

MEMORANDUM
RECREATIONAL VEHICLE USE

DATE: January 15, 2003
TO: Desert Aire Rural Village Property Owners
FROM: Grant County Planning Department
RE: Recreational Vehicle Use - Unified Development Code Text Amendment

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INTRODUCTION

On February 12, 2002, Grant County (the "County") enacted Ordinance No. 02-30-CC, adopting official zoning and development controls for the Desert Aire Rural Village, including without limitation, a prohibition against the residential use of recreational vehicles ("RV"). Existing RV use for residential purposes was provided a "sunset" provision, permitting the orderly phasing out of said uses, within a one (1) year period. RV uses legally established on or prior to October 1, 2000, have a one (1) year grace period into which to come into compliance with this amendment to the County's Unified Development Code ("UDC"). Illegal RV uses, established and sited after October 1, 2000, are not eligible for this one (1) year grace period. All illegal RV uses, regardless of the date of establishment and siting of same, are subject to enforcement action, effective February 13, 2003.

BACKGROUND

The Desert Aire subdivision, is an unincorporated residential and recreational community, located on the Columbia River near Mattawa, Grant County, Washington. Desert Aire was developed as a Planned Unit Development ("PUD") in the late 1960's, and in the early 1970's. Desert Aire presently consists of nine subdivisions. Desert Aire was the County's first PUD and, it is believed, was one of the first, if not the first, in the State of Washington.

The County adopted its Growth Management Act ("GMA") compliant Comprehensive Plan ("Comp Plan"), in September of 1999. The County then adopted its Unified Development Code (the "Code"), effective October 1, 2000, which is essentially, the zoning code, which is compliant with the GMA and the Comp Plan. The time frame driving the County in adopting the Code was heavily influenced by the GMA, the Growth Management Hearings Board (the "Board"), and a series of legal actions commenced by a number of Grant County cities and towns before the Board.

A development or land use code, is the vehicle by which the public, by and through its elected government officials, corporately regulate land uses. Restrictive covenants, or CCRs, are a private means of obtaining a similar objective. Land use regulations and CCRs may be identical or, the CCRs may be more restrictive than land use codes. However, governmental units such as the County cannot be involved with the formation and/or enforcement of CCRs.

The County was required to pass and adopt its Comp Plan and Code on an accelerated schedule. At the time the Code was adopted, the BOCC elected to not include specific official zoning controls for the Desert Aire Rural Village. This area contains the Desert Aire PUD and adjacent lands. Due to considerable local disagreement and controversy, the BOCC elected to delay any specific zoning designations and agreed to form an advisory committee, to assist in identifying appropriate designations and attempt to resolve the dispute involving the use of RVs in Desert Aire.

The BOCC determined that the Desert Aire area possessed unique development characteristics that required careful planning in regards to allowable uses, performance standards and development standards. Due to this uniqueness of Desert Aire and its historical development, the County elected to craft a portion of the Code addressing uses in Desert Aire at a later time, to afford those most directly impacted the opportunity to present their views. It was the intention of the County to undertake an area-specific effort to implement unified development regulations consistent with the GMA, the Comp Plan and the Code, for the Desert Aire Rural Village.

The County formed the Desert Aire Citizen's Advisory Committee ("Committee"), to study the issues and make an advisory recommendation to the County. The Committee was to assist the County in its efforts to supplement and complete those portions of the Code that would guide the future development of the Desert Aire PUD and immediate surrounding area. The lands affected included all of those lands located within the unincorporated area know as the "Desert Aire Rural Village"

The Committee was intended to be comprised of individuals representing a variety of viewpoints, including commercial interests and, both sides of the RV use issue. Input to the County *via* the Committee was in addition to the public meetings conducted in Desert Aire, and the public participation process involving the Grant County Planning Commission (the "Commission") and the BOCC.

The Committee's work was supported by staff from the Grant County Planning Department (the "Department"). The County also retained the services of an outside planning expert to facilitate and focus the Committee's work and report to the County.

The Committee completed its review of the Code and produced a report for the County, containing two (2) alternative recommendations. Said recommendations were for zoning and development standards within the Desert Aire Rural Village, and included the treatment of RV uses. This report was transmitted to the Commission and, ultimately, the BOCC.

LITIGATION

There have been a number of legal actions involving, *inter alia.*, RV use in Desert Aire. Litigation, in fact, predated the County's adoption of its Comp Plan and the Code. In the most recent litigation, the Desert Aire Owner' Association (the "Association") was a named defendant, as was the County and, a number of current or past Desert Aire property owners, including past and present Association board members.

When litigation was commenced in 1998, neither the Comp Plan nor the Code had been passed and adopted by the County. The County's "R-1" zone then in effect, did *not* allow "travel trailers" or RVs to be used as residences. The County's "O-SR" zone allowed "travel trailers" for part time use only, with a conditional use permit issued by the Grant County Board of Adjustment.

