

**OKANOGAN COUNTY
OFFICE OF PLANNING AND DEVELOPMENT**

123 - 5th Ave. N. Suite 130 - Okanogan, WA 98840
(509) 422-7160 • FAX: (509) 422-7349 • TTY/Voice Use 800-833-6388
email: planning@co.okanogan.wa.us

**Cover Letter
Environmental Impact Statement (Draft)
Code Amendment 2015-1 OCC 17A Zone Code
Proposed Revision to the Okanogan County Zone Code
March 2, 2016**

To Interested Parties and Agencies

Okanogan County is pleased to transmit this Draft Environmental Impact Statement (DEIS) for the proposed revisions to the Okanogan County Zone Code. The proposed revisions to the zone code impact all areas of the County with the exception of the areas contained within the boundaries of the Reservation of the Colville Confederated Tribes. Within the CCT Reservation the County Zoning remains the Minimum Requirement District as before.

Okanogan County published a draft of the revised zone code and initiated a SEPA scoping period in October of 2015. The changes proposed in the revised zone code and the scoping comments received have identified the issues reviewed in this draft EIS. Several of the key issues are:

- 1) Water quality and quantity
- 2) Air quality
- 3) Population trends and projections
- 4) Wildfire protection
- 5) Influence of other regulatory controls on environmental protection

The draft EIS considered the impacts of the preferred alternative. The no action alternative would be a return to pre-interim zoning which assigned the minimum requirement district zone to most of Okanogan County. The interim zone code as adopted reduces increases lot size from the 1 acre found in the minimum requirement district to 5 and 20 acre lot sizes in substantial portions of the county. A return to pre-interim zoning was determined to be not feasible therefore not a preferred alternative. In a zone code to be applied county-wide there is an unlimited number of potential scenarios that would reduce densities by increasing lot size. As this is the case the decision was made to conduct environmental review on the proposed draft which uses the interim zone card code as a foundation for drafting.

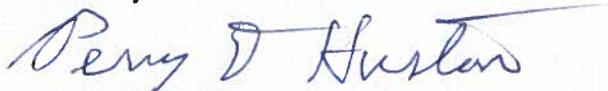
Okanogan County has ordered a 30-day comment period on the draft of the revised

zone code, a table of suggested changes to the revised zone code, and the draft EIS. The comment period will end on April 4, 2016. A public hearing has been scheduled before the Okanogan County Regional Planning Commission on March 28, 2016. A Final EIS will be issued following the end of the comment period which will further review environmental impacts as necessary brought about by comments received and any proposed amendments to the revised zone code.

Issuance of the Final EIS and the review of the revised zone code by the Okanogan Board of County Commissioners is anticipated in May of 2016.

Questions regarding Code Amendment 2015-1 may be directed to Angie Hubbard ahubbard@co.okanogan.wa.us or the above listed address. Questions concerning the environmental review process may be directed to Perry Huston phuston@co.okanogan.wa.us or the above listed address.

Sincerely,

A handwritten signature in blue ink that reads "Perry D. Huston". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Perry D. Huston

Sample EIS Fact Sheet

Project Title and Description: include a brief description of the proposal and its location, include description and location of the alternatives if different.

Okanogan County proposes to adopt a zoning ordinance to implement the 2014 Comprehensive Plan.

Name and Address of Proponent (with proposed date for implementation):

Proponent: Okanogan County Planning Department

Okanogan County Planning Commission (once DEIS is issued)

Okanogan County Board of County Commissioners (once FEIS is issued):

123 5th Avenue North, Suite 130

Okanogan, Washington 98840

Name and Address of Lead Agency Responsible Officials:

Lead Agency: Okanogan County Planning Department

Responsible Official: Perry Huston

Position/Title: Director of Planning

Phone: (509) 422-7160

Address: 123 5th Avenue North, Suite 130

Okanogan, Washington 98840

Contact Persons for Lead Agencies:

Same

List of Permits and Approvals: should be as complete as possible, note any which may be tentative or potential, include federal, state and local jurisdiction permits.

The adoption of a new zoning code and map is a county wide non-project legislative action presented for approval to the Okanogan County Board of County Commissioners.

Once the Draft EIS is issued, the Planning Commission will conduct public hearings on the proposed zoning ordinance and any comments on the adequacy or needed additions/changes to the draft EIS. After the Planning Commission makes its recommendations, a final EIS will be issued and the Board of County Commissioners will conduct their final review and adoption. The process is governed by Chapter 36.70 RCW, concerning the adoption of a zoning ordinance or other official control, and Chapter 43.21C RCW and Chapter 197-11 WAC, concerning the SEPA/EIS process and requirements.

Authors and Principal Contributors:

The following are Agency individuals who were either reviewers or principal contributors to the preparation of the EIS:

- Perry Huston, Planning Director
- Ben Rough, Senior Planner
- Char Schumacher, Senior Planner
- Angela Hubbard, Planner
- Albert Lin, Chief Civil Deputy Prosecuting Attorney

The following are Contract individuals who were either reviewers or principal contributors to the preparation of the EIS:

Alexander Mackie, Special Deputy Prosecuting Attorney

Date of Issue of the Draft EIS:

The target date for the release of the Draft EIS is March 2, 2016

Date DEIS Comments are due:

April 4, 2016—Oral public comment will be closed at the end of the Planning Commission hearing on March 28, 2016 but the written record will be held open for another week to permit additional written comments including issues identified during the public hearing.

Public Meetings:

The County Planning Commission has been reviewing the proposed ordinance at its regular monthly meetings this year. The Planning Commission will conduct a public hearing on the proposal and draft EIS on March 28th and will take up final review and adoption after close of comment period April 4. Planning Commission meetings are open to the public and are listed on the County website <http://www.okanogancounty.org/planning/>.

Projected Date of Issue of Final EIS:

The Final EIS is scheduled to be issued after the recommendation of the Planning Commission is issued and no later than one week prior to the Board of County Commissioners meeting where the matter is to be considered. It is anticipated that the Board of County Commissioners will take the matter up in May 2016

Subsequent Environmental Review

Subsequent environmental review would be included for all permits processed under the terms of the new zoning ordinance as required by Chapter 197-11 WAC for all non-exempt activities. Subsequent environmental review will also be required for supplementing ordinances including Shoreline Master Program, subdivision code, and critical areas ordinance.

