### EXHIBIT LIST FOR OA 2019-003
Subdivision Ordinance Amendment for Futurewise Settlement Agreement

<table>
<thead>
<tr>
<th>Planning Commission Memo Exhibit List - December 10, 2019</th>
<th>DATED</th>
</tr>
</thead>
<tbody>
<tr>
<td>PCM 1</td>
<td>PCM 1.1  Planning Department Staff Memo</td>
</tr>
<tr>
<td>PCM 1</td>
<td>PCM 1.2  Resolution 2019-276</td>
</tr>
<tr>
<td>PCM 1</td>
<td>PCM 1.3  Draft Ordinance</td>
</tr>
<tr>
<td>PCM 1</td>
<td>PCM 1.4  Notice of Public Hearing</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Planning Commission Hearing Exhibit List - December 10, 2019</th>
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<tbody>
<tr>
<td>PCH 1</td>
<td>PCH 1.1  Comments from Futurewise</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Board of County Commissioners Memo Exhibit List - January 14, 2020</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>BCCM 1</td>
<td>BCCM 1.1  Board of County Commissioners Agenda Sheet</td>
</tr>
<tr>
<td>BCCM 1</td>
<td>BCCM 1.2  Draft Resolution</td>
</tr>
<tr>
<td>BCCM 1</td>
<td>BCCM 1.3  Draft Ordinance</td>
</tr>
<tr>
<td>BCCM 1</td>
<td>BCCM 1.4  Planning Commission Findings</td>
</tr>
<tr>
<td>BCCM 1</td>
<td>BCCM 1.5  Planning Commission Audio Recording</td>
</tr>
<tr>
<td>BCCM 1</td>
<td>BCCM 1.6  Public Hearing Notice</td>
</tr>
</tbody>
</table>

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<td>BCCH 1</td>
<td>CCH 1.2</td>
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The Exhibit Numbers are found in the Top Right Hand Corner of each document.

- PCM = Planning Commission Memo Exhibits
- PCH = Exhibits submitted during Hearing
- BCCM = County Commissioner Memo Exhibits
- BCCH = Exhibits submitted during Hearing
AGENDA ITEM
MTG. DATE: January 14, 2020
SUBJECT: Public Hearing - OA 2019-003 Amendment to the Benton County Subdivision Ordinance
MEMO DATE: January 6, 2020
Prepared By: Greg Wendt

BACKGROUND INFORMATION
The State of Washington (RCW 36.70A.130) requires mandatory "periodic updates" of the entire comprehensive plan and development regulations every eight years for all "fully planning" cities and counties. Each Washington city and county must periodically review and, if needed, revise its comprehensive plan and development regulations to ensure that they comply with the GMA.

Benton County approved its periodic update of its Subdivision Ordinance on September 25, 2018 (Ordinance 612/Resolution 2018-687).

On April 19, 2018, Futurewise challenged the compliance of the Benton County Comprehensive Plan (Ordinance 600/Resolution 2018-0137) and associated development regulations (zoning and subdivision ordinance) with the Growth Management Act. Futurewise filed a Petitioned for Review by Futurewise to the Eastern Washington Region Growth Management Hearings Board (Case Number 18-1-0004).

On April 2, 2019, Futurewise and Benton County, after negotiation, developed a settlement to which Futurewise agreed to dismiss the above referenced Petition for Review if the Board of County Commissioners considers and ultimately adopts certain amendments to the Benton County Comprehensive Plan and additional development regulations. This agreement was adopted by Benton County in County Resolution 2019-276.

SUMMARY
To comply with Benton County Resolution 2019-276, the Benton County Planning Department is proposing an amendment to the Benton County Subdivision Ordinance. The proposed amendment adds language in 9.02.100 (b) which references the new Benton County Rural Water Supply Program (Title 15 BCC).

RECOMMENDATION
Process and Procedures:
It is the recommendation of the Planning Department that the Board of County Commissioners conduct an open record hearing as indicated above on Tuesday, January 14, 2020, review all testimony that has been previously submitted to the Planning Commission, the Planning Commission recommendation, and enter that information into the record by reference.

Planning Commission recommendation:
At the conclusion of an open record hearing on December 10, 2019, the Planning Commission voted 5-0 to forward a positive recommendation to the Board of County Commissioners subject to the eight (8) findings of fact (Findings and Conclusions).

FISCAL IMPACT - None.

MOTION
If the Board agrees with the Planning Commission, a motion can be made to adopt the Planning Commission’s Recommendation, Findings and Conclusions as the Board’s own and approve Ordinance Amendment OA 2019-003-amending Ordinance 611, Section 165 and BCC 11.42.040, to comply with Resolution 2019-276.
RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING: AN ORDINANCE AMENDMENT RELATING TO
WATER SUPPLY; AMENDING ORDINANCE 612, SECTION 11 AND BCC 9.02.100. TO
COMPLY WITH BENTON COUNTY RESOLUTION 2019-276, SETTLEMENT AGREEMENT
WITH FUTUREWISE.

WHEREAS, the Planning Commission did conduct an open record hearing on December
10, 2019 at 6:00 p.m. in the Hearing Room, Planning Annex, 1002 Dudley Avenue,
Prosser, WA 99350 to consider an amendment to the 2017 Periodic Update of the Benton
County Subdivision Ordinance; and,

WHEREAS, the Planning Commission considered all evidence and testimony submitted
at the continued hearing and after discussion voted to recommend approval of an
amendment to the 2017 Periodic Update of the Benton County Subdivision Ordinance to
comply with the Futurewise Settlement Agreement and County Resolution 2019-276; and

WHEREAS, the Planning Commission recommendation of approval of Benton County’s
amendment to the Subdivision Ordinance is set forth in the attached Planning Commission
Recommendation, Findings of Fact and Conclusions that are incorporated herein by
reference (BCCM 1.4); and,

WHEREAS, the Planning Commission’s positive recommendation for the amendment to
the Subdivision Ordinance has been forwarded to the Board of County Commissioners for
review; and,

WHEREAS, the Board of County Commissioners did conduct their own open record
hearing on January 14, 2020, in the Commissioner’s Meeting Room, Third Floor,
Courthouse, Prosser WA 99350, to take testimony on the amendment and review the
Planning Commission’s recommendation. The legal notification was published on January
14, 2020 and copies of the notice mailed and emailed to those interested parties as noted
in the file maintained in the Planning Department; and,

WHEREAS, the Board did review the Planning Commission and staff recommendations,
the testimony and the proposed ordinance; and,

WHEREAS, the Board of County Commissioners are satisfied that it appears to be in the
best interest of the public to adopt said amendment to the Subdivision Ordinance; and,

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners adopts the
Planning Commission’s Recommendations, Findings of Fact and Conclusions dated
December 10, 2019 and attached as Exhibit BCCM 1.4 as their own; and,
BE IT FURTHER RESOLVED by the Benton County Board of Commissioners that Ordinance No. _________ an ordinance relating to Water Supply, amending Ordinance 612, Section 11 and BCC 9.02.100 to comply with Benton County Resolution 2019-276, Settlement Agreement with Futurewise be adopted shall take effect and be in full force immediately upon the date of approval and adoption.

