

WHITMAN COUNTY PLANNING COMMISSION

To convene:

Wednesday, October 2, 2019
7:00 p.m.
Auditorium
Public Service Building
Colfax, Washington

Proposed amendments to the Critical Areas Ordinance.

PRELIMINARY FINDINGS OF FACT

1. The Growth Management Act (GMA), adopted in 1990, is a series of state statutes that requires fast-growing cities and counties to develop a comprehensive plan to manage their population growth. It is primarily codified under Chapter 36.70A RCW although it has been amended and added to in several other parts of the Revised Code of Washington (RCW).
2. Under RCW 36.70A.020, the GMA establishes a series of 13 goals that should act as the basis of all comprehensive plans: *Concentrated urban growth; Sprawl reduction; Regional transportation; Affordable housing; Economic development; Permit processing; Natural resource industries; Open space and recreation; Environmental protection; Early and continuous public participation; Public facilities and services; Historic preservation; and Shoreline management.*
3. The GMA comprises of fully planning counties and partially planning counties. Those counties that had both a population of 50,000 or more and, until May 16, 1995, had its population increase by more than 10% in the previous ten years, or, on or after May 16, 1995, had a population increase of more than 17% in the previous 10 years, were required to conform fully with RCW 36.70A. Those counties would be considered fully planning under the GMA. The counties that did not meet those thresholds could choose to opt-out of RCW 36-70A or choose to opt-in. Those counties would be considered partially planning under the GMA.
4. Partially planning counties are only required to adopt critical areas regulations and designate natural resource lands.
5. Upon the initiation of the GMA in 1990, 18 counties were required to fully plan, 10 counties opted-in to fully plan, and 11 counties chose to partially plan. Whitman County chose to partially plan.
6. The Washington State Department of Commerce is the primary state-level contact for GMA-related issues. They provide technical assistance to help local governments comply with the GMA and implement their comprehensive plans effectively.

7. Whitman County adopted critical areas ordinances shortly after the GMA was created. Those ordinances were updated on December 15, 2014. The GMA requires periodic updates to critical areas ordinances. Whitman County's next update deadline is by June 2020. From that point the next periodic update would be due in eight years, June 2028.
8. At a regularly scheduled meeting on January 3, 2018, planning staff initiated the review process of the County's Critical Areas Ordinance (CAO) with the Planning Commission. Review of the CAO continued at every scheduled meeting of the Planning Commission from that point onward.
9. On September 27, 2018, the Planning Department submitted a revised update of the CAO to the Department of Commerce. This began a 60-day review process required by the GMA. During this 60-day review period several comments on the draft CAO were received. The draft ordinance was further amended and added to as a result of the comments. The 60-day comment period ended on November 26, 2018.
10. As required by the State Environmental Policy Act, a SEPA Environmental Checklist for this non-project action was prepared, and a DNS (Determination of Nonsignificance) was issued on February 14, 2019. The comment period ended February 28, 2019, and no comment was received.
11. A legal notice regarding this hearing and the SEPA decision was published in the Whitman County Gazette on February 14, 2019.
12. The revised CAO was adopted by the Whitman County Board of Commissioners on April 1, 2019, under Ordinance 081462.
13. A notice of Final Adoption of Amendment was sent to the Department of Commerce which triggered a 60-day notice period which ended on June 22, 2019. No comments were received within the notice period.
14. It came to the attention of planning staff that some definitions in the adopted CAO were missing. This amendment will add these definitions into the ordinance. The definitions being added are: Palouse Prairie, Eastside Steppe, Shrub Steppe, Ecosystem, and Prior Converted Croplands. Palouse Prairie is also being added to the list of priority habitats and species table in Appendix 1.
15. Staff informed the Planning Commission at a workshop on September 4, 2019, about this omission and after some discussion the Planning Commission directed staff to organize a public hearing on October 2, 2019, to decide on the amendments.
16. A SEPA addendum to an existing environmental document, SEPA 19.03, was sent to the SEPA registry and all the agencies that the original SEPA was sent to, on September 20, 2019. The addendum stated that the addition of the omitted

definitions did not cause any additional impacts to the environment and therefore no further SEPA review would be required.

17. A legal notice regarding the upcoming Planning Commission hearing on October 2, 2019, was published in the Whitman County Gazette on September 12, 2019.

