

Appendix 3: Response to Comments to Scoping Notice

OKANOGAN COUNTY EIS RESPONSE TO COMMENTS TO SCOPING NOTICE

During the comment period the County received a number of comments identifying specific areas which the respondents' requested be a focus of the EIS draft.

Many of the letters raised similar issues and copies may be found in appendix 2.

Common themes are addressed below:

Comprehensive Plan litigation: MVCC others

The request was to put off the action on the Zoning ordinance until the litigation concerning the comprehensive plan was put in place. The comprehensive plan is a guideline or blueprint to overall development but is not in itself a regulatory tool. Only when the complete suite of regulatory tools is examined can the true impact of the plan be identified. The purpose of the zoning ordinance was to identify how the comprehensive plan was to be implemented and thus provide more specific guidance rather than having to guess at an impossible number of outcomes. The EIS does address the specific impacts of the implementing ordinance which need to be read together with the comprehensive plan and the other implementing regulations to assess a true picture of possible impacts and outcomes.

Water Resources (WDOE, MVCC others)

Water resources, quality and quantity of groundwater given the proposed densities was a recurrent theme. A common question was how the density allowed should be measured against the water availability.

- Density and lot size are one element of possible impact. The other is the rate of growth with is detailed in Chapter 2 of the Comprehensive plan and in more detail in appendices 4 a-l and appendix 10.
- The Methow more completely planned area shows one alternative imposing a very large lot requirement on most of the land zoned. See map at appendix 4h)
- The alternate approach is to be found in the rural resource and rural high density with the five acre and one acre densities.
- There are benefits and disadvantages to both.
 - IN the Methow more completely planned area very small increase in density in the large lot area (say 10 new homes, would occupy 200 acres with the attendant roads fences and much larger distances traveled and development disturbance over much larger areas.
 - IN the Rural resource area, the same development could be accommodated in 40 acres with a commensurate decrease in new roads, fenced areas and impact to overall undeveloped lands
 - In the rural high density area, the same development could be accommodated on 20 acres with individual septic systems and on site

water systems (two-acre minimum lot size for stand-alone systems). The more compact development would be closer to existing road networks under the plan identified in the comprehensive plan, have less intrusion into forest and open space areas and have much less impact on open space and lands available for resource and forestry uses as once lands are segregated or subdivided, the tendency is to close the lands to open range or commercial agricultural use.

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- The water use in all three circumstance would be no different, 10 single family homes combined limited to 5,000 gpd for exempt wells for the project domestic and commercial uses, ½ acre for laws and landscape and stock watering as allowed by law. The size of the lot makes no difference.
- Appendix 4 shows historic and potential growth in each of the eight major districts in the county potential growth in the county with the norm being a few building permits for new and vacation homes per year in each district and an occasional commercial permit. This development is very well dispersed over a very wide area.
- Neither the County nor the agency nor any of the commentators have identified that the pace of growth in any district would overtax existing water supplies or present a risk to groundwater under current on site septic regulations and proceedings
- It should be noted that in each of the eight districts there are enough existing lots of record, created prior to the adoption of the present plan to meet the projected growth needs in the county without creating any new lots under the existing zoning code. (See appendix 4 maps a-h)
- While a number of studies have identified that Water is an overall limited commodity in the macro sense, WDOE controls the ability to open or close a basin In the Methow, for example certain areas have been closed to new wells where the well would tap waters hydraulically connected to the tributary stream. With the exception of the specific examples identified in the regulations, however, in both the Methow and the Okanogan drainages, the regulatory conclusion by the responsible agency is that there is limited surface water available for use in both systems and no specific determination has yet been made that exempt well use of ground water is threatening stream flow. See WAC 173-548-060 (Methow) and WAC 173 549-060 Okanogan. Both of the cited sections acknowledge that at the time the agency deems it necessary or appropriate to put additional constraints on groundwater appropriate they will do so. But the agency has taken no such action as yet. Should the agency change the rules, the County will respond accordingly.