EIS Availability: identify how copies of the EIS can be acquired and their cost, if applicable.

The EIS is online for no cost at the Okanogan County Planning Department website:

<http://www.okanogancounty.org/planning/>

Printed copies of the Draft and Final EIS's may be picked up at

123 5th Avenue North, Suite 130 Okanogan, Washington 98840

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OKANOGAN COUNTY-2016 ZONING ORDINANCE EIS

I. Background and objectives

The 2016 Zoning Ordinance identifies the uses, activities and limitations the Board of County Commissioners deem in the public interest to provide flexibility, opportunity and protection for a variety of uses on lands in Okanogan County. The ordinance, in concert with other regulatory ordinances in the County referred to as “official controls”, provides a wide range of uses and opportunities for land use in the county. The range and intensity of uses achievable under the ordinance, but as regulated by the full suite of official controls, are deemed necessary and appropriate to serve the public interest, health and safety of those in the county as well as providing the necessary consideration and protection of the environment.

The December 2014 Comprehensive Plan is the guideline or blueprint for the proposed regulations. It is the totality of the County’s official control suite of applicable regulations, however, which will determine the nature and extent of development related impacts. Those controls include not only the Zoning Ordinance under review, but also the subdivision laws and regulations, Shoreline Master Program, critical area ordinance, SEPA and public health regulations. In addition, local development is also subject to state requirements concerning noise, air quality, water quality and quantity, among others, which, together with the county official controls and processes, constitute the County based regulatory review mechanism to achieve the stated objectives.

The objective of the Zoning Ordinance, together with the official controls listed, is to provide a variety of allowable uses of land proposed for development and to provide guidance on the limits and controls on those uses and the processes by which the controls are to be implemented.

The objective of this EIS is to review the proposed Zoning Ordinance, together with the implementing controls, to assess whether the tools in place are sufficient to address and avoid probable adverse environmental impacts to the natural and built environment and particularly the quality and quantity of water.

A. Background of the issue, including the purpose and need for action

The County has made a significant review of the needs of the county and updated its Comprehensive Plan after 30 years. The new Zoning Ordinance updates and clarifies many issues on the nature and extent of uses allowed, bulk and density limits and other controls on the use of a specific parcel of property subject to development. The purpose of the amended ordinance is to ensure a more understandable and useful regulatory approach to land use in the county consistent with the objectives noted above.

1. Legislative authority or mandate

Okanogan County operates under Chapter 36.70 RCW, the Planning Enabling Act, and those portions of Chapter 36.70A RCW applicable to all counties and not just those planning under RCW 36.70A.040 which is not applicable to Okanogan County. Once a comprehensive plan is in place, official controls are appropriate to implement the planning goals of the County expressed in the plan. RCW 36.70.550-800.

B. Statement of the primary objective

Review the proposed Zoning Ordinance, as it is to be administered in Okanogan County, to identify and mitigate potential significant adverse environmental consequences of the proposed action and to identify alternatives where necessary and available.

C. Relationship to ongoing and future regulatory and planning efforts

The December 2014 Comprehensive Plan identified the background policies which are to guide future development in the County. The Zoning Ordinance under review is designed to implement the policies in that Plan and to provide a framework for regulatory control of future development. The Zoning Ordinance is part of a suite of regulatory controls, which exist today and which may be updated periodically to clarify, simplify and accommodate changing conditions and regulations.

II. Existing situation

A. Current Regulations

The County presently operates under an interim Zoning Ordinance, which for the most part tracked the 2014 Zoning Ordinance in effect prior to the adoption of the new Comprehensive Plan. There were a few major exceptions dealing with terminology and the reduction of density in the Rural Resource area where allowed densities were reduced from one unit per acre to one unit per five acres and one unit per twenty acres.

B. Existing means of achieving the objective

The County considers a proposed land use on a given property under the suite of regulations mentioned above, including the interim Zoning Ordinance. The County did not want to make any material changes in the allowed uses, other than the density change mentioned, during the interim period to allow the public to have a voice on the new regulations. The County issued a Determination of Non-significance for the adoption of the Comprehensive Plan and interim Zoning Ordinance - as the former is not a regulatory tool but a guideline for future development and the latter was to be in effect for only a brief period and the pace of development in the county is very low. As such, the existing suite of regulations was deemed adequate to avoid more than a moderate impact on the environment, since the new regulations would be in effect for a short time and would have a full environmental review once the recommended choices for a new code were identified and capable of analysis.

C. Current Institutional structure affecting distribution and use of lands in the county

Land use in Okanogan County is covered by a diverse set of regulatory agencies.

1. Public lands, State and Federal (1,936,825 acres)

Include wilderness areas, national parks and other Federal Bureau of Reclamation lands controlled by the Department of Agriculture, U.S. Forest Service, Bureau of Land Management, Bonneville Power Administration and state agencies including school lands managed by the Department of Natural Resources (WDNR), lands owned by the State Park Service and State Department of Fish and Wildlife, and the Washington State Department of Transportation (WSDOT).

2. Tribal lands: (672,854 acres)

The County has an intergovernmental land use planning agreement with the Colville Confederated Tribes regarding regulatory controls on lands located within the Colville Indian Reservation which clarifies how development of tribal members and non-tribal members and are subject to land use regulations administered by the Colville Confederated Tribes and land use regulations administered by Okanogan County.

3. Private lands: Cities: (7,602 acres)

Okanogan County has thirteen incorporated cities which are the governing authority for land uses within the corporate boundaries.

4. Private lands outside of the cities (730,503 acres)

Okanogan County exercises direct regulatory control over private lands through the proposed Zoning Ordinance and the suite of regulations noted above. The County has some limited regulatory control over activities on other than private lands outside of cities, but these are subject to areas of regulatory preemption and control by State and Federal agencies.

