemental environmental review and/or critical areas review if determined by the planning director to be required.

B. Comprehensive Plan Text Amendment Requirements. In addition to the general application requirements, the following additional information shall accompany a text amendment application:

1. The proposed element, chapter, section, and page number of the comprehensive plan to be amended.
2. Proposed text changes, with new text shown in an underline format, and deleted text shown in strikeout format.

C. Comprehensive Plan Map Amendment Requirements. Map amendments include changes to any of the several maps included in the comprehensive plan including, but not limited to, the land use map, future roadways map, parks and trails map, etc. All map amendment applications shall include the information specified under general application requirements. In addition, land use map amendment applications shall be accompanied by the following information:

1. The current land use map designation for the subject parcel(s).
2. The land use map designation requested.
3. A complete legal description describing the combined area of all the subject parcel(s).
4. A copy of the county tax assessor's map of the subject parcel(s).
5. A vicinity map showing:
 - a. All land use designations within 300 feet of the subject parcel(s).
 - b. All parcels within 300 feet of the subject parcel and all existing uses of those parcels.

c. All roads abutting and/or providing access to the subject parcel(s) including information on road classifications (arterial, collector, access) and improvements to such roads.

d. Location of shorelines and critical areas on or within 300 feet of the site, if applicable.

e. The location of existing utilities serving the subject parcels including electrical, water and sewer (including septic).

f. The location and uses of existing structures located on the subject parcel(s).

6. Mailing labels of all property owners within 600 feet of the subject site, as listed on the county assessor's tax rolls (the city may require the applicant at any time in the update process to submit updated mailing labels if the mailed notices are to be sent more than 30 days beyond the date the mailing labels were prepared).

7. A traffic impact analysis (TIA) assessing the potential impacts of the proposed amendment.

8. Topographical map of the subject parcels and abutting properties at a scale of a minimum of one inch represents 200 feet (1:200).

9. The current official zoning map designation for the subject parcel(s).

10. A detailed plan which indicates any proposed improvements, including plans for:

a. Paved streets;

b. Storm drainage control and detention facilities;

c. Public water supply;

d. Public sanitary sewers; and

e. Circulation and traffic patterns for the development and the surrounding neighborhoods.

11. A corresponding zoning map amendment application where necessary to maintain consistency between the land use and zoning maps. The rezone application will be processed separately from, and after, the comprehensive plan amendment.

12. Other information as may be required by the planning director to assist in accurately assessing the conformance of the application with the standards for approval.

13. A description of any associated development proposals. Development proposals shall not be processed concurrent with comprehensive plan amendments, but the development proposals may be submitted for consideration of the comprehensive plan amendments to limit consideration of all proposed uses and densities of the property under the city's SEPA, zoning, and comprehensive land use plan. If no proposed development description is provided, the city will assume that the applicant intends to develop the property with the most intense development allowed under the proposed land use designation. The city shall assume the maximum impact, unless the applicant submits with the comprehensive plan amendment a development agreement to ameliorate the adverse impact(s) of the proposed development.

D. Related Applications. Comprehensive plan amendments shall be processed separately from any other related project permit applications, including but not limited to site-specific rezone applications, except that related development descriptions may be submitted as described in subsection (C)(13) of this section. [Ord. 38-07 § 1, 2007].

14.09.090 Determination of completeness for proposed amendments.

The planning director shall review all docketed applications and make a determination of completeness within 30 days of receipt of application. (The requirements of RCW 36.70B.080 or WRMC 14.02.030 do not apply to legislative processes.) Applicants will be required to provide any additional material requested by the director within 15 days of the date of the request. Applications which are determined to be incomplete as of 45 days after the annual application deadline date identified in WRMC 14.09.030 will not be considered during the current annual review process. It is highly recommended that applicants for amendments to the comprehensive plan contact the planning department and arrange for a preapplication conference prior to submittal of an application for amendment, to avoid delays in processing. [Ord. 38-07 § 1, 2007].

14.09.100 Public notice of public hearing(s).

A notice of public hearing(s) on proposed amendments to the comprehensive plan shall be sent to the news media and posted on the city's official website. For site-specific land use map amendment proposals (i.e., sites involving four or fewer parcels, or sites consisting of multiple contiguous parcels under a single ownership), the notice of public hearing shall be mailed to all property owners within 600 feet of the subject site. Notices shall be both mailed and posted at least seven days prior to the scheduled public hearing. [Ord. 38-07 § 1, 2007].

14.09.110 Public hearing on docket.

The city council shall review and consider all of the amendments included in the docket that were submitted in time for review during the current calendar year during a regular council hearing before making a final decision on which amendments will proceed through the annual amendment process. [Ord. 38-07 § 1, 2007].

14.09.120 Considerations for decision to initiate processing.

Before rendering a decision whether the individual comprehensive plan amendment proposal may be processed during any year, the city council shall consider all relevant facts, including the application materials, as well as the following items:

A. Whether circumstances related to the proposed amendment and/or the area in which it is located have substantially changed since the adoption of the comprehensive plan.

B. Whether the assumptions upon which the comprehensive plan is based are no longer valid, or whether new information is available which was not considered during the initial comprehensive plan adoption process or during previous annual amendments. [Ord. 38-07 § 1, 2007].