- Streamflow charts for the Methow river indicate no material change in base flows resulting from development over the previous three decades (See appendix 11.
- Water quality is a concern whenever development occurs but three factors address potential impacts to water quality
 - The stated concern is that the number of potential septic tanks pose a health threat. But here again it is the limited number of potential units in each district combined with standard regulations governing the siting and construction of septic tanks that provide adequate controls.
 - In each case, septic tanks are required to meet state health department regulations which have specific setbacks from sensitive areas and specific regulations for capacity based on soils conditions. The state design standards address the needs for an adequate system in different circumstances, which may range from tight clay to large cobbles and sand and everything in between and dry areas to wet, and identifies when standard and when design standards need to be used. The State Department of health sets standards for drain fields and septic systems administered and the County department has had little to no history of failure among systems installed to modern permit standards.
- Surface water—WDOE and others expressed a concern about protecting surface water in light of the new zoning.
 - Shoreline master program and the County critical areas ordinance provide the initial controls concerning surface water. The shoreline regulations now require “no net loss” for any shoreline related project whether or not a permit is required (See RCW36.70A.480(4) and the critical areas ordinance addresses buffers for wetlands and fish and wildlife habitat conservation areas. These ordinances are presently in place providing protecting in the current regulatory review and both are in the process of being updated to meet new standards.
 - The state, through hydraulic project approvals, NPDES permits individual and industry such as mining and construction on sites in excess of one acre also provide regulatory controls on developments
- Given the very low pace of new development, a few new houses each year and the dispersal throughout the eight districts identified in the appendices, the County saw no reasonable probability of material impact to water quantity of water quality by reason of the proposed zoning ordinance in the form recommended given the regulatory controls in place.

PERMIT CONTROLS

WDOE asked for a recitation of steps to assure that the exempt well rules are enforced.

- Okanogan County has accepted the changes in the administration of exempt well statute RCW 90.48.050 as articulated in the County cases identified in the text.
- The plan is implemented by a requirement that all permit requests pass an initial screen concerning zoning and other regulatory issues, to facilitate the shift the County is adopting new definitions in the zone code to clarify the exempt well limits
- Administration in the zoning code is identified by definition.
 - “Exempt well” An exempt well is a well serving residential, commercial/ industrial and stock watering uses and is limited to uses authorized pursuant to RCW 90.48.050 and the determination of “project” as outlined in the Court decision in Campbell and Gwinn.
 - “project” for exempt well purposes is any division of land by short plat subdivision or segregation for the purposes of development which occurs at one time or as part of a common scheme or plan. In such cases the limitations of RCW 90.44.50 are applicable to all properties within the “project”.

The County recognizes that this definition may impose hardship on projects which may have been created prior to the clarification of the legislative intent of RCW 90.48.040 in Campbell and Gwinn and is intended to bring the County’s permit requirements in line with the new interpretation expressed in that decision.

TIMING AND RETAINING THE CURRENT CODE

A number of commentators suggests a preference for the existing (pre comprehensive plan we presume) zoning ordinance to the proposed draft.

- The uses proposed in the new code are very similar to the uses included in the existing code and are commonly found in zoning ordinances for rural counties including Chelan, Douglas, Yakima and Ferry counties which have similar physical conditions and limitations.
- The densities in the proposed ordinance have been reduced in the Rural Resource zone from one unit per acre to one unit per five acres.
- Restrictions concerning the use of exempt wells have been clarified in the new code
- Limitation in the shoreline master program and critical areas ordinances are presently in place and provide protections for environmentally sensitive features. In addition, both codes are in the process of being updated but there has been no benefit identified in retaining the old ordinance until the supplementary codes are updated.

MINERAL RESOURCE LANDS

The comment was made that mineral resource lands were unduly restrictive in the prior code. In the new code mineral resource uses have been allowed in most districts to allow new resource areas to be

opened subject to the local controls imposed through the conditional use process. The conditional use process looks at the site specific issues which may be created through the opening of a new mineral resource use and mitigation which may be required to minimize or eliminate environmental impacts by reason of the use. The number of new mines is expected to be very few and the conditional use process is considered adequate to address potential impacts.

DENSITY AND INTENSITY OF USES.

The county has been asked to look at the density and intensity of the zoning allowed as part of the environmental review and look at the anticipated consequence. The County has done that particularly in the Districts addressed in Exhibit III.