III. Proposal and Alternatives

A. No action alternative

As the adoption of the new Comprehensive Plan triggers the need for a new Zoning Ordinance, the no action alternative is most likely a return to the pre interim zone condition. A number of commentators on the scope of the EIS suggested this alternative and as such it was selected to provide a review of the differences.

B. Description of the proposed regulation

The proposed rezone map, text and detailed table of uses to be reviewed can be found at Appendix 7, Appendix 8 and Appendix 9 to this EIS and online at <http://www.okanogancounty.org/planning/>.

C. Alternatives to the proposal which could reasonably meet the primary objective

Because the alternatives within a county wide zoning ordinance may be unlimited, with few having any material change in possible impact, the County has chosen to address only two choices, no action and the proposed alternative, as allowed by the SEPA handbook. If viable alternatives are identified through the review and comment process they will be considered by the County.

IV. Environmental Impacts

A. Scoping

The Scoping Notice was issued October 16, 2015 and a copy of the Notice and its publication and distribution lists are enclosed at Appendix I.

The scope to be addressed according to the Notice was as follows:

1. Density and Uses

The Zoning Ordinance under review identifies a variety of densities and uses allowed in the different zones. With respect to the allowed densities and uses, and considering the limited population growth and dispersed nature of development in the county, identified in the Comprehensive Plan:

- Whether the County has project review and development controls in place to ensure that allowed densities will not cause a reasonable probability of more than a moderate impact to the natural elements of the environment including earth, air and both surface and groundwater.
- Whether the County has project review and development controls in place to ensure that allowed densities will not cause a reasonable probability of more than a moderate impact to the elements of the built environment including transportation, public facilities, utilities and public safety.

2. Critical areas, resource lands, and shorelines

Whether the County has project review and development controls in place to ensure that:

- allowed densities and uses are managed to provide protection of critical areas, and encourage conservation of resource lands necessary to the promotion of natural resource industries
- the goals and policies of the Shoreline Management Act are achieved
- a reasonable probability of more than a moderate impact to the affected environments by a proposed use under the new ordinance under review are avoided, and

- potential adverse impacts identified during the permit review process are addressed, mitigated or avoided.
- 3. The adequacy and availability of lawful water supplies and protection of water quality**
- As governed by County, State and Federal regulations.

Comments on the Scoping Notice are included in Appendix 2 to the EIS and addressed as appropriate in Appendix 3 and the document which follows.

B. The Approach

The adoption of an official control such as the Zoning Ordinance per se has no direct impact on the environment. The uses allowed under the official control may potentially impact the environment. The official controls are used to regulate that development provide the necessary protections.

The EIS considers the possible significant environmental impacts of a proposed Zoning Ordinance implementing the Comprehensive Plan, and necessarily the regulatory implications of the Comprehensive Plan, as implemented through the adopted official controls including the Zoning Ordinance under review.

Due to the size of the county and the differing development demands and possible impacts in each, the county has been divided into eight districts, detailed in Appendix 4 a-h, tied to school district boundaries for ease of reference, with supplemental information by district Appendix 4i-l. The districts are:

1. Oroville/Curlew
2. Tonasket/Republic
3. Omak
4. Nespelem/Grand Coulee
5. Okanogan
6. Brewster/Bridgeport
7. Pateros/Lake Chelan
8. Methow

Appendix 5 identifies the Comprehensive Plan Maps including the land use map, the transportation map and the specialty maps for the Methow Valley More Completely Planned Area and the More Completely Planned Area Sub Unit A.

C. Comparison of prior zone with current zone

The prior zoning—the no change condition is detailed on the map at Appendix 6 together with the text of the supporting Zoning Ordinance which may be compared with the

proposed map and text at Appendix 7 and 8 and a summary of allowed uses in Appendix 9. This review looks at the totality of potential impact not simply the difference between the old and new ordinances.

D. Factors affecting the environment as a consequence of the proposed zone change

As noted above, the adoption of a new Zoning Ordinance does not per se affect the environment. It does, however, allocate growth to certain uses and intensities which need to be addressed to determine whether alone or in concert with other development in the area would give rise to a reasonable probability of more than a moderate impact on the environment, given the regulatory controls in place, to address how development is allocated and regulated throughout the county.

Change in Okanogan County is affected by demographic factors, births and deaths, migration, both inbound and outbound, and resident decisions, permanent and temporary. In addition, development in the county is affected by economic factors with respect to changes in economic activities and trends, job opportunities (positive and negative), as well as by world events and markets, local initiatives, regulatory changes, natural disasters and public response, and public tastes and sensibilities. All of the above can affect the pace and need for development in the county, and whether they require new or changed existing facilities. The County has no ability to influence the wider events giving rise to the need to develop in Okanogan County. But, it has the responsibility to ensure that people in the county have the ability to respond to change, to engage in economic activity and create new facilities to respond to the changing economic and physical environment. The County's policies to achieve those objectives are clearly stated in the Comprehensive Plan.

The proposed Zoning Ordinance is designed to reflect the realities of growth in the county and provide maximum flexibility in concert with necessary environmental protections and other requirements of state law. The precise mix is one of the most complex and difficult policy choices faced by any local government. The District Use Chart appropriate for Okanogan County may be found in Appendix 9. The uses are similar to uses found in zoning ordinances throughout most eastern Washington counties and necessary, even when only used occasionally, to provide the needed range of opportunities to serve all needs of the County population.

The driving forces with respect to potential environmental impacts from development under the proposed Zoning Ordinance, as implemented throughout the County's system of official controls, are the pace of population growth and development and the location of population growth and development under County control.

The state Office of Financial Management (OFM) provides population projections for local governments engaged in land use planning. Okanogan County has adopted the middle range suggesting population growth of about 4,500 people over the next 30 years.

Comprehensive Plan Chapter 2, Appendix 4a-h highlights how the county population is currently allocated among the eight districts, the urban/rural split in each district and the building permit activity in each, among other data. The County assumes that the relative proportion of growth and development will remain constant among the districts, but has assumed both a straight line growth and a possible increase in a given period in making the assessments for the EIS. Appendix 10 provides the assumptions for new development due to population growth and vacation homes over the next five years, through 2021 when the periodic review is to be done based on 2020 census information.

