County faces long GMA work

State court ruling has big impact

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Kittitas County government's three-acre zoning wasn't thrown out by the July 28 state Supreme Court decision, but the county faces a long and expensive effort to make it compatible with the state's Growth Management Act or enact new provisions.

County commissioners came to that conclusion Tuesday as they met with county legal counsel, planning staff and others to assess the impact of the state's high court decision.

Yet to be determined are work and public participation plans needed in the long process to make the required changes in yet another effort to bring the county's comprehensive land-use plan into compliance with state rules.

Also needed is a strategy of how to combine work on the court ruling with other major, land-use plan projects, namely updating the county's critical areas ordinance and shoreline master plan, both targeted for completion in 2012.

County Commission Chairman Paul Jewell said on top of all this the county faces "significant financial restraints" in attempts to pay for the extra work.

"And there is not a great amount of money available," Jewell warned, and staff time is limited.

Commissioners will next meet with county staff on the issues at 1:30 p.m. Aug. 22.

By that time the county Prosecutor's Office is expected to have a memo available outlining how the court's ruling may affect private land-use projects that are under review by county government, but not finalized by issued permits.

Lots of homework

A string of adverse decisions since 2007 by the Eastern Washington Growth Management Hearings Board against the county ruled the county's three-acre zoning and related zoning and development provisions didn't protect the rural character of county lands because they allowed higher density housing, running counter to state law.

The county appealed the growth board decisions in court, which finally led to the ruling in the state Supreme Court July 28.

Chief Civil Deputy Prosecutor Neil Caulkins told commissioners the court, in essence, said, "You, county, haven't done some very fundamental homework" to justify and explain how allowing three-acre minimum lot sizes in rural and agricultural areas protects them from development sprawl.

The court is telling the county to do its work and resubmit it to the state growth board for review to determine if it complies with Growth Management Act, he said, thus the county didn't lose and the opposing side didn't win.

"The court is saying some of these land-use tools may be OK if the county can show how they protect rural character and there are adequate controls to protect agricultural lands," Caulkins said.

He said the court ruled that past public testimony and documents in the legal record, relied upon by the county, didn't adequately show how rural character is maintained with three-acre zoning.

Caulkins said the ruling also indicated the county hasn't fully defined its rural land-use provisions in its comprehensive plan and hasn't shown how and where the county has established a mix of land-use zones with a variety of housing densities.

He said the court's ruling requires the county to show and justify where smaller-acreage zoning will be allowed in the county and how much land will be designated for it.

More time

Caulkins said a conceptual map of the county showing locations where certain rural densities will be allowed or not allowed would be in order.

Jewell said he'd rather not wait for an order from the state growth board to start on the compliance effort and noted past growth board orders gave six months to comply.

It was agreed the work would take significantly longer than six months, and that time extensions can be granted.

Commissioner Obie O'Brien questioned how to legally define when the county is "protecting rural character" in its land-use rules, and Caulkins said guidance may be available from the state Department of Commerce, which oversees Growth Management Act, and from what other counties have done.

"It will be a lot of work to define that for Kittitas County," Caulkins said. "Yeah, it's big."

More discussions to come

Kittitas County commissioners will continue discussion on the county response to the state Supreme Court ruling in a study session at 1:30 p.m. Aug. 22, Room 109 at the courthouse in Ellensburg.