Dated this 14th day of January 2020.

__________________________________________
Chairman of the Board

__________________________________________
Chair Pro Tem

__________________________________________
Member

Constituting the Board of County Commissioners of Benton County Washington.

Attest....................................................
Clerk of the Board
RECOMMENDATION OF THE
BENTON COUNTY PLANNING COMMISSION

RE: Amendment to Benton County Subdivision Ordinance to comply with Settlement Agreement (County Res. 2019-276)

File No. OA 2019-003

RECOMMENDATION, FINDINGS OF FACT AND CONCLUSIONS

RECOMMENDATION

In the matter of County Planning, the Benton County Planning Commission recommends the subdivision ordinance amendment application by Benton County to comply with the Settlement Agreement (Benton County Resolution 2019-276) between Futurewise and Benton County be approved subject to eight (8) Findings of Fact.

RESOLUTION

WHEREAS, legal notification for the Planning Commission public hearing was published in the Prosser Record Bulletin on November 27, 2019.

WHEREAS, a public hearing was held before the Planning Commission on December 10, 2019.

WHEREAS, the following members were present, Martin Sheeran, Tammara McKeiman, Lloyd Coughlin, Brian Skills, and Leo Perales.

WHEREAS, the Planning Commission considered all evidence and testimony submitted and after discussion voted five (5) members in favor with two (2) members absent to recommend approval of a subdivision amendment by Benton County to comply with County Resolution 2019-276.

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 OF FACT

1. The State of Washington (RCW 36.70A.130) requires mandatory "periodic updates" of the entire comprehensive plan and development regulations every eight years for all “fully planning” cities and counties. Each Washington city and county must periodically review and, if needed, revise its comprehensive plan and development regulations to ensure that they comply with the GMA.

2. Benton County approved its periodic update of its Subdivision Ordinance on September 25, 2018 (Ordinance 612/Resolution 2018-687).

3. On April 19, 2018, Futurewise challenged the compliance of the Benton County Comprehensive Plan (Ordinance 600/Resolution 2018-0137) and associated development
regulations (zoning and subdivision ordinance) with the Growth Management Act. Futurewise filed a Petition for Review by Futurewise to the Eastern Washington Region Growth Management Hearings Board (Case Number 18-1-0004).

4. On April 2, 2019, Futurewise and Benton County, after negotiation, developed a settlement to which Futurewise agreed to dismiss the above referenced Petition for Review if the Board of County Commissioners considers and ultimately adopts certain amendments to the Benton County Comprehensive Plan and additional development regulations. This agreement was adopted by Benton County in County Resolution 2019-276.

5. The proposed amendments comply with the standards of RCW 36.70A, the Growth Management Act. As required in RCW 36.70A.106, the County notified the Washington State Department of Commerce (60 day review) on November 5, 2019 of the application to amend the Benton County Subdivision Ordinance.

6. The proposed amendments comply with Benton County Resolution 2019-276, Agreement with Futurewise.

7. The proposed amendments comply with the public notice and procedural steps in Benton County Code (BCC) Chapter 9 Subdivision Regulations (County Resolution 2018-687/Ordinance 612).

8. The proposed amendments add language in 9.02.100 (b) which references the need to comply with the new Benton County Rural Water Supply Program in Title 15 BCC.

A majority of the Planning Commission members find that all of the facts set forth in the Planning Department Staff Report dated November 22, 2019 are accurate. Supporting documents have been considered and addressed.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman as authorized by motion of the Board, adopts these findings and conclusions with respect to a subdivision ordinance amendment proposed by the Benton County is hereby recommended to be APPROVED.

[Signature]

12-13-2019

MARTIN/SHEERAN, Chairman

Dated

BENTON COUNTY PLANNING COMMISSION
ORDINANCE NO._____

AN ORDINANCE relating to water supply; amending Ordinance 612, Section 11 and BCC 9.02.100.

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

SECTION 1. Ordinance 612, Section 11 and BCC 9.02.100 are hereby amended to read as follows:

WATER SUPPLY.

(a) Water from a public water system(s) shall be provided to each lot in a short plat or subdivision, except as specified in subsection (b) of this section.

(b) Private water supplies may be utilized to serve a short plat or subdivision if an applicant demonstrates that the proposed water source is consistent with RCW 90.44.050, as existing or hereafter amended, ((and) with applicable rules adopted pursuant to RCW 90.22 and 90.54, as existing and hereafter amended, and with Ordinance ____, if applicable.

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 upon its passage and adoption.

ADOPTED AND PASSED this ____ day of ____________________.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Constituting the Board of County Commissioners of Benton County, Washington

Attest: Clerk of the Board

Approved as to Form:

Deputy Prosecuting Attorney
RECOMMENDATION OF THE
BENTON COUNTY PLANNING COMMISSION

RE: Amendment to Benton County Subdivision Ordinance to comply with Settlement Agreement (County Res. 2019-276)

File No. OA 2019-003

RECOMMENDATION, FINDINGS OF FACT AND CONCLUSIONS

RECOMMENDATION

In the matter of County Planning, the Benton County Planning Commission recommends the subdivision ordinance amendment application by Benton County to comply with the Settlement Agreement (Benton County Resolution 2019-276) between Futurewise and Benton County be approved subject to eight (8) Findings of Fact.

RESOLUTION

WHEREAS, legal notification for the Planning Commission public hearing was published in the Prosser Record Bulletin on November 27, 2019.

WHEREAS, a public hearing was held before the Planning Commission on December 10, 2019.

WHEREAS, the following members were present, Martin Sheeran, Tammara McKeiman, Lloyd Coughlin, Brian Skills, and Leo Perales.

WHEREAS, the Planning Commission considered all evidence and testimony submitted and after discussion voted five (5) members in favor with two (2) members absent to recommend approval of a subdivision amendment by Benton County to comply with County Resolution 2019-276.

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 OF FACT

1. The State of Washington (RCW 36.70A.130) requires mandatory "periodic updates" of the entire comprehensive plan and development regulations every eight years for all "fully planning" cities and counties. Each Washington city and county must periodically review and, if needed, revise its comprehensive plan and development regulations to ensure that they comply with the GMA.

2. Benton County approved its periodic update of its Subdivision Ordinance on September 25, 2018 (Ordinance 612/Resolution 2018-687).

3. On April 19, 2018, Futurewise challenged the compliance of the Benton County Comprehensive Plan (Ordinance 600/Resolution 2018-0137) and associated development
regulations (zoning and subdivision ordinance) with the Growth Management Act. Futurewise filed a Petition for Review by Futurewise to the Eastern Washington Region Growth Management Hearings Board (Case Number 18-1-0004).