From the foregoing Findings of Fact, this Commission now makes the following:

PRELIMINARY CONCLUSIONS

1. These proposals are consistent with the goals and policies of the Whitman County Comprehensive Plan and the state Growth Management Act.
2. These proposals are consistent with the general purposes of the zoning code.
3. These proposals will benefit businesses and landowners with increased efficiency in implementation of the County code.
4. These proposals will not have a significant adverse environmental impact.

Alan L. Thomson
County Planner

October 2, 2019 COMMENTS BEFORE THE PC.

Good evening. For the record, my name is Ken Duft and I'm a non-farm resident of rural Whitman County.

I've witnessed these proceedings throughout and, as earlier noted, "I have no dog in this fight." I possess no strong personal feelings regarding the cannabis matter, but have rather enjoyed listening to all the deliberations linked to this document's contents.

I have some appreciation for all those views exchanged, including the responsibilities and functions of the Planning Commission, and the heart-felt concerns of those opposed to the production and processing of cannabis. On at least three previous occasions, I have confronted similar issues which I felt impacted negatively my residence, my family, and my choice of a rural lifestyle. I also retain some appreciation for the defined limitations of the PC, i.e., its advisory only role to the Board of County Commissioners.

I would also like to take this opportunity to express my personal appreciation to the Planning Commission and its staff for the time and effort devoted to this matter. Thank you for your patience as this matter has ensued for many months longer than first expected. Thank you for your diligence as you received and reviewed large volumes of documents and written testimony. Thank you for your thoughtful consideration as time was always provided to listen to those concerned and wishing to publicly address the PC on a rather controversial matter. My single regret is that a larger segment of Whitman County's residents have not taken a more personal interest in this issue, both publicly and privately.

I've read and reviewed the cannabis document many times over and find only a single weakness of note, i.e., its early stipulation that, "for purposes of this ordinance, cannabis production and processing are not agricultural activities". As both a practical and

legal matter, this statement is simply not scientifically defensible. One cannot, for any reason, define the color of my hair as black....when it's clearly not. Moreover, in my opinion, this statement is unnecessary, if not confusing. One needs only to acknowledge that, "while cannabis production and processing are agricultural activities, their functions within Whitman County's Agricultural Zone will be addressed, regulated, and constrained as described herein." Indeed, this is what the document goes on to do in any case. Any subsequent legal challenge or obfuscation relating to what is, or is not, an agricultural activity can, thereby, be avoided.

Thank you again for your kind consideration.

Ken Duft
801 Brayton Rd.
Pullman, Wa. 99163

Section 19.10.060 - - Rural Residential Use.

B. Certification Approval—Issuance of a Rural Housing Certificate shall be granted when a proposal meets all of the following conditions:

1. Approval of Residence Location.

a. New rural residences may be sited in locations which meet requirements for a viewshed site or meet requirements for a residential group.

b. **Viewshed Site—Definition.** A proposed residential building footprint which is located at least 1,500 feet horizontally from the nearest residence or certified residential site; or is located within 1,500 feet of one or more existing residences or certified residential sites but not visible from any of said residences or certified residential sites.

i. **Definition of Not Visible:** a proposed residential site is considered to be not visible if an observer standing at the corners of the footprint of the proposed residence and with their eye level at five (5) feet above existing grade can not see any part of an existing residence or the footprint of another proposed residence due to the interposition of natural landforms.

ii. **Exception for Highly Visible Residences:** an existing residence within a viewshed under consideration and located on a hilltop or ridge, or whose highest point is higher than the slope on which it is located, shall be ignored due to its highly visible location.

c. Residential Group.

i. **Definition:** A residential group is defined as a collection of two to nine certified, residential parcels which are located such that at least some portion of each of the included residences is within 300 feet of some portion of another included residence. (Limited to nine or less residences to avoid the potential consequences of WAC 16-231-510.)

ii. **Creation of a residential group.** The owner of any residence constructed prior to January 1, 2007 may apply for review to create a residential group by submitting an application for a Rural Housing Certificate to obtain permission to construct a new residence which must be located within 300 feet of the existing residence.

iii. An existing residential group may be expanded to a maximum of nine houses.

d. **Agricultural Notification.** In the case of any application for a Rural Housing Certificate, all owners of property within 1,500 feet of the proposed residential building footprint shall be notified by mail. Any owner of a commercial agricultural operation within 1,500 feet of the proposed new site may appeal the decision to the Board of Adjustment within 20 days after the date of the notice, to show that a significant negative effect on their farming operation would be created. If the owners sign a waiver from this requirement, such notice is not required.