14.09.130 Selecting the applications for further processing during annual review.

The council shall consider each application separately under the procedures and criteria set forth in WRMC 14.09.110 and 14.09.120, and shall decide which applications will be processed during the current annual amendment process, and which will not be processed. The council's findings and conclusions on the applications that will not be processed shall be incorporated into a resolution. No findings and conclusions are required for those applications that are forwarded to the planning commission for further processing during the current annual review. [Ord. 38-07 § 1, 2007].

14.09.140 Planning commission action.

Once the applications are forwarded to the planning commission for further processing, the planning director shall ensure that the applications have been reviewed under SEPA, and that a SEPA threshold decision has issued. The planning commission shall then hold a public hearing(s) on the applications and consider them cumulatively under the criteria set forth in WRMC 14.09.160. The commission's written recommendation on the applications shall then be forwarded to the city council. [Ord. 38-07 § 1, 2007].

14.09.150 City council action.

The city council shall consider the planning commission's recommendation on the comprehensive plan amendments and make a decision to either adopt or deny each amendment application. If the council makes no changes to the planning commission's recommendation, the council may act on the amendments during a regular city council meeting. If the council makes any changes to the planning commission's recommendation, the council may be required to hold a public hearing, pursuant to RCW 36.70A.035(2). [Ord. 38-07 § 1, 2007].

14.09.160 Criteria for approval.

Every applicant for a comprehensive plan amendment must demonstrate how each of the following criteria for approval has been satisfied in their application materials. The city council, in addition to the consideration of the conditions set forth in WRMC 14.09.120, shall make written findings regarding each application's consistency or inconsistency with each of the following criteria:

A. The proposed amendment will not adversely impact the city's ability to provide sewer and water, and will not adversely affect adopted levels of service standards for other public facilities and services such as parks, police, fire, emergency medical services and governmental services;

B. Adequate infrastructure, facilities and services are available to serve the proposed or potential development expected as a result of this amendment, according to one of the following provisions:

1. The city has adequate funds for needed infrastructure, facilities and services to support new development associated with the proposed amendments; or

2. The city's projected revenues are sufficient to fund needed infrastructure, facilities and services, and such infrastructure, facilities and services are included in the schedule of capital improvements in the city's capital facilities plan; or

3. Needed infrastructure, facilities and services will be funded by the developer under the terms of a developer's agreement associated with this comprehensive plan amendment; or

4. Adequate infrastructure, facilities and services are currently in place to serve expected development as a result of this comprehensive plan amendment based upon an assessment of land use assumptions; or

5. Land use assumptions have been reassessed, and required amendments to other sections of the comprehensive plan are being processed in conjunction with this amendment in order to ensure that adopted level of service standards will be met;

C. The proposed amendment is consistent with the goals, policies and objectives of the comprehensive plan;

D. The proposed amendment will not result in probable significant adverse impacts to the transportation network, capital facilities, utilities, parks, and environmental features which cannot be mitigated and will not place uncompensated burdens upon existing or planned services;

E. In the case of an amendment to the comprehensive plan land use map, that the subject parcels being redesignated are physically suitable for the allowed land uses in the designation being requested, including compatibility with existing and planned surrounding land uses and the zoning district locational criteria contained within the comprehensive plan and zoning code;

F. The proposed amendment will not create a demand to change other land use designations of adjacent or surrounding properties, unless the change in land use designation for other properties is in the long-term interest of the community in general;

G. The proposed amendment is consistent with the Growth Management Act, the county-wide planning policies and other applicable interjurisdictional policies and agreements, and/or other state or local laws; and

H. The proposed effect of approval of any individual amendment will not have a cumulative adverse effect on the planning area. [Ord. 38-07 § 1, 2007].

14.09.170 Adoption and rejection.

Comprehensive plan amendments that are approved shall be adopted by ordinance. All comprehensive plan amendments that are rejected shall be addressed in a resolution. [Ord. 38-07 § 1, 2007].

14.09.180 Transmittals to the state.

The planning department will transmit a copy of any proposed amendments and adopted ordinances to the Washington State Department of Community, Trade, and Economic Development (CTED) pursuant to the requirements of RCW 36.70A.106. [Ord. 38-07 § 1, 2007].

14.09.190 Appeals.

Appeals shall be filed with the Growth Management Hearings Board in accordance with the provisions of Chapter 36.70A RCW. [Ord. 38-07 § 1, 2007].

14.09.200 Applications for amendments located within the urban growth area and outside of the city limits.

As a courtesy recommendation only, the city council may consider applications for amendment of the Benton County comprehensive plan land use map for those parcels located within the urban growth area, but outside of the city limits. Actions of the city council will be forwarded to the Benton County commissioners. The city council's recommendation on any amendments to the Benton County comprehensive plan map is a recommendation only, and is not a final decision. It is therefore not appealable, either administratively or judicially. [Ord. 38-07 § 1, 2007].

14.09.210 Map revisions.

If land use map amendments are adopted, the city council shall order that the comprehensive plan land use map be amended to reflect the new amendments. [Ord. 38-07 § 1, 2007].