4. On April 2, 2019, Futurewise and Benton County, after negotiation, developed a settlement to which Futurewise agreed to dismiss the above referenced Petition for Review if the Board of County Commissioners considers and ultimately adopts certain amendments to the Benton County Comprehensive Plan and additional development regulations. This agreement was adopted by Benton County in County Resolution 2019-276.

5. The proposed amendments comply with the standards of RCW 36.70A, the Growth Management Act. As required in RCW 36.70A.106, the County notified the Washington State Department of Commerce (60 day review) on November 5, 2019 of the application to amend the Benton County Subdivision Ordinance.

6. The proposed amendments comply with Benton County Resolution 2019-276, Agreement with Futurewise.

7. The proposed amendments comply with the public notice and procedural steps in Benton County Code (BCC) Chapter 9 Subdivision Regulations (County Resolution 2018-687/Ordinance 612).

8. The proposed amendments add language in 9.02.100 (b) which references the need to comply with the new Benton County Rural Water Supply Program in Title 15 BCC.

A majority of the Planning Commission members find that all of the facts set forth in the Planning Department Staff Report dated November 22, 2019 are accurate. Supporting documents have been considered and addressed.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman as authorized by motion of the Board, adopts these findings and conclusions with respect to a subdivision ordinance amendment proposed by the Benton County is hereby recommended to be APPROVED.

[Signature]
MARTIN SHEERAN, Chairman
Dated
BENTON COUNTY PLANNING COMMISSION
The Audio Recording of the Planning Commission meeting for December 10, 2019 can be found on the County Website, on the Planning Commission agenda page for December 2019.
NOTICE OF PUBLIC HEARING

NOTICE OF HEARINGS before the Board of County Commissioners in the matter of the 2017 Periodic update of the County Comprehensive Plan: proposed amendments to the land use maps and text of the Benton County Comprehensive Plan, BCC Title 9- Subdivision Regulations and BCC Title 11-Zoning in a manner that would resolve a Petition for Review filed by Futurewise. After negotiations, the County and Futurewise developed a settlement on the above-mentioned Petition for Review that was approved by the Board of County Commissioners in Resolution 2019-276. A

The Board will consider amendments to the 2017 Comprehensive Plan amending Ordinance 600 as noted below and to BCC Title 9 Subdivision Regulations (File No. OA 2019-003) amending Ordinance 612, Section 11 and BC 9.02.100 and to BCC Title 11-Zoning (File No. OA 2019-002) relating to building permits; amending Ordinance 611, Section 165 and BCC 11.42.040 at a public hearing Tuesday, January 14, 2020 at 9:00 a.m., in the Board Meeting Room, Third Floor, Courthouse, Prosser WA. The Board will consider all comments received and make their recommendation to the Board of County Commissioners (BOCC). The BOCC will then conduct a hearing to consider and act upon the Planning Commission’s recommendation.

The Board will also consider an Ordinance relating to the Rural Water Supply Program; adding a new chapter to Title 15 of the Benton County Code. See the summary of the proposed ordinance below. The proposed Rural Water Supply Program requires new housing units relying on permit exempt wells located in a certain portion of WIRA 27 to fully mitigate the impacts such wells will have on the main stem of the Yakima River.

NOTICE IS FURTHER GIVEN that draft land use maps and related documents for the 2017 Comprehensive Plan Amendment-Ordinance 600 may be viewed on the County's website at http://tinyurl.com/2017compplan, a summary of those changes follows this notice. The documents for Ordinances OA 2019-002 and 2019-003 can be found on our public notices pages at http://tinyurl.com/BCpublicnotice along with the Ordinance for the Rural Water Supply Program.

Copies may be requested by calling or writing the planning office using the information below. Any comments regarding the proposed hearings may be made at the above hearings or submitted in writing. All written comments submitted by mail should be sent to: Benton County Planning Department, P.O. Box 910, Prosser, WA 99350-0910, and received by the Planning Department no later than January 13, 2020. Comments may also be submitted by email to planning.department@co.benton.wa.us by 3:00 p.m. January 13, 2020.

Any information submitted to Benton County is subject to the public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public.

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 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 or from the Planning Department.

Dated this 20th day of December 2019.

JAMES BEAVER, Chairman
Board of County Commissioners

GREG WENDT,
Planning Manager

Publish date: January 1, 2020

Proposed Changes 2017 Comprehensive Plan - Ordinance 600
Draft land use maps and related documents may be viewed on the County’s website at http://tinyurl.com/2017compplan

1. New policies the Rural Lands-Section 2.2.3 pages 14-16; (PCM 1.5)
2. Amendments to Rural Domestic Water Policies-Section 2.4.3 page 19; (PCM 1.6)
3. Amendments to the Capital Facilities & Public Services (2.10 pg. 30); (PCM 1.7)
4. Housekeeping edits to pages 36 and 52 to correct an acreage amount (PCM 1.8)
5. Housekeeping edits to page 95 to correct estimated number of new homes needed (PCM 1.9)
6. Amendments to the Transportation Element-Section 7.1 page 98, 7.2.6 pages 102-103, Section 7.2.7 pages 103, Section 7.2.7 page 103, Section 7.2.8 pages 103-104, Section 7.3.1 and 7.3.11 pages 104-105, Section 7.5.1 page 109-110; (PCM 1.10)
7. Amendments to the Capital Facilities Relationship between Land Use and Capital Facilities Section 9.11 page 122; (PCM 1.11)
8. Amendments to Capital Facilities Improvement to Public Facilities identified in Other Plans-Section 9.24 pages 125-138; Section 9.6 Siting of Essential Public Facilities pages 141 and 143(PCM 1.12)
9. Addition to the References section-page 154; (PCM 1.13)
10. Title Change to Appendix H-4 (Inventory within Benton County and 2028 Forecast and Level of Service Analysis; (PCM 1.14)
11. Addition Appendix M (Benton County Community Wildfire Protection Plan, previously adopted by the Board of County Commissioners); and (PCM 1.15)
12. Addition Appendix N (Benton County Natural Hazard Mitigation Plan 2019, previously adopted by the Board of County Commissioners (PCM 1.16)
13. Letter Change from Appendix M to Appendix O (Comment Response Matrix) (PCM 1.17)
OA 2019-002 Proposed Changes to BCC Title 11-Zoning relating to building permits; amending Ordinance 611, Section 165 and BCC 11.42.040

Ordinance 611, Section 165 and BCC 11.42.040 are hereby amended to read as follows: BUILDING PERMITS - (a) a) No person, company, or corporation shall erect a building or structure of any kind or make any addition to an existing building or structure or alter any building or structure already erected within the unincorporated area of the County of Benton without ((first obtaining a permit in writing from a county official duly authorized for this purpose.)) complying with Title 3 of the Benton County Code. (b) Private water supplies may be utilized to serve a short plat or subdivision if an applicant demonstrates that the proposed water source is consistent with RCW 90.44.050, as existing or hereafter amended, ((and)) with applicable rules adopted pursuant to RCW 90.22 and 90.54, as existing and hereafter amended, and with Ordinance ____ , if applicable.