Population increases in the City, where no County regulatory authority is present, may bring additional traffic, use of public roads and facilities, air quality and quality and quantity of both surface and ground water. These are all factors which can affect the environment but are impossible for the County to quantify and, in the opinion of the County, are best addressed by the regulatory agencies controlling such areas. For the incidental impact on the built and natural environments under the County's control, existing regulations are deemed sufficient given the present very slow pace of development and the wide area over which such development is to occur.

The areas under County direct control where residential based growth and development may occur are the private lands in the rural unincorporated lands in the county. Given the size and diversity of the county, the current ordinance provides a wide variety of uses and densities listed in the proposed zoning regulation and summarized in the table of uses mentioned above. While the list of allowed uses, whether permitted directly or under special regulatory control, is long and varied, the County finds all uses can serve a public purpose where appropriate as population and other factors change. The projected slow pace of growth, together with a multi-decades long history of similar provisions under the prior code, show that many years can pass before a request is made for some of the more intense uses. Those uses that have a potential for significant impact are subject to special review through a public hearing/SEPA process to assure that all factors affected by the use in a given environment are given proper consideration. The County has codified the development review process under the general provisions of the new ordinance to clarify the steps required to secure permit approval under the Code. (See text at Appendix 8)

E. Scope of the review

In order to assess the potential impacts of a proposed Zoning Ordinance it is necessary to look not only at the Zoning Ordinance per se, but also the regulatory controls designed to assess and address potential impacts resulting from that development. In addition, the pace and intensity of anticipated development in the county.¹

¹ See WAC 197-11-794, Definitions, "Significant"

1) "Significant" as used in SEPA means a reasonable likelihood of more than a moderate adverse impact on environmental quality.

At the area wide zoning phase, it is not possible to assess all potential impacts, as development patterns may shift and are totally dependent on population, migration (in and out), economic development or contraction and a host of other matters over which the County has no control. The objective of a suite of official controls is to provide the mechanism to identify the impacts which may arise from a given development or series of developments and assure that the tools are in place to limit, minimize or eliminate avoidable or potential impacts. Recognizing that the County has no control over the private choices to be made under the proposed Ordinance, the EIS at the adoption phase is necessarily limited to the broad issues which can be identified and addressed. Project specific impacts and site specific issues are too remote and speculative to be addressed in bulk, and are better addressed at the permit phase, which is what the County proposes to do.

All future projects proposed under the new ordinance will require administrative review to assure compliance with zoning and other regulatory requirements. Where appropriate, projects with identified potential for significant impact are subject to subsequent environmental review by the County. This approach has been approved by the Courts so long as the County retains the ability to address the project specific impacts at the time a specific plan is in place.²

The County has adopted that two phase environmental review - addressing the adequacy and ability of regulatory controls in place to address potential impacts of development under the Code to ensure protection of the environment as development proposals may arise throughout the county and addressing project specific issues as proposals are submitted for review.

F. Population

The real drivers of potential impact under the proposed Zoning Ordinance are the pace of growth or new development in the county and the location or dispersal of that growth. Development in the county, and the resulting development related impacts, will be affected first and foremost by the pace of population growth in the county and the development resulting from that growth or induced to respond to that growth.

1. Population

The County projected population growth county-wide in Chapter 2 of the Comprehensive Plan and no objection has been taken to the planned pace of growth. It is based on the OFM Medium growth scenario (OFM web site at

(2) Significance involves context and intensity (WAC 197-11-330) and does not lend itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact. The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.

² See, generally, *Cathcart-Maltby-Clearview Cmty. Council v. Snohomish Cty.*, 96 Wn.2d 201, 210, 634 P.2d 853, 859 (1981).

<http://www.ofm.wa.gov/pop/gma/projections12/projections12.asp> and an update review shows no change in the State projections for population growth. Appendix 10 shows the potential impact of estimated population growth for Okanogan County 2016-2021, when the next census is taken and a periodic review occurs as required by the comp plan. (Comp plan at p. 11)

The periodic review ensures that population and development assumptions can be assessed and, should population assumptions change or potential impacts alter, the County will be able to address possible changes which may be necessary. The County has identified five years for periodic review beginning with receipt of the decennial census report and then each five years thereafter as the appropriate period for review. For this reason, the immediate impacts addressed in this EIS are for the ensuing five years.

2. Dispersal

In Appendix 4 the County has shown the potential growth in each of the eight districts. The charts illustrate the slow pace of growth in both population and development in the county. It is that combination of both dispersal of population and growth, and the very large area over which it occurs, that provides the basis for the conclusion that the existing regulatory tools are capable of assessing and addressing growth related environmental impacts. Significantly, the potential impacts and ability to mitigate are only marginally affected by the Zoning Ordinance, and the addition or deletion of alternatives, or the return to the "no action" alternative, do not provide a sufficient justification to warrant a material change in the approach used by the County. The lower densities in the more Rural Resource areas, when compared with the no action alternative, reflect the development which in fact occurs in the more remote areas and provide a marginal incentive for growth to occur in proximity with the more developed urban areas and rural clusters. But a look at the historic development illustrated by the building permit array over the past five years shows that pattern occurring under the old code and is expected to continue under the new.

G. Official controls

In assessing potential impacts, it is important to remember that consistency with the required zoning is only the first step in development review.

1. Building permits

The initial control over development in the county is the building permit, Chapter 15.02 OCC, which not only requires the applicant to demonstrate compliance with the applicable Zoning Ordinance and a lawful source of water (Planning Department) but also that the site has an approved well and septic design approval (Health Department) and road access (Public Works). (See generally OCC 15.02.050) As a result of the environmental review, new definitions to identify this requirement are being recommended for addition to the Code.

2. Subdivision review

The subdivision review process is another step in development which occurs when a development proposal is put forth to create one or more lots less than five acres in size. The zoning in the Rural Resource and Rural High Density zones are density limits, with septic tank requirements (two acres for a single well and septic tank) being the primary limiting factors on lot size.

