STAFF REPORT

TO: DOUGLAS COUNTY PLANNING COMMISSION
FROM: DOUGLAS COUNTY LAND SERVICES STAFF
DATE: JUNE 26, 2014

I. REQUESTED ACTION

Adoption of amendments to the Douglas County Code (DCC), enclosed as Exhibit A of the staff report:

- Text amendments to Douglas County Code Section 18.16.060 Fences, to allow fence heights greater than six feet in areas outside of urban growth areas to protect agricultural activities, including allowing eight foot high solid fences in certain zoning districts that would allow persons licensed by the State of Washington to commercially grow marijuana outdoors.

II. ENVIRONMENTAL REVIEW

On June 5, 2014 Douglas County issued a Determination of Non-significance pursuant to WAC 197-11 for amendments to the Douglas County Code.

III. PUBLIC PROCESS

Notice for the public hearing was e-mailed to the individuals on the interested parties list. Notice for the public hearing was published in the Wenatchee World and Empire Press. The draft amendments to Douglas County Code were made available on the Douglas County Website and at the Douglas County Public Services Building in East Wenatchee. The public review of draft amendments followed the timeline below:

- June 5, 2014 - Douglas County submitted the proposed amendments to the Washington State Department of Commerce in accordance with RCW 36.70A.106(3)(a).
- June 5, 2014- Douglas County submitted environmental documentation to the Washington State Department of Ecology SEPA Register and issued a Determination of Non-significance.

IV. AGENCY AND PUBLIC COMMENTS:

Douglas County was granted expedited review under RCW 36.70A.106(3)(b) on June 23, 2014. The comment period concluded on June 19, 2014. During the public review
period, no public or agency comments were received. Three written comments from the public were received prior to the comment period and entered into the record.

V. PROJECT ANALYSIS

Amendments to Section 18.16.060 Fences of the Douglas County Code to allow fence heights greater than six feet in areas outside of urban growth areas to protect agricultural activities, including allowing eight foot high solid fences in certain zoning districts that would allow persons licensed by the State of Washington to commercially grow marijuana outdoors.

**Recommended motion:** I move to recommend adoption of the amendments to Section 18.16.060 Fences of the Douglas County Code based on the findings of fact and conclusions as presented in the June 26, 2014 Staff Report.

VI. FINDINGS AND CONCLUSIONS:

Suggested Findings:

1. Douglas County has adopted a Countywide Comprehensive Plan pursuant to the Growth Management Act (GMA) and RCW Chapter 36.70A, and a series of subarea plans for each municipality in the county. These plans have been found to be consistent with each other.
2. RCW Chapters 36.70 and 36.70A authorize the adoption of development regulations.
3. Amendments to the development regulations, SEPA threshold determination and supporting documentation were sent to the Washington State Department of Commerce requesting expedited review pursuant to Section 36.70A.106(3)(b) on June 5, 2014.
4. Douglas County was granted expedited review under RCW 36.70A.106(3)(b) on June 23, 2014.
6. No written comments were submitted during the review period.
7. Three written comments from the public were received prior to the review period.
8. The Notice of Public Hearing before the Planning Commission was published on June 26, 2014 in the Wenatchee World and Empire Press.
9. The Planning Commission conducted an advertised public hearing on July 9, 2014. The Planning Commission entered into the record the files on this amendment, accepted public testimony, and deliberated the merits of the proposal.
10. The proposed amendments to Section 18.16.060 will be restricted to rural and agricultural zoning districts in unincorporated Douglas County.
11. Mule Deer habitat is prominent throughout the County. Open-wire fences greater than six feet in height have historically been constructed by property owners in order to protect agricultural activities.
12. Washington State Initiative 502 was approved in 2012 for the legalization of the growing, processing and selling of recreational marijuana.
13. The Washington State Liquor Control Board administers the regulations and approval of recreational marijuana activities.
14. The Washington State Liquor Control Board requires an eight-foot site-obscuring fence be erected and maintained for all recreational marijuana outdoor growing activities.

Suggested Conclusions:

1. The procedural and substantive requirements of the State Environmental Policy Act have been complied with.
2. The procedural requirements of RCW 36.70A have been complied with.
3. The proposed amendments are consistent with the Douglas County Regional Policy Plan and the Douglas County Countywide Comprehensive Plan.
4. The proposed amendments are consistent with the requirements of Revised Code of Washington and the Washington Administrative Code.
5. The amended regulations for fence heights will not apply in the Rural Residential 2 (RR-2) zoning district as this district is residential in character and not compatible with long term commercial agricultural activities. Areas designated as RR-2 are located at the corner of Grant Road and South Union Avenue and along the Columbia River and State Route 28 between the East Wenatchee Urban Growth Area and the City of Rock Island.
6. Amendments to Section 18.16.060 to allow fence heights up to eight feet will enable property owners with state-approved recreational marijuana licenses to comply with the fencing requirements of the Washington State Liquor Control Board.
7. Building permits are required for any fence over six feet in height.
EXHIBIT A

18.16.060 Fences.

A. Fence Heights. In any use district outside of an urban growth boundary, except as otherwise provided in that district, or as provided below or in DCC Section 12.28.040, no fence shall exceed the following height standards apply:

1. Front yard: Forty-eight inches maximum height as measured from the finished grade of the lot within ten feet of the front lot line. On corner lots and when located within a clear view triangle as defined in DCC Section 12.28.040, no fence or other physical obstruction shall be higher than forty-two inches as measured from the established road grade governs height standards on corner lots and in clear view triangles.

2. Side yard: A maximum of forty-eight inches in height as measured from the established road grade within ten feet of the front lot line, at which point it may be a maximum of six feet in height as measured from the finished grade of the lot.

3. Rear yard: Six feet maximum height from the finished grade of the lot.

4. Open wire fences with a solid surface area not greater than ten (10) percent, not including support posts, may be higher than six (6) feet if installed to protect an agricultural activity.

5. Solid fences, sight-obscuring fences, and decorative walls shall not exceed a height of six (6) feet; provided that the height may be increased by one (1) foot for each additional ten (10) feet of setback from a property line, to a maximum height of eight (8) feet. Examples: Six-foot high solid fences may be constructed at ten (10) feet from a front property line and on a side and rear property line; a seven (7) foot high fence or wall can be constructed twenty (20) feet from a front property line and ten (10) feet from a side and/or rear property line; a eight (8) foot high fence or wall can be constructed thirty (30) feet from a front property line and twenty (20) feet from a side and/or rear property line.

6. Fences located within the I-G district shall not exceed a height of eight feet, and may be located in a required front yard provided they are set back a minimum of ten feet and meet DCC Section 12.28.040, Clear view triangle. Fences on properties
located in the Baker Flats industrial area shall be located no closer than twenty-five feet from the front lot line adjacent to SR 2/97 Highway.

B. Double Frontage Lots. Double frontage lots located on a collector or arterial road may construct a fence six feet high on the front lot line adjacent to the arterial or collector. The fence height shall be measured from the established road grade. The following criteria shall be met:

1. Vehicular access is prohibited from the arterial or collector roadway for the affected lot;
2. A gate is located for each affected lot and is designed for pedestrian access only;
3. The fence complies with the minimum standards set forth in DCC Section 12.28.040;
4. The fence shall be maintained and kept in good repair; and
5. The owner obtains a permit from the county engineer to perform work on the country road right-of-way.

C. Permit and Design. A building permit must be applied for and issued prior to the installation of a fence greater than six (6) feet in height. A design meeting the requirements of applicable codes including, without limitation, the International Building Code and the International Fire Code, must be prepared by an engineer and submitted with the permit application.