OA 2019-003 Proposed Changes to BCC Title 9 Subdivision Regulations relating to water supply; amending Ordinance 612, Section 11 and BCC 9.02.100.

Ordinance 612, Section 11 and BCC 9.02.100(b) are hereby amended to read as follows: (b) Private water supplies may be utilized to serve a short plat or subdivision if an applicant demonstrates that the proposed water source is consistent with RCW 90.44.050, as existing or hereafter amended, ((and)) with applicable rules adopted pursuant to RCW 90.22 and 90.54, as existing and hereafter amended, and with Ordinance ____ , if applicable.

Ordinance relating to the Rural Water Supply Program; adding a new chapter to Title 15 of the Benton County Code.

SECTION 1 TITLE. Adding a new chapter to the Benton County Codes entitled Rural Water Supply Program.

SECTION 2 PURPOSE. To protect the public health, safety and welfare of the citizens of Benton County, and to comply with the requirement of Growth Management Act.

SECTION 3 APPLICABILITY. This chapter shall only apply to development of parcels for residential uses which are located with that portion of unincorporated Benton County that drain to the Yakima River within WIRA 37.

SECTION 4 DEFINITIONS. Definitions for Dwelling Unit, Irrigation District and Water Resource Inventory Area 37 are being added.

SECTION 5 CREATION AND USE OF COUNTY WATER BANK. This section refers to water rights acquired by Benton County and put into trust with the State.

SECTION 6 BUILDINGS PERMITS FOR DWELLING UNITS. Will require that mitigation certifications be obtained by developers from the Benton County Water Bank or a private water bank.
SECTION 7  APPLICATION OF SHORT SUBDIVISIONS. Will require that mitigation certifications be obtained by developers from the Benton County Water Bank or a private water bank.

SECTION 8  MITIGATION CERTIFICATES FROM THE COUNTY. This section outlines the process for obtaining mitigation certificates.

SECTION 9  CONSUMPTIVE USE OF WATER. Sets forth the amount of consumptive use of water under each type of Mitigation Certificate issued.

SECTION 10  METERING REQUIREMENTS. This section lists the requirements for metering on wells.

SECTION 11  ADMINISTRATION This section lists the Benton County Planning Dept. and the Benton County Building Dept. and authorized representatives who shall have responsibility to administer and enforce this chapter.

SECTION 12  VIOLATIONS-INFRACTIONS-MISDEMEANOR. This section outlines the violations criteria for this chapter.

SECTION 13  INJUNCTIVE RELIEF. This allows Benton County to seek injunctive relief on violations of this chapter.

SECTION 14  VIOLATIONS-INVESTIGATIONS-EVIDENCE. Allows inspection of parcels that are in violation of this chapter.

SECTION 15  FAILURE TO PROVIDE INFORMATION IDENTIFYING PERSON. Willful refusal to provide information required in Section 14 is a misdemeanor.

SECTION 16  NOTICE OF INFRACTION - SERVICE. This section allows a Notice of Infraction for the first violation to be served personally upon the person named in the notice or filed with the court for service.

SECTION 17  FORM-CONTENTS This section lists the needed information on a notice of infraction.

SECTION 18  FILING-HEARING IN DISTRICT COURT. Allows an infraction for be determined by either district or superior court.

SECTION 19  DETERMINATION INFRACTION COMMITTED Unless contested, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction.

SECTION 20  RESPONSE-REQUESTING A HEARING-Failure to respond or appear ORDER SET ASIDE. List information for responding to an infraction.

SECTION 21  PERSON'S REFUSAL TO SIGN-MISDEMEANOR. It is a misdemeanor for a person served to refuse to sign a written promise to respond to the notice of infraction.
SECTION 22  PERSON'S FAILURE TO RESPOND-MISDEMEANOR. It is a misdemeanor for a person served to fail to respond a written promise to respond to the notice of infraction.

SECTION 23  REPRESENTATION BY ATTORNEY. A person subject to proceedings under this chapter may appear or be represented by counsel.

SECTION 24  INFRACTION-HEARING-PROCEDURE-BURDEN OF PROOF-ORDER-APPEAL Sets forth criteria on hearings for infractions.

SECTION 25  EXPLANATION OF MITIGATING CIRCUMSTANCES. A hearing may be held to allow a person to explain mitigating circumstances on an infraction.

SECTION 26  CIVIL PENALTY-INFRACTION. A civil penalty imposed by the court under this chapter is immediately payable.

SECTION 27  VIOLATION PENALTIES. Sets dollar amounts for penalties.

SECTION 28  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 29  EFFECTIVE DATE  The effective date of this ordinance shall be February 1, 2020.
April Brown

From: Alison Cable <alison@futurewise.org>
Sent: Tuesday, December 10, 2019 10:32 AM
To: Planning Department; Donna Hutchinson
Cc: Alex Brennan; Tim Trohimovich; Kate Brunette
Subject: [EXTERNAL] Futurewise Comment Let to PC Comp Plan and DR Amendments to Comply with Settlement Dec 9 2019.docx
Attachments: Futurewise Comment Let to PC Comp Plan and DR Amendments to Comply with Settlement Dec 9 2019.pdf

CAUTION: This email originated from outside of Benton County. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Chair Sheeran and Planning Commissioners:

Thank you for the opportunity to comment on the amendments to the comprehensive plan and development regulations. We appreciate the work that County staff and officials have put into the settlement agreement and resulting policy improvements. These efforts will help protect rural residents, and our water resources from negative impacts. Our hope is that other jurisdictions in Eastern Washington facing limited water resources and rapid growth will look to Benton County’s leadership on this issue.

Thank you for considering our comments. If you require additional information, please contact Alison Cable at telephone (206) 343-0681 Ext. 114 and email: alison@futurewise.org or Tim Trohimovich at telephone (206) 343-0681 Ext. 118 and email: tim@futurewise.org.

Alison Cable
Tri-Cities Program Manager

future
wise
206-343-0681 x114
connect:
futurewise.org
December 10, 2019

Mr. Martin Sheeran, Chairman
Benton County Planning Commission
Benton County Planning Department
P.O. Box 910
1002 Dudley Avenue
Prosser, Washington 99350

Dear Chair Sheeran and Planning Commissioners:

Subject: Comments on the 2017 Comprehensive Plan amending Ordinance 600 to comply with Res. 2019-276 and satisfy the settlement with Futurewise, BCC Title 9 Subdivision Regulations (File No. OA 2019-002) amending Ordinance 612, Section 11 and BC 9.02.100 to comply with Res. 2019-276 & satisfy the settlement with Futurewise, and BCC Title 11-Zoning (File No. OA 2019-003) relating to building permits; amending Ordinance 611, Section 165 and BCC 11.42.040 to comply with Res. 2019-276 and satisfy the settlement with Futurewise.

Sent via email to: planning.department@co.benton.wa.us; Donna.Hutchinson@co.benton.wa.us

Thank you for the opportunity to comment on the amendments to the comprehensive plan and development regulations. Futurewise works throughout the State to support land-use policies that encourage healthy, equitable, and opportunity-rich communities, and that protect our most valuable farmlands, forests, and water resources. Futurewise has members across Washington State including Benton County.

We agree that the proposed amendments are consistent with Sections 3 and 4 of our settlement agreement with Benton County. Section 3B of the settlement agreement provides that “Benton County will consider adopting the Eastern Washington Storm Water Manual by reference as a development regulation.” Adopting the Eastern Washington Storm Water Manual as a development regulation will protect water quality, reduce localized storm water flooding, and protect residents and property owners. We encourage Benton County to adopt the Eastern Washington Storm Water Manual by reference as a development regulation.

Additionally, we strongly support the County’s efforts to protect water quality by maintaining vegetative cover, limiting impervious surfaces, and encouraging Low Impact Development. Low Impact Development (LID) strategies mimic natural hydrologic conditions by emphasizing, conservation and use of on-site natural features to protect water quality.
We appreciate the work that County staff and officials have put into the settlement agreement and resulting policy improvements. These efforts will help protect rural residents, and our water resources from negative impacts. Our hope is that other jurisdictions in Eastern Washington facing limited water resources and rapid growth will look to Benton County’s leadership on this issue.

Thank you for considering our comments. If you require additional information, please contact Alison Cable at telephone (206) 343-0681 Ext. 114 and email: alison@futurewise.org or Tim Trohimovich at telephone (206) 343-0681 Ext. 118 and email: tim@futurewise.org.

Very Truly Yours,

Alison Cable
Tri-Cities Program Manager

Tim Trohimovich, AICP
Director of Planning & Law

Enclosures
STAFF REPORT TO THE
BENTON COUNTY PLANNING COMMISSION

CASE FILE: 
OA 2019-003 (SUBDIVISION ORDINANCE)

MEMO DATE: 
November 22, 2019

HEARING DATE: 
December 10, 2019

APPLICANT: 
Benton County

OWNER: 
N/A

LOCATION: 
Benton County

PROPERTY SIZE: 
N/A

AREA TO BE USED: 
N/A

LAND USE: 
N/A

COMP. PLAN: 
N/A

ZONING: 
N/A

SUGGESTED STAFF RECOMMENDATION: 
Staff recommends that the Planning Commission forward to the Board of County Commissioners a recommendation to amend the Benton County Subdivision Ordnance and comply with Resolution 2019-276 subject to eight (8) findings of fact.

BACKGROUND INFORMATION

The State of Washington (RCW 36.70A.130) requires mandatory "periodic updates" of the entire comprehensive plan and development regulations every eight years for all "fully planning" cities and counties. Each Washington city and county must periodically review and, if needed, revise its comprehensive plan and development regulations to ensure that they comply with the GMA.

Benton County approved its periodic update of its Subdivision Ordinance on September 25, 2018 (Ordinance 612/Resolution 2018-687).
On April 19, 2018, Futurewise challenged the compliance of the Benton County Comprehensive Plan (Ordinance 600/Resolution 2018-0137) and associated development regulations (zoning and subdivision ordinance) with the Growth Management Act. Futurewise filed a Petitioned for Review by Futurewise to the Eastern Washington Region Growth Management Hearings Board (Case Number 18-1-0004).

On April 2, 2019, Futurewise and Benton County, after negotiation, developed a settlement to which Futurewise agreed to dismiss the above referenced Petition for Review if the Board of County Commissioners considers and ultimately adopts certain amendments to the Benton County Comprehensive Plan and additional development regulations. This agreement was adopted by Benton County in County Resolution 2019-276.

**APPLICATION DESCRIPTION**

To comply with Benton County Resolution 2019-276, the Benton County Planning Department is proposing an amendment to the Benton County Subdivision Ordinance. The proposed amendment adds language in 9.02.100 (b) which references the new Benton County Rural Water Supply Program (Title 15 BCC).

This amendment includes:

9.02.100 WATER SUPPLY.

(a) Water from a public water system(s) shall be provided to each lot in a short plat or subdivision, except as specified in subsection (b) of this section.

(b) Private water supplies may be utilized to serve a short plat or subdivision if an applicant demonstrates that the proposed water source is consistent with RCW 90.44.050, as existing or hereafter amended, ((and)) with applicable rules adopted pursuant to RCW 90.22 and 90.54, as existing and hereafter amended, **and with Ordinance _____, if applicable.**

**PUBLIC NOTICE**

1. Legal notification for the Planning Commission public hearing was published in the Prosser Record Bulletin on November 27, 2019 (PCM 1.4).

2. A public hearing was held before the Planning Commission on December 10, 2019.

**AGENCY COMMENTS**

1. Benton County Planning Department: The Planning Department analyzed and developed the application for consistency with the Growth Management Act, the Benton County Comprehensive Plan, the County-Wide Planning Policies, Benton County Resolution 2019-276 (Agreement with Futurewise) and other regulations adopted by Benton County as applicable.

**CRITERIA FOR FINDINGS OF FACT**

1. Benton County Code Title 9 (County Resolution 2018-687/Ordinance 612)

2. Benton County Comprehensive Plan
3. Growth Management Act (RCW 36.70A)
4. Benton County Resolution 2019-276 (Agreement with Futurewise)

RECOMMENDATION
Benton County Planning Staff will assist the Planning Commission with the determination of findings and conditions for OA 2019-003.

The Benton County Planning Department recommends that the Planning Commission forward a recommendation of approval to the Benton County Board of Commissioners for application OA 2019-003, with the following suggested findings of fact and motion.

SUGGESTED FINDINGS OF FACT:
1. The State of Washington (RCW 36.70A.130) requires mandatory "periodic updates" of the entire comprehensive plan and development regulations every eight years for all "fully planning" cities and counties. Each Washington city and county must periodically review and, if needed, revise its comprehensive plan and development regulations to ensure that they comply with the GMA.

2. Benton County approved its periodic update of its Subdivision Ordinance on September 25, 2018 (Ordinance 612/Resolution 2018-687).

3. On April 19, 2018, Futurewise challenged the compliance of the Benton County Comprehensive Plan (Ordinance 600/Resolution 2018-0137) and associated development regulations (zoning and subdivision ordinance) with the Growth Management Act. Futurewise filed a Petitioned for Review by Futurewise to the Eastern Washington Region Growth Management Hearings Board (Case Number 18-1-0004).

4. On April 2, 2019, Futurewise and Benton County, after negotiation, developed a settlement to which Futurewise agreed to dismiss the above referenced Petition for Review if the Board of County Commissioners considers and ultimately adopts certain amendments to the Benton County Comprehensive Plan and additional development regulations. This agreement was adopted by Benton County in County Resolution 2019-276.

5. The proposed amendments comply with the standards of RCW 36.70A, the Growth Management Act. As required in RCW 36.70A.106, the County notified the Washington State Department of Commerce (60-day review) on November 5, 2019 of the application to amend the Benton County Subdivision Ordinance.

6. The proposed amendments comply with Benton County Resolution 2019-276, Agreement with Futurewise.

7. The proposed amendments comply with the public notice and procedural steps in Benton County Code (BCC) Chapter 9 Subdivision Regulations (County Resolution 2018-687/Ordinance 612).
8. The proposed amendments add language in 9.02.100 (b) which references the need to comply with the new Benton County Rural Water Supply Program in Title 15 BCC.

**SUGGESTED MOTION:**

I move that the Planning Commission forward a recommendation of approval for proposed application OA 2019-003 subject to the eight (8) Findings of Fact listed in the Staff Report dated November 22, 2019 to the Benton County Board of Commissioners, and that the Chairman along with the Secretary of the Planning Commission develop written findings for approval and signature of the Planning Commission Chairman.
RESOLUTION 2019 276

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,
WASHINGTON

IN THE MATTER OF RESOLVING THE APPEAL OF BENTON COUNTY’S 2017
COMPREHENSIVE PLAN PERIODIC UPDATE

WHEREAS, on February 13, 2018, the Board of Benton County Commissioners adopted
Resolution 2018-137 and Ordinance 600 to enact the 2017 Comprehensive Plan Periodic Update; and

WHEREAS, on April 18, 2018, Futurewise, a Washington non-profit corporation, executed and
subsequently filed with the Growth Management Hearings Board a Petition for Review with the
Growth Management Hearings Board to challenge the compliance of Benton County Resolution
2018-137 and Ordinance 600 with the Growth Management Act; and

WHEREAS, after negotiation, Futurewise and the Board of County Commissioners have
developed an agreement pursuant to which Futurewise agrees to dismiss the above referenced
Petition for Review if the Board of County Commissioners considers and ultimately adopts
certain amendments to its comprehensive plan and additional development regulations to
implement certain measures to protect the rural water supply; and

BE IT RESOLVED, that the Chairman is authorized to sign and have delivered to Futurewise
the attached Settlement Agreement between Futurewise and Benton County to establish a
framework to potentially resolve the matter of Futurewise v. Benton County. Growth
Management Hearings Board Eastern Washington Region Case No. 18-1-0004.

Dated this 2nd day of April, 2019.

Chairman of the Board

Member

Member

Constituting the Board of
Commissioners of Benton County,
Washington

Attest......
Clerk of the Board
Settlement Agreement between Futurewise and Benton County

THIS SETTLEMENT AGREEMENT ("Settlement Agreement") is entered into this 2 day of April, 2019, by and between the Appellant, Futurewise, a Washington non-profit corporation, and Respondent, Benton County, a Washington state municipal government ("County"), for the purpose of resolving and settling all claims associated with Futurewise's appeal of Benton County Resolution 2018-137 and Benton County Ordinance 600, adopting the 2017 Comprehensive Plan Periodic Update, and Benton County Resolution 2018-167 and Benton County Ordinance 601, adopting Map A-3 as the official zoning map for Benton County.

NOW THEREFORE, FOR GOOD AND FAIR CONSIDERATION, FUTUREWISE AND BENTON COUNTY AGREE AS FOLLOWS:

Section 1. Requirement to Dismiss.

A. Within 15 days of the completion of the tasks and adoption of the development regulations referenced in Sections 2 and 3.B, and the amendments to the comprehensive plan referenced in Sections 3 and 4 of this Settlement Agreement, Futurewise shall cause to be dismissed with prejudice the appeal with the caption Futurewise v. Benton County, Growth Management Hearings Board Eastern Washington Region Case No. 18-1-0004. Growth Management Hearings Board Eastern Washington Region Case No. 18-1-0004 is Futurewise’s appeal of Benton County Resolution 2018-137 and Benton County Ordinance 600, adopting the 2017 Comprehensive Plan Periodic Update, and Benton County Resolution 2018-167 and Benton County Ordinance 601, adopting Map A-3 as the official zoning map for Benton County.

B. This dismissal will be accomplished through a joint stipulation executed by Futurewise and Benton County or any other means authorized by Growth Management Hearings Board rules of practice and procedure.

Section 2. Provisions to Protect Surface and Ground Water.

Benton County will consider adopting and implementing the following measures for the protection of the quality and quantity of ground and surface water.

A. Permanent regulations will be considered that will require new development relying on permit-exempt wells proposed to be located within a certain portion of Water Resource Inventory Area (WRIA) 37 to fully mitigate the impacts of such wells on the main stem of the Yakima River resulting from the consumptive use of water by such wells for housing unit needs by meeting the criteria set forth below:

(i) The geographic area subject to these regulations will only be that portion of WRIA 37 located in Benton County that drains to the Yakima River and not the Columbia River. That geographic area
is depicted on the attached Exhibit A. The area is hereafter referred to as the “mitigated area.”

(ii) Benton County has acquired and may continue to acquire surface water rights with a priority date pre-May 10, 1905, in the Yakima River Basin. Mitigation of the consumptive water use of permit-exempt wells in the mitigated area to be considered will be accomplished by placing such water rights in trust with the State of Washington for instream flows within or upstream of WRIA 37.

(iii) For every building permit issued after February 13, 2018, and prior to the adoption of the regulations set forth below in subsection (iv), that requires potable water from a permit-exempt well located in the mitigated area, Benton County will reserve 200 gallons per day per parcel (annual daily average) if the permit is or was for development on a parcel within an irrigation district and 300 gallons per day per parcel (annual daily average) if the permit is or was for development on a parcel not within an irrigation district from a water right placed in trust by the County.

(iv) The permanent regulations to be considered will require new applicants for subdivisions and residential building permits that seek to use permit-exempt wells located in the mitigated area for potable water supply to provide evidence of mitigation in the following form as a condition to final plat approval and building permit approval: (1) acquisition of a mitigation certificate from the County for up to a certain number of gallons per day per parcel (annual daily average) for indoor only water usage for each residence; or (2) acquisition of a mitigation certificate from the County for up to a certain larger number of gallons per day per parcel (annual daily average) for indoor and outdoor water usage for each residence if the parcel on which the development is proposed is not located within an irrigation district.

(v) The County will consider regulations that will only allow the issuance of a mitigation certificate if the aggregate of water usage allotted by all mitigation certificates issued by the County, in addition to the water reserved under subsection (iii) above, will not exceed the amount of water placed into trust by the County.

B. The County further agrees that prior to the adoption of the permanent regulations set forth in section A above, it will approve long plat applications submitted after the effective date of this Agreement that seek to rely on permit-exempt wells within the mitigated area only if a condition is required that a statement be placed on the face of the plat indicating that no building permits will be issued for any of the lots within the plat without first obtaining mitigation certificates for the lot for which a building permit is sought.

*Note: Code provisions to address the deleted §2.B already have been adopted in Benton County Ordinance 611, section 165(c), and Ordinance 612, section 11(b). Those
sections will be considered for further amendment at the same time as the regulations in 2.A above to make BCC 9.02.100 and BCC 11.42.040 only applicable to unincorporated areas not covered by the regulations referred to above in section 2.

Section 3. Measures to Protect Rural Character.

A. Benton County will consider amendments to the Rural Element/Land Use Element of its Comprehensive Plan to add policies governing rural development. The policies shall be equivalent in substance and effect to the provisions listed below, but Futurewise and Benton County (the parties) recognize that changes in location, order, formatting, numbering, and wording that do not change the substance may occur as part of the comprehensive plan amendment process.

- New Policy: Development in rural areas is typified by large lots and less dense development. Favoring development that is less dense and has larger lots helps maintain the rural character of designated rural areas and supports the protection of ground and surface water.

- New Policy: Designated rural areas will be utilized to reduce the inappropriate conversion of agricultural lands, prevent sprawling low-density development and assure that rural development is compatible with surrounding rural and agricultural areas.

- New Policy: Rural development shall provide adequate water for domestic use. When feasible, rural developments will be encouraged to utilize existing community systems with adequate availability for domestic water and sewage disposal.

- New Policy: New groundwater uses must provide evidence that the proposed water source is physically and legally available. Groundwater uses and withdrawals, including the issuance of building permits and the approval of land divisions, must be consistent with RCW 90.44.050, and with applicable rules adopted pursuant to RCW 90.22 and 90.54.

- New Policy: Provide public services consistent with rural character. Rural developments will not impact existing public facilities/services to the extent that the level of service for that facility is reduced below the adopted threshold and/or acceptable operation capacity. Rural developments should occur where adequate access to transportation systems, and rural levels of utilities and facilities, such as domestic water, power, and fire and police protection are available.

- New Policy: Rural development shall minimize potential adverse impacts to water quality, slope stability, vegetation, wildlife and aquatic life as implemented through the County’s critical area regulations, shoreline master program, and hydrology manual.

- New Policy: Support the availability of sufficient water to maintain the agricultural industry and agricultural processing and value-added manufacturing.
- New Policy: Encourage long-term conservation, adequate water supply, and the wise stewardship of natural resources within Benton County for the benefit of current and future residents.

- New Policy: Encourage the continued communication with irrigation districts, legislature, and other responsible entities to ensure that adequate irrigation water is available for agricultural uses.


- New Policy: Support on-site infiltration in rural areas for new lots, subdivisions and developments by promoting storm water best management practices. Promote the retention of existing native vegetative cover in landscaping plans for areas zoned Rural Lands One Acre (RL-1), Rural Lands Five Acre (RL-5), Rural Lands Twenty Acre (RL-20), and Planned Development (PD) zones applied to any of these zones. Where the proposed development will not be precluded, limit impervious surfaces that are not infiltrated on-site for all new development in the zoning districts listed above to no more than ten percent and require the retention of 45 percent vegetative cover, which may include native or non-native species, provided soil infiltration/filtration properties are maintained.

- New Policy: Support and encourage the use of and application of Firewise principles and other fire risk reduction measures consistent with the Benton County Hazard Mitigation Plan and Community Wildfire Protection Plan to reduce fire risk for urban development, urban subdivisions, rural subdivisions and large rural developments susceptible to wildfires. Encourage the implementation of the Firewise principles, or similar best management measures, applicable to individual lots on all lots at risk from wildfires.

- Adopt by reference as an appendix to the Comprehensive Plan, the Benton County Hazard Mitigation Plan and Community Wildfire Protection Plan, as amended.

  B. Benton County will consider adopting the Eastern Washington Storm Water Manual by reference as a development regulation.

  C. If the regulations set forth in Section 2 and the Comprehensive Plan amendments and the regulation listed above in Section 3 are adopted and implemented, Benton County will commit to the following practices regarding low impact development and Firewise principles for at least ten (10) years from the effective date of the dismissal of the appeal as set forth in Section 1:
- Include informational materials related to the Eastern Washington Low Impact Development Guidance Manual and the NFPA Firewise educational and outreach materials as an attachment/supplemental to the County’s land use, road approach and building permit application materials to be utilized as a resource for landowners.

- Include on the County’s website (Planning, Public Works and Building) links to the Eastern Washington Low Impact Development Guidance Manual and the NFPA Firewise educational and outreach materials to be utilized as a resource for landowners.


A. Benton County will consider amending the applicable parts of Chapter 2 – Goals and Policies, Chapter 9 Capital Facilities Element, and Appendix J – Capital Improvement Plan, 2017 – 2022, and include an inventory or reference to an inventory of existing public facilities owned by public entities, a forecast of future needs, the proposed location and capacities of expanded or new public facilities, and a six-year financing plan for capital facilities that is within the projected funding capacities for publicly owned water systems, fire districts, municipal emergency services providers, and school systems, as applicable.

B. Benton County will consider including in its Capital Facilities Plan Element/Capital Improvement Plan and Transportation Element the Ben-Franklin Transit capital facilities, level of service standards, service areas, and recommendations for additional service.

C. In addition, Benton County will agree to conduct an analysis of the adequacy of the firefighting capabilities and consider amendments to the Capital Facilities Plan Element if it determines such amendments are needed to maintain adequate firefighting capabilities on the borders of the UGAs and the rural areas within the county.

D. Benton County will consider amending Appendix H to more clearly describe the land use assumptions used in the analysis. In addition, Benton County will coordinate with the Washington State Department of Transportation (WSDOT) and Benton-Franklin Council of Governments (BFCOG) in conducting a more detailed evaluation of the estimated traffic impacts of projected growth on state-owned facilities and the facility and service needs stemming from future population demands on state owned facilities, and amend Appendix H, as needed.

Section 5. Attorneys’ Fees and Costs.

Each party hereto shall bear its own attorneys’ fees and costs.
Section 6. Entire Agreement and Successors in Interest.

This Settlement Agreement contains the entire agreement between Futurewise and Benton County, shall supercede any and all prior written and/or oral agreements, and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each. No other understandings, oral or otherwise, shall be deemed to bind any of the parties hereto.

Section 7. Remedy for Breach.

For any breach of this Settlement Agreement all remedies in law and equity shall be available including the remedy of specific performance.

Section 8. Amendment.

This Settlement Agreement may not be modified or amended except by the written agreement of the parties.

Section 9. Governing Law.

This Settlement Agreement shall be construed and interpreted according to the laws of the State of Washington.

Section 10. Authorization.

Each person signing this Settlement Agreement represents and warrants that he or she has authority to sign this Settlement Agreement on behalf of and to bind the party represented, and that any necessary conditions precedent to the execution of this Settlement Agreement on behalf of the party represented have been satisfied.

Section 11. Counterparts.

A. This Settlement Agreement may be executed in counterparts and each executed counterpart shall have the same force and effect as the original instrument and as if all of the parties to the counterparts had signed the same instrument.