Subdivisions are controlled by Title 16 Okanogan County Code, which may be found at <http://www.codepublishing.com/WA/OkanoganCounty/#!/OkanoganCounty16/OkanoganCounty16.html>.

The purpose of the County Subdivision code is to implement the requirements of Chapter 58.17 RCW addressing requirements for both short plats and long plats to assure the public interest and health are properly served. The specific requirements of that ordinance are enforced in Okanogan County at both the plat, short plat level to ensure adequate review and appropriate mitigation to avoid environmental harm.

A proposed subdivision and dedication shall not be approved unless the town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication.

RCW 58.17.110(2)

Short plats (four lots or less) are reviewed by the County administrative staff, long plats (more than four lots any one of which is less than 20 acres) are subject to hearings by the hearings examiner. The subdivision requirements parallel many of the SEPA requirements and as such the state has authorized exemptions from SEPA requirements for developments identified in OCC 14.04.100, found at <http://www.codepublishing.com/WA/OkanoganCounty/#!/OkanoganCounty14/OkanoganCounty1404.html#14.04.100>.

Court cases have made it clear that the timing of the lawful source of water and responsibility for making that determination rest on the County and the County has undertaken that responsibility as outlined by those cases.

3. Conditional uses

More complex projects are subjected to more thorough review under the conditional use provisions of the code. Conditional uses are those uses which are determined by the County to be appropriate in a district but in need of more detailed regulatory review due to possible impacts in a given location. These permits may be approved under Conditional Use of the County zoning code (See text Appendix 8), which have many of the same requirements as the subdivision code but require a more elaborate application and review process to better assess potential impacts and identify necessary mitigation or deny the permit where impacts cannot be satisfactorily addressed. <http://www.codepublishing.com/WA/OkanoganCounty/#!/OkanoganCounty17/OkanoganCounty1719.html#17.19.080>

4. Planned Developments and Clusters

Planned developments allow additional density bonuses based on open space and other amenities, but in return are subjected to a detailed review including adequacy and availability of water and assurance that impacts from the development are appropriately addressed. In a departure from the current, or no action code, Planned Developments will now be processed as a rezone. Cluster provisions are to be addressed in the subdivision ordinance which will be subject to review once the Zoning Ordinance is completed. The changes are primarily procedural, however, and no material environmental impact is anticipated from the procedural change, and the substantive authority of the County during the review process is sufficient to address probable specific site impacts.

5. Planned Developmnets

Critical areas in the county are addressed in OCC Chapter 14.12 and include:

- Aquifer Recharge Area
- Fish and Wildlife Habitat Conservation Areas
- Frequently Flooded Areas
- Geologically Hazardous Areas
- Erosion Hazard Areas
- Landslide Hazard Areas
- Mine Hazard Areas
- Seismic Hazard Areas
- Volcanic Hazard Areas
- Wetlands

The critical area regulations provide an overlay to other official controls and require the County to impose specific limits on development consistent with the critical areas requirements, in

addition to zoning limits and limits imposed by conditions on other permits. The critical areas requirements are imposed by GMA on all counties, not just those planning under RCW 36.70.040, and the duty on all counties is to adopt regulations to protect the critical area. RCW 36.70A.060(2). Some of the critical areas are designed to protect public safety (aquifer protection, geologic hazards and flood hazard) while others are specifically addressed to environmental protection (wetlands and fish and wildlife habitat conservation areas). The County plans have been in place since 1994 and are scheduled to be reviewed as part of the ongoing County regulatory update. The current rules do remain in place, however, and do provide a layer of protection for identified critical areas.

The County is participating in the voluntary stewardship program authorized by the County under RCW 36.70A.700-800 and that too is an ongoing program, just beginning, designed to address related issues and avoid conflicts between agriculture activities and critical areas.

6. Shorelines

The state Shoreline Management Act, Chapter 90.58 RCW, administered by WDOE under Chapters 173.22, 26, 27 WAC, and the County Shoreline Master Program, provide an additional set of overriding regulations applicable within 200 feet of waters of state wide significance, rivers over 20 CFS mean annual average flow, lakes over 20 acres and certain flood hazard areas and associated wetlands.

The County Master Program controls are presently in place and administered by the County under the jurisdiction and supervision of WDOE. A Master Program update is presently being processed by WDOE for the County and is in the public comment phase. This phase assures that WDOE has input into the scope and substance of the County plan to assure compliance with applicable regulations and that the public has a say in the ultimate program content. Once the comment period is over, the County will assess any identified potential environmental impacts arising from the program and make the necessary environmental determination, and complete a SEPA review on that program similar to the review given to this Zoning program.

The point is that the Shoreline Master Program controls all development within the jurisdiction of the Act, whether a permit is required or not, and must be coordinated with critical areas under the Growth Management Act, Chapter 37.70A RCW. A key component of both are the "no net loss" provisions governing development related activity.³

³ Compare RCW 36.70A.480 (4)

"Shoreline master programs shall provide a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources as defined by department of ecology guidelines adopted pursuant to RCW 90.58.060".

and WAC 173-26-221(2)(C)(iv)(B)(II)

"(II) Regulating uses and development within lake basins and stream channels, associated channel migration zones, wetlands, and the flood plains, to the extent such areas are in the shoreline jurisdictional

V. Potentially Affected Environments and Regulatory Controls

For those developments under the County's direct control and for which the overall potential for impact is greatest (residential development and related commercial, industrial, and recreational infrastructure), the County looks to the full suite of development controls to assure that development is consistent with all regulatory requirements and the need to ensure environmental protection. For the purposes of this review, the County has determined that the no action alternative and the proposed alternative make no difference in overall impact given the dispersion of growth and the very slow pace of growth. Since the regulatory controls are sufficient to address the environmental impacts of any new growth under the Zoning Ordinance, the County has also determined that no alternate need be considered as the current suite of controls is adequate to the task.

A. Air Quality

New development can affect air quality primarily through increased travel on local roads, construction related dust and wood smoke. Federal regulation of CAFÉ standards for vehicles and WDOE regulation of air quality are sufficient to address these issues given the very large area over which new development is to occur and low incremental increase in each of the potentially affected areas below.