Consider 1500ft setback for indoor and outdoor marijuana facilities from residences in unincorporated Whitman County.

[What We Do](#)[Drug Information](#)[Drug Scheduling](#)

Drug Scheduling

Drug Schedules

Drugs, substances, and certain chemicals used to make drugs are classified into five (5) distinct categories or schedules depending upon the drug's acceptable medical use and the drug's abuse or dependency potential. The abuse rate is a determinate factor in the scheduling of the drug; for example, Schedule I drugs have a high potential for abuse and the potential to create severe psychological and/or physical dependence. As the drug schedule changes-- Schedule II, Schedule III, etc., so does the abuse potential-- Schedule V drugs represents the least potential for abuse. A Listing of drugs and their schedule are located at Controlled Substance Act (CSA) Scheduling or CSA Scheduling by Alphabetical Order. These lists describes the basic or parent chemical and do not necessarily describe the salts, isomers and salts of isomers, esters, ethers and derivatives which may also be classified as controlled substances. These lists are intended as general references and are not comprehensive listings of all controlled substances.

Please note that a substance need not be listed as a controlled substance to be treated as a Schedule I substance for criminal prosecution. A controlled substance analogue is a substance which is intended for human consumption and is structurally or pharmacologically substantially similar to or is represented as being similar to a Schedule I or Schedule II substance and is not an approved medication in the United States. (See 21 U.S.C. §802(32)(A) for the definition of a controlled substance analogue and 21 U.S.C. §813 for the schedule.)

Schedule I

Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse. Some examples of Schedule I drugs are:

heroin, lysergic acid diethylamide (LSD), marijuana (cannabis), 3,4-methylenedioxymethamphetamine (ecstasy), methaqualone, and peyote

Schedule II

Schedule II drugs, substances, or chemicals are defined as drugs with a high potential for abuse, with use potentially leading to severe psychological or physical dependence. These drugs are also considered dangerous. Some examples of Schedule II drugs are:

Combination products with less than 15 milligrams of hydrocodone per dosage unit (Vicodin), cocaine, methamphetamine, methadone, hydromorphone (Dilaudid), meperidine (Demerol), oxycodone (OxyContin), fentanyl, Dexedrine, Adderall, and Ritalin

Schedule III

Schedule III drugs, substances, or chemicals are defined as drugs with a moderate to low potential for physical and psychological dependence. Schedule III drugs abuse potential is less than Schedule I and Schedule II drugs but more than Schedule IV. Some examples of Schedule III drugs are:

Products containing less than 90 milligrams of codeine per dosage unit (Tylenol with codeine), ketamine, anabolic steroids, testosterone

Schedule IV

Schedule IV drugs, substances, or chemicals are defined as drugs with a low potential for abuse and low risk of dependence. Some examples of Schedule IV drugs are:

Schedule I.

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxidine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacymorphan;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracetylmethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
- (43) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (44) Phenadoxone;

- (9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-amethylphenethylamine; "DOM"; and "STP";
- (10) 3,4-methylenedioxy amphetamine;
- (11) 3,4-methylenedioxyamphetamine (MDMA);
- (12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;
- (13) N-hydroxy-3,4-methylenedioxyamphetamine also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy MDA;
- (14) 3,4,5-trimethoxy amphetamine;
- (15) Alpha-methyltryptamine: Other name: AMT;
- (16) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
- (17) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;
- (18) Dimethyltryptamine: Some trade or other names: DMT;
- (19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;
- (20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyrido (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;
- (21) Lysergic acid diethylamide;
- (22) Marihuana or marijuana;
- (23) Mescaline;
- (24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;
- (25) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12));
- (26) N-ethyl-3-piperidyl benzilate;
- (27) N-methyl-3-piperidyl benzilate;
- (28) Psilocybin;
- (29) Psilocyn;
- (30)(i) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genera *Cannabis*, as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the genera *Cannabis*, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
- (A) 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;
- (B) 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;
- (C) 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers; or
- (D) That is chemically synthesized and either:
- (I) Has been demonstrated to have binding activity at one or more cannabinoid receptors; or
- (II) Is a chemical analog or isomer of a compound that has been demonstrated to have binding activity at one or more cannabinoid receptors;
- (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
- (ii) Hemp and industrial hemp, as defined in RCW 15.140.020, are excepted from the categories of controlled substances identified under this section;
- (31) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;
- (32) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;
- (33) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP;
- (34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.
- (d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant