

## State high court rules against county for land-use appeals process

By MIKE JOHNSTON senior writer | Posted: Friday, March 14, 2014 1:45 pm

The Kittitas County government will change its land-use appeals process as the result of a state Supreme Court ruling.

The state's highest court, in an appeal brought by Kittitas County, ruled that it agreed with Ellensburg Cement Products Inc.'s arguments and a state Court of Appeals decision against county government.

County Planning Official Robert "Doc" Hansen said he and the planning staff are working on proposed changes to county code to comply with the ruling.

The change would add an open-record public hearing to environmental review appeals.

Supreme Court justices ruled Feb. 6 that county government's land-use zoning code doesn't properly follow state law, and a county-granted conditional-use permit to Louie Gibson of Thorp in 2011 should be thrown out.

A prior decision at the county superior court level upheld county government's position that it didn't err in granting a conditional-use permit in 2011 to Louie Gibson of Thorp to expand an existing Gibson and Son Road Builders Inc. rock quarry. It's on 85 acres off Parke Creek Road, three miles east of Kittitas and east of Clerf Road, according to county documents.

Gibson also sought rock crushing on the site zoned Agricultural 20.

Overtaken

The local court also said the county followed the rules in hearing Ellensburg Cement's appeal of the county's environmental review of the project.

Ellensburg Cement Products later challenged the lower court ruling in the state Court of Appeals. The state appeals court overturned the lower court ruling, stating the county should have conducted at least one open, public hearing on the appeal, and agreed with Ellensburg Cement Products that rock crushing wasn't an allowed use, according to county rules, on Gibson's land.

The Supreme Court's decision said the county's interpretation of state law was incorrect in regard to the process for those appealing county staff's environmental impact review of land-use projects.

State law calls for at least one open-record public hearing on an appeal, the court ruled, meaning a meeting that allows public testimony by those under oath who are challenging the county's environmental review.

The county's interpretation of state law in 2011 was to conduct one, closed-record hearing on the appeal before the county's land-use decision-making body. Objections and arguments from both sides were submitted to the deciding body in writing and reviewed and discussed at a public meeting where no oral testimony was taken.