B. Electronic facsimile signatures and/or electronically scanned signatures shall be sufficient to demonstrate a party’s assent to this Settlement Agreement.

Section 12. Effective and Expiration Dates.

A. This Settlement Agreement shall be effective on the later of the dates it is signed by the parties.

B. This Settlement Agreement shall expire on the day after the day the Growth Management Hearings Board dismisses Futurewise v. Benton County, Growth
Management Hearings Board Eastern Washington Region Case No. 18-1-0004. No cause of action shall accrue under this Settlement Agreement with respect to actions by Benton County regarding any comprehensive plan amendments or amendment or repeal of development regulations adopted after this Settlement Agreement expires. This provision does not limit in any way the rights of Futurewise to challenge such actions under the provisions of the Growth Management Act.

BENTON COUNTY

By: Shon Smale
Its: Chairman
Signed this 2 day of April, 2019.

FUTUREWISE

By: Chris Wierzbicki
Its: Executive Director
Signed this 29th day of March 2019.

Approved as to form:

By: Ryan K. Brown
Its: DPA
EXHIBIT A

(2 pages)
ORDINANCE NO._____

AN ORDINANCE relating to water supply; amending Ordinance 612, Section 11 and BCC 9.02.100.

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

SECTION 1. Ordinance 612, Section 11 and BCC 9.02.100 are hereby amended to read as follows:

WATER SUPPLY.

(a) Water from a public water system(s) shall be provided to each lot in a short plat or subdivision, except as specified in subsection (b) of this section.

(b) Private water supplies may be utilized to serve a short plat or subdivision if an applicant demonstrates that the proposed water source is consistent with RCW 90.44.050, as existing or hereafter amended, and with applicable rules adopted pursuant to RCW 90.22 and 90.54, as existing and hereafter amended, and with Ordinance____, if applicable.

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 upon its passage and adoption.

ADMITTED AND PASSED this ____ day of ____________________.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Approved as to Form:

Constituting the Board of County Commissioners of Benton County, Washington

Attest:

Deputy Prosecuting Attorney

Chairman of the Board
NOTICE OF PUBLIC HEARING

NOTICE OF HEARINGS before the Benton County Planning Commission in the matter of the 2017 Periodic update of the County Comprehensive Plan: proposed amendments to the land use maps and text of the Benton County Comprehensive Plan, BCC Title 9-Subdivision Regulations and BCC Title 11-Zoning in a manner that would resolve a Petition for Review filed by Futurewise. After negotiations, the County and Futurewise developed a settlement on the above-mentioned Petition for Review that was approved by the Board of County Commissioners in Resolution 2019-276.

The Planning Commission will consider amendments to the 2017 Comprehensive Plan amending Ordinance 600 as noted below and to BCC Title 9 Subdivision Regulations (File No. OA 2019-002) amending Ordinance 612, Section 11 and BC 9.02.100 and to BCC Title 11-Zoning (File No. OA 2019-003) relating to building permits; amending Ordinance 611, Section 165 and BCC 11.42.040 at a public hearing Tuesday, December 10, 2019 at 6 p.m., in the Benton County Planning Annex Hearing Room at 1002 Dudley Avenue in Prosser. The Planning Commission will consider all comments received and make their recommendation to the Board of County Commissioners (BOCC). The BOCC will then conduct a hearing to consider and act upon the Planning Commission’s recommendation.

NOTICE IS FURTHER GIVEN that draft land use maps and related documents may be viewed on the County’s website at http://tinyurl.com/2017complan, a summary of those changes follows this notice. Copies may be requested by calling or writing the planning office using the information below. Any comments regarding the proposed hearings may be made at the above hearings or submitted in writing. All written comments submitted by mail should be sent to: Benton County Planning Department, P.O. Box 910, Prosser, WA 99350-0910, and received by the Planning Department no later than December 9, 2019. Comments may also be submitted by email to planning.department@co.benton.wa.us by 3:00 p.m. December 10, 2019.

Any information submitted to Benton County is subject to the public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public.

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 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 or from the Planning Department.

Dated this 19th day of November 2019.

MARTIN SHEERAN, Chairman
BENTON COUNTY PLANNING COMMISSION

GREG WENDT,
Interim Planning Manager

Publish date: November 27, 2019

**Proposed Changes 2017 Comprehensive Plan - Ordinance 600**
Draft land use maps and related documents may be viewed on the County’s website at http://tinyurl.com/2017compplan

1. New policies the Rural Lands-Section 2.2.3 pages 14-16
2. Amendments to Rural Domestic Water Policies-Section 2.4.3 page 19
3. Amendments to the Capital Facilities & Public Services (2.10 pg. 30)
4. Amendments to the Transportation Element-Section 7.2.6 pages 102-103, Section 7.2.7 pages 103, Section 7.2.7 page 103, Section 7.2.8 pages 103-104, Section 7.3.1 and 7.3.11 pages 104-105, Section 7.5.1 page 109-110
5. Amendments to the Capital Facilities Relationship between Land Use and Capital Facilities Section 9.11 page 122
6. Amendments to Capital Facilities Improvement to Public Facilities identified in Other Plans-Section 9.24 pages 125-138
7. Title Change to Appendix H-4 (Inventory within Benton County and 2028 Forecast and Level of Service Analysis)
8. Addition to the References section-page 154
9. Addition Appendix M (Benton County Community Wildfire Protection Plan, previously adopted by the Board of County Commissioners)
10. Addition Appendix N (Benton County Natural Hazard Mitigation Plan 2019, previously adopted by the Board of County Commissioners

**OA 2019-002 Proposed Changes to BCC Title 9 Subdivision Regulations relating to water supply; amending Ordinance 612, Section 11 and BC 9.02.100.**
Ordinance 612, Section 11 and BCC 9.02.100(b) are hereby amended to read as follows: (b) Private water supplies may be utilized to serve a short plat or subdivision if an applicant demonstrates that the proposed water source is consistent with RCW 90.44.050, as existing or hereafter amended, ((and)) with applicable rules adopted pursuant to RCW 90.22 and 90.54, as existing and hereafter amended, and with Ordinance ____ if applicable.

OA 2019-003 Proposed Changes to BCC Title 11-Zoning relating to building permits; amending Ordinance 611, Section 165 and BCC 11.42.040

Ordinance 611, Section 165 and BCC 11.42.040 are hereby amended to read as follows: BUILDING PERMITS - (a) a) No person, company, or corporation shall erect a building or structure of any kind or make any addition to an existing building or structure or alter any building or structure already erected within the unincorporated area of the County of Benton without ((first obtaining a permit in writing from a county official duly authorized for this purpose.)) complying with Title 3 of the Benton County Code. (b) Private water supplies may be utilized to serve a short plat or subdivision if an applicant demonstrates that the proposed water source is consistent with RCW 90.44.050, as existing or hereafter amended, ((and)) with applicable rules adopted pursuant to RCW 90.22 and 90.54, as existing and hereafter amended, and with Ordinance ____ if applicable.