B. Noise

New development can raise noise issues both during construction and upon occupancy. WDOE noise limits particularly for residential structures are considered sufficient to address noise related issues given the very low incremental increase in each of the potentially affected areas below.

C. Water Quality—Groundwater

With the exception of The Oroville System serving a portion of the eastern shore of Lake Osoyoos and a small area outside of Conconully which are served by sewers regulated by the state, development under County regulatory control is on septic tanks and drain fields regulated by the County Health Department under State Department of Health regulations. (See <http://www.doh.wa.gov/CommunityandEnvironment/WastewaterManagement/OnsiteSewageSystemsOSS>)

Water quality is addressed initially through Chapter 13.08 OCC, ON-SITE SEWAGE DISPOSAL and specifically Okanogan County Environmental Health Department which administers the terms of state requirements for septic systems. (See <http://www.okanogancounty.org/ochd/envirohealth.html> and onsite sewage disposal regulations (2008 ed.) County regulations follow state guidelines which may be found at

area, as necessary to assure no net loss of ecological functions, including where applicable the associated hyporheic zone, results from new development."

Chapter 246-272A WAC, which are designed to manage and control the design, installation and use of on-site septic systems for the following purposes:

- (2) This chapter regulates the location, design, installation, operation, maintenance, and monitoring of on-site sewage systems to:
 - (a) Achieve effective long-term sewage treatment and effluent dispersal; and
 - (b) Limit the discharge of contaminants to waters of the state.

WAC 246-272A-0001; *see generally*

<http://www.doh.wa.gov/CommunityandEnvironment/WastewaterManagement/OnsiteSewageSystemsOSS>

These regulations look to density and intensity of uses, soils, wells and water supplies and potential impacts to ground and surface water. They are imposed after regulations about setbacks are identified in the critical area and shoreline regulations to protect sensitive habitats.

Over the past five years the County has averaged about 175 new septic system approvals per year (See Appendix 4___) and the County experience is that modern designed septic systems, of the type required for new non-sewered developments in the county under the standards identified, are an effective control mechanism for ground and surface water protection from new development. The onsite regulatory control system has proven to be appropriate for County uses and will continue to be the principal control on groundwater quality for on-site systems in the county.

WDOE regulations control other discharges to groundwater and the County has no basis for requiring additional controls at this time, given the very low incremental increase in each of the potentially affected areas below. (See Chapter 90.48 RCW *passim*)

D. Water Quality—Surface Water

Publicly owned treatment systems and private systems proposing to discharge to surface waters are controlled by the National Pollutant Discharge Elimination System (NPDES) and other permits issued by the Department of Ecology under Chapter 90.48 RCW. Where sewers are not used, the County regulatory program is tied to avoiding impacts to surface water by use of setbacks under shoreline critical area and flood hazard regulations.

The County does not have a grading ordinance *per se*, but any development with a grading footprint of more than one acre is required to obtain a General Construction NPDES permit from the Department of Ecology.

Construction site operators are required to be covered by a Construction Storm Water General Permit if they are engaged in clearing, grading, and excavating activities that disturb one or more acres and discharge stormwater to surface waters of the state. Smaller sites may also require coverage if they are part of a larger common plan of development that will ultimately disturb one acre or more. Operators of regulated construction sites are required to:

1. Develop storm water pollution prevention plans.
2. Implement sediment, erosion, and pollution prevention control measures.
3. Obtain coverage under this permit.

(See <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>)

To date, the one acre threshold in the state controls in place have been sufficient to protect water quality from grading related problems.

The Clean Water Act, 33 U.S.C. § 1251 et seq. (1972) (See <http://www.epa.gov/laws-regulations/summary-clean-water-act>, prohibiting the deposit of foreign substances (to include mud and turbidity from human operations), the overall water quality provisions of Chapter 90.48 RCW and the Shoreline Management Act, Chapter 90.58 RCW, with the specific requirement for permits and exempt projects to comply with the no net loss requirements of Chapter 90.58 RCW, WAC 173.26.211 (fresh water controls) and RCW 36.70A.480(4), and required buffers provide additional sources of authority for the County to address and remedy potential impacts from grading operations. (See the no net loss report (2015) developed in context with the pending review of the County's updated Shoreline Management Program <http://www.okanogancounty.org/planning/>)

The County administers the State's Shoreline Management Act under its Shoreline Master Program adopted under WDOE supervision pursuant to Chapter 90.58 RCW. The purpose of the Act is to foster all appropriate shoreline uses while preserving navigation and protecting the shoreline environment. (RCW 90.58.020) The program has a complex permitting process administered by the County, but subject to override by WDOE in the event the agency determines a permit is not adequately protective, and subject to oversight by the Shoreline Hearings Board. (See generally regulations at WAC 173-22-26 and the local Master Program) That system has proven adequate to avoid environmental impacts from new development in shoreline areas under the current program. The County Master Program is undergoing a review and update as required by new regulations under Chapter 173-22-26 WAC. WDOE currently has the program available for public comment and when the County receives the agency's comments that document will be subject to further environmental review and modification to ensure that Agency regulations are met and environmental concerns arising from the changes.

All plats, short plats, conditional uses and other projects undergoing detailed County review are reviewed for surface water protection. Shoreline, critical area regulations and floodplain regulations all address aspects of stormwater control to assure that development does not adversely affect local streams and lakes.

WDOE manages a construction period stormwater permit for all excavation/land clearing in excess of one acre to ensure that construction period activities do not result in improper discharges to ground and surface water. The County also has authority under SEPA, the subdivision rules and any project subject to hearings examiner review, to require project

specific stormwater, road and other pre and post occupancy use to address issues of both stormwater control and runoff to assure protection of water quality.