Assumptions pertaining to potential impacts:

- The County population will grow by about 4500 in permanent population between 2010 and 2040 as outlined in the OFM population projections currently tied to the 2010 Census.
- The population growth is expected to be evenly spread throughout the county districts in the same proportion to the total county population.
- Vacation growth is expected to be higher in the Methow Valley than in other portions of the county but vacation housing and services are expected to increase County wide.
- Appendix 4 illustrates, for each district, the zoning potential, but also the historic pace development through the past five years (building permits) which is not expected to materially change in the future.
- While the need for "multifamily" and some of the other higher density uses has been questioned for rural areas. The recreation industry in the County has a demonstrated need for a few higher intensity uses in very rural areas to serve the vacationing public. Examples of the types of uses which provide needed economic services and facilities in the County at the higher densities would include "Basecamp", "Sun Mountain", "Freestone Inn", "Rolling Huts" and Kelly's restaurant in the Methow Valley as good examples. Commercial developments in unincorporated areas include gas and groceries in the Carlton Malott and other unincorporated communities serving local residents show how commercial and higher density uses are constructed to meet the needs of the local residents as well as vacation and recreation industry which are the lifeblood of the Valley economy.
- The Wauconda store in Wauconda, located nearly 20 miles from any other commercial services show how the zoning will allow needed services where the market will support them even when the surrounding land use is remarkably low. The Diamond Bell resort on Walker lake (a 10-bedroom lodge) just north of the Wauconda store is another example of a "multifamily" use providing necessary support to the recreation needs of the community in an area of extremely limited development or density.
- IN other districts, examples of resorts and commercial uses have been identified in each district as examples of how the allowance of relative intense uses can serve the public in the county without imposing an undue burden on the land or environment due to the great dispersal and limited number relative to the total area of lands served.
- The County considers the continued use and expansion of such facilities and the construction of similar new facilities of similar use and intensity to be in the public interest and potential

impacts can be addressed through the permitting process without posing an undue impact on the natural and built environment of Okanogan County.

WILDFIRE

A great deal has been written about concerns for wildfire and the danger posed by the fire and the subsequent aftermath of runoff and slides on burned over lands. The summers of 2014 and 2015 saw the historic size of the complex fires and the resulting unfortunate loss of life and damage to the natural environment. The effort resulting from the efforts to defend structures and towns from the risk make wildfire an important consideration in any long range land use plan.

Unfortunately, wildfires are not confined to any single type landscape district. The wildfire maps created from those two years (See appendix 15) show that grasslands as well as timberlands may be affected. Also while relatively remote areas can be affected (Thompsons ridge) higher density areas such as the Cities of Bridgeport and Pateros, Alta Lake and even the larger communities of Omak/Okanogan and nearby Riverside can be threatened.

The lesson is that there is no area in the County that is "safe" from wildfire. The County has adopted a Community Wildfire Protection plan as part of its permitting review and educational process. This program provides existing and future homeowners guides on how to protect themselves and their structures from fires which have and will continue to occur. But given that fires have been equally destructive to both remote rural and higher density urban and suburban areas, it is reliance on building codes, fire wise construction, landscaping and on-site discipline and not the zoning which will address the fire related issues in the county. Adequate public access; including fire exits during emergencies are a standard issue in permit approvals for developments and more intense uses. (a local permit request for a commercial activity in rural areas was recently turned down for lack of adequate fire access). This issue is best addressed at the permit level.

Nightly rentals

Nightly rentals

Okanogan County has a thriving recreation industry tied to outdoor recreation four seasons of the year. Nightly rentals provide a significant base of housing for visitors coming to the valley and are an important part of that recreation/vacation economy. Historically The County has relied on a Planned Unit development process together with health department requirements to regulate nightly rentals in the County. This process has proven awkward and expensive and is not conducive to address facilities which may be well suited to serve nightly rental needs. The Methow Valley for instance is often full, including standard hotels, inns and nightly rentals with demand for more on a number of vacation high demand weekends and holidays) To facilitate the process, and to address a growing number of nonconforming units which may be problematic, the county has changed the approval process which will allow a single homeowner to apply for such a use with the conditional use process used to evaluate the suitability of the property for such uses and to provide mitigation to prevent neighborhood or environmental disruption. The change in the approval process will expand the number of units which may be eligible but the conditional use process will be able to assess and adequately mitigate potential impacts and to deny an application which for various local reasons is unsuitable or has too great an impact—to be determined on a project specific application when all facts can be identified.

COORDINATION

The County has codified its process to assure that permits are issued in accordance with its governing documents. This is an administrative issue independent of the new zoning code, but is an issue of which the county is aware and is working to clarify and correct pass deficiencies.