After a number of years in the aforementioned litigation, the parties participated in mediation. The action was resolved *via* a mediated settlement agreement, wherein, the parties mutually agreed to a disposition on series of issues and, requiring that certain parties take certain actions.

All of the parties involved in the litigation agreed that the residential use of RVs in Desert Aire was not a permissible or legal use under the Code. The Association and its board members agreed to comply with the County's Code prohibiting the residential use of RVs in Desert Aire. Said parties further agreed and committed to cooperate with the County in the enforcement of its development regulations, although this "cooperation" is acknowledged to not include that said parties take enforcement action.

The County agreed to enforce its development regulations, including the illegal use of RVs in Desert Aire Rural Village. Enforcement may be triggered by complaints, as well as by a review process referenced in the aforementioned mediated, settlement agreement. The County further agreed to provide this informational memorandum to property owners in the Desert Aire Rural Village, to explain and detail the County's regulations, including those which prohibit the residential use of RVs, consistent with State law and, the County's previous land use code and developmental regulations for Desert Aire and the County.

LEGISLATION

At the direction of the BOCC, the Department initiated the Code amendment process, which included forwarding the Committee's report to the Commission. The Committee's recommendations, for zoning and development standards in the Desert Aire Rural Village were included.

The Desert Aire PUD, as well as other area properties, was denominated "Rural Village" in the Comp Plan, after conclusion of a lengthy public participation process. The stated goal for the Rural Village designation is for a residential area. The use of Recreational Vehicles (RVs) in Desert Aire has never included the use of same for *residential* purposes. To that end, RV usage must be consistent with the Code; as in all of the County's land use districts or zones.

As noted above, the County formed the Committee to provide a proposal to the Commission. Department staff also made a recommendation to the Commission, which included a sunset provision, regarding the residential use of RVs. The Commission held an open record, public hearing and subsequent continued public hearings, wherein, the public had the opportunity to express its views orally and/or by and through the submission of written materials. Said hearings were publicly advertised and, notice was disseminated.

After completing the open record public hearing and subsequent continued hearings, the Commission completed its review and forwarded a final recommendation to the BOCC, related to the use of RVs in the Desert Aire Rural Village, for a final decision. The advisory recommendation of the Commission was submitted to the BOCC, and included all documents submitted to same, including the tapes and minutes of the Commission's open record, public hearing. The BOCC held an additional open record public hearing, which was also advertised.

The BOCC engaged in a thorough and complete review of the situation and, after providing due consideration, determined that the recommendation of the Commission was consistent with the GMA, the County's Comp Plan and the existing Code. The BOCC further determined that the Commission's recommendation struck a reasonable compromise among apparent competing interests and, zoning, development standards and private property rights.

On February 12, 2002, the BOCC adopted Grant County Ordinance No. 02-30-CC. A copy of same can be obtained from the Department or, located at the County's website. www.grantcounty-wa.com.

ENFORCEMENT

According to the Code, the use of RVs as a residence is not now, nor has it ever been, a permitted use. As requested by the public during public meetings and hearings and, as agreed by all of the parties in the mediated settlement agreement, the County is committed to enforcing its Code, including without limitation, portions of same regulating the use of RVs in the Desert Aire Rural Village. Site visits may be conducted, in addition to other mechanisms of observation, including investigating complaints. During the phase in period, purported violators may be provided with a Notice To Correct ("Notice") and, provided fifteen (15) days to come into compliance with the Code. Those not removing their RVs utilized for a prohibited use may be cited.

Failure to comply with a Notice within fifteen (15) days may result in the issuance of a citation and an enforcement action. Fines may be imposed up to Five Hundred and No/100 Dollars (\$500.00) per offense, with a separate offense deemed committed upon *each* day a violation occurs or continues. Other legal action may ensue. It is our hope that an enforcement action will not be necessary.

SUMMARY

Consistent with past County law and State statutes, RVs cannot be used for residential purposes in the Desert Aire Rural Village. UDC 23.08.020 regulates accessory uses of lots, including without limitation, RVs. Unless the RV use on a lot complies with Temporary Uses as defined in UDC 23.04.120, RVs parked or stored on a residential lot may not be used for living, sleeping or other occupancy associated with residential uses, or in any other location not approved and permitted for such uses, subject to the aforementioned temporary uses. Chapters 23.04 and 23.08 UDC were passed and adopted by the County, effective, October 1, 2000, and were not impacted in any manner by the mediated settlement agreement, signed by the parties in 2001.

Referrals to the County regarding potential enforcement action or other complaints should be directed to the Building Department, (509) 754-2011 Extension 344. to the attention of the Code Enforcement Officer.

Feel free to contact the Department if you have questions regarding the use of RVs in the Desert Aire Rural Village, or other questions as well. While unfortunately the Department is not permitted to provide legal advice, we will do our best to assist within the parameters of the law. Again, feel free to contact us with any non-legal questions that you may have in this regard.

Thank you for your attention to this matter.

GRANT COUNTY PLANNING DEPARTMENT
(509) 754-2011 Extension 620