E. Water Quantity

Much of the rural development in the county occurs on exempt wells covered by Chapter 90.44.050 RCW. While much confusion has existed historically about the availability of such wells to a given development, recent court decisions, including *State, Dept. of Ecology v. Campbell & Gwinn, L.L.C., 43 P.3d 4 (Wash. 2002)*, *Kittitas County v. E. Washington Growth Mgt. Hearings Bd., 256 P.3d 1193 (Wash. 2011)* and *Knight v. City of Yelm, 267 P.3d 973 (Wash. 2011)* make it clear that the adequacy and availability of adequate water must be demonstrated at the time a development approval is granted, whether building permit plat or otherwise, and that exempt wells are limited to the four activities identified in the statute:

- any withdrawal of public groundwaters for stock-watering purposes, or
- for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or
- for single or group domestic uses in an amount not exceeding five thousand gallons a day, or
- industrial uses not to exceed five thousand gallons per day.

Counties are required as a matter of state law to assure that the exempt well rules are followed in any building permit subdivision or other development approvals and those limits have been incorporated into the county building zoning and subdivision requirements

The County has a multi-layered approach to water quantity protection:

- All building permits must demonstrate a lawful source of water for the intended use
- All subdivisions must demonstrate a lawful source of water for the intended development
- All water systems serving more than two units must secure a class B water system permit under the auspices of the County Health Department which requires demonstration of a lawful source of water
- All water systems serving more than 11 units must obtain a class A water system permit under the control of WDOE and the State Department of Health. Such uses exceed exempt well limits and require a certificated water supply for domestic use or other intended use

To ensure that the County is in a position to prevent daisy chaining and other efforts to circumvent exempt well regulations, two new definitions were added to the code to address how the limits of RCW 90.48.050 are to be enforced. Okanogan County has accepted the

changes in the administration of exempt well statute RCW 90.48.050 as articulated in the decisions referenced above. Administration of exempt wells in the zoning code is identified by definition.

- “Exempt well” An exempt well is a well serving residential, landscaping, commercial/industrial and stock watering uses and is limited as authorized pursuant to RCW 90.48.050 within a “project” as outlined in the court decision in *Campbell and Gwinn v. WDOE*.
- “Project” for exempt well purposes is any division of land by short plat, subdivision or segregation of lands for the purposes of development after the adoption of RCW 90.48.050 consistent with the court decision in *Campbell and Gwinn* which occurs at one time or as part of a common scheme or plan of development. In such cases the limitations of RCW 90.48.50 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 the new definitions are intended to codify the County’s practice in line with the new interpretation expressed in that decision.

While the Department of Ecology has identified a potential for water shortages in Eastern Washington and Okanogan County, the Agency has not yet imposed limits on exempt wells in applicable WRIA regulations where the issue of available water is specifically addressed.

The state has identified some basins, particularly in the Methow WRIA 48, which are closed to new wells hydraulically connected to the tributary stream. Presently, neither WRIA 48 (WAC 173-548 Methow) nor WRIA 49 (WAC 173-549) Okanogan as a whole are now closed to new private or public water supplies. The determination of minimum stream flows and the availability of water to the WRIA areas is a matter of WDOE control which the County is required to follow. Exempt wells (5000 gpd or less) are permitted for exempt uses including residential and industrial uses, and irrigation of ½ acre and stock watering as allowed by statute and implementing case decision. These rules are applicable to all development in Okanogan County proposing to use exempt wells. (See generally WAC 173 548.060 (Methow) and WAC 173-549.060 (Okanogan)) The County has examined the gauging stations on both the Methow and the Okanogan Rivers to assess whether any impact to mean average flows have been demonstrated as the County development has occurred over the past 30 years. To date, no such impact has been identified. (See Appendix 11, Methow and Okanogan County water flows)

F. Wildlife and Habitat

Okanogan County is 53% public lands, which are home to a wide range of species of plants and animals including threatened and protected species. Efforts to introduce new species, particularly wolves and grizzly bears, are controversial. Lands under public control are

subject to public initiatives which can affect and are affected by development on County private lands. The County reduced the density on Rural Resource lands which, for the most part, abut public lands as a measure to reduce potential impacts. State action to prohibit development on private land would require an acquisition, which can have a detrimental effect on County agriculture and resource industries and put an undue burden on the limited private lands available for general use in the County. There is necessarily competition and potential conflict between those seeking development and those seeking pristine habitat. Given that the County plan directs newest development into areas already subject to development (the Rural High Density areas and more intensively zoned areas identified on the Zoning Map). Critical Area Rules also provide protections as does SEPA review where appropriate, see Appendix 12. The resulting conflict has been addressed consistent with the policies of the Comprehensive Plan and the remaining conflict is an inevitable consequence of the population growth and economic development necessary to serve that growth in permanent and transient populations.

G. Salmon and Endangered Fish

WDFW and the Federal government manage significant hatchery programs designed to restore fish runs on the Methow and Okanogan Rivers and are investing heavily in habitat restoration programs. The Methow River has been identified as a mitigation site for public works projects and dams elsewhere in the state. In addition, fishing regulations managed by the state control access to harvest and limit which fish may be taken when, where and how. The County management program is principally administered through the shoreline management permit and Master Program regulations (binding on all projects whether or not a specific permit is required). Together with the "no net loss" provisions of the Master Program and specific density limitations based on the vulnerability of stream and lake side habitats, the program is considered adequate to provide necessary protections in concert with the state and federal regulations.

H. Public Facilities

Any increase in population whether in the county or in incorporated cities poses additional strains on the public facilities. The Zoning Ordinance does not exacerbate that strain as the growth is planned to occur and the zoning and other regulations tend to locate that development in the areas of existing development and service. Given the slow pace of growth throughout the county, the wide spread dispersion of growth across the county and the long term planning processes of the county's cities and districts within the county to plan for such changes, the County has identified no need to adjust the zoning ordinance to address this issue.

I. Resource Lands

Resource uses, including agriculture forestry and mining, form a core element of the County's economic base. The criteria by which a successful program is to be judged is set forth in the Growth Management Act (GMA) regulations. GMA requires all counties to classify and

designate resource lands. (RCW 36.70.170) At the comprehensive plan level, the minimum guidelines provide:

- (4) Classification is the first step in implementing RCW 36.70A.170 and requires defining categories to which natural resource lands and critical areas will be assigned.

- 5) Designation is the second step in implementing RCW 36.70A.170.
 - (a) Pursuant to RCW 36.70A.170, natural resource lands and critical areas must be designated based on their defined classifications. For planning purposes, designation establishes:
 - (i) The classification scheme;
 - (ii) The distribution, location, and extent of the uses of land, where appropriate, for agriculture, forestry, and mineral extraction;...
 - (b) Inventories and maps should indicate designations of natural resource lands.
 - (c) Designation means, at a minimum, formal adoption of a policy statement, and may include further legislative action. Designating inventoried lands for comprehensive planning and policy definition may be less precise than subsequent regulation of specific parcels for conservation and protection.
 - (d) Successful achievement of the natural resource industries goal set forth in RCW 36.70A.020 requires the conservation of land base sufficient in size and quality to maintain and enhance those industries, and the development and use of land use techniques that discourage uses incompatible to the management of designated lands.

WAC 365-190-040 (4), (5).

Unlike GMA counties required to plan under RCW 36.70A.040, Okanogan County is not required to follow the more specific admonitions of RCW 36.70A.160 (1)(a) and WAC 365-196-315, as these requirements are limited to counties planning under the full provisions of the Act.

Okanogan County still needs to identify and assure sufficient lands to meet the needs of the industry and to assure the conservation of sufficient lands to maintain those programs.

All counties are specifically required to provide required warnings on new developments. RCW 36.70A.060(1)(b):

Counties and cities shall require that all plats, short plats, development permits, and building permits issued for

development activities on, or within five hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

The County Comprehensive Plan identifies three levels of resource lands: Forest, Agriculture and Mineral resource for classification purposes. Further classification criteria will be addressed below.

1. Agriculture Lands

For purposes of “designation” the County policy is that all public lands open to lease for agriculture use, (whether crops or livestock) are designated agriculture resource lands which includes all public lands in the County. (See district summary by district in Appendix 4) Wilderness lands are still available and important for grazing in Okanogan County.

One of the major factors, see Appendix 13, affecting the availability of agriculture lands in Okanogan County has been the acquisition by the state of lands which were historically maintained as large ranches or farms but were acquired by the state. While state acquisition did not necessarily remove the lands from all agriculture use, stripping the water rights from such farms for salmon recovery and pricing of leases above fair market rents for the various crops and activities has eliminated some large farms from county production. See Appendix 13

Public lands designated Resource Recreation Lands in the Comprehensive Plan are open for multiple use under State and Federal guidelines and thus generally used for both livestock and timber with very limited crop utilization.

In addition, all lands classified agriculture, one unit per 20 acres, Rural Resource lands, one unit per five acres and, Rural High Density lands not otherwise zoned, are designated as resource lands for purposes of this section.

The two key questions to be addressed for purposes of RCW 36.70A.020(6) are: whether the County has a sufficient land base to meet the needs of the industry and whether sufficient incentives/controls are in place to “encourage” the conservation of that land to meet the needs in the future.

The needs of the industry can be ascertained from the Census of Agriculture published annually by the Department of Agriculture and found at Appendix 15, 2012 Census of Agriculture.

The key statistics show about 80,000 acres in harvested crop lands, including hay and forage, and 52,000 acres in irrigated agriculture (alfalfa and tree fruits). The County hosts about 35,000 cow calf units, 20,000 cattle, 500 horses (most of which are kept in small groups on smaller farms), and fewer than 100 dairy cows. There are a small assortment of other livestock including hogs, sheep and chickens (layers and broilers). All of which are typically accommodated on smaller farms, or sites, frequently less than 10 acres.

The statement that Okanogan County has more than 1.205 million acres in "farms" found in the Census of Agriculture is reflective of the lands available for agriculture use including public lands, not the current use by the industry. The agriculture industry actively manages about 130,000 acres in private lands for resource activities. Thus, out of more than one million acres available for various forms of agriculture, the county actively uses about 10-15% of the lands available, to service the products which comprise the bulk of the county's industry, with the balance available for expansion, new crops or rotation.

County programs to encourage the conservation of farm lands include active participation in the agriculture tax program which allows farm or potential farm property to be taxed at farm rates rather than highest and best use. This process encourages lands to be kept in resource (ag tax designation) and discourages removal by the imposition of a significant penalty for withdrawal. In Okanogan County much of the rural county is maintained in agriculture tax designation. Lands in agriculture tax designation are listed in the tables by district in Appendix 15B

The State of Washington has a strong "right to farm" statute, RCW 7.48.300-305, protecting existing farm activities from challenges by encroaching development. In addition, Okanogan County has adopted a significant right to farm protection which assures that farm activities are protected from adjoining activities which may discourage or be offended by agriculture practices. (See Chapter 5.28 OCC Farm Operations, also known as the right to farm ordinance) This ordinance has been updated to reflect the decision of the court concerning limitations on right to farm programs in *Davis v. Taylor*, 139 Wash. App. 715, 132 P.3d 783 (2006). Since that time, Okanogan County has not had nuisance claims brought against agriculture activities and, in the opinion of the agriculture industry, no more protections are required to maintain and enhance the existing agriculture industry as it exists and may evolve in the future.

A final protection in the county has been the active participation of the land owners and the Methow Conservancy and other groups acquiring lands with conservation easements retaining a right to farm. In the Methow Valley, conservation easements cover about 85% of the irrigated farm lands in the valley.

These protections have been viewed as both adequate and appropriate by the agriculture industry. Lands devoted to agriculture in the county have shrunk in recent years, but that is dependent in part on market factors:

- Some lands with some crops are no longer viable in the market (certain varieties of apples fit in this category).
- The industry has become much more productive growing more crops on fewer acres. This reduces many costs by having to manage fewer lands to achieve the same or better result.
- The state has acquired lands previously in major farms and transferred the water to other uses, transferred it out of the valley where it is no longer available for agriculture use, or put the lands back on the market, but at lease and other costs which do not reflect an affordable cost.

Population pressure and new developments are not a barrier to agriculture growth in terms of crops or property used and as such the County sees no additional zoning limitations are needed to encourage conservation of resource lands. In fact, additional “agriculture only” zoning limitations could well prove detrimental to the industry as it exists in Okanogan County. Very specifically, the industry has advised us that additional regulations which would limit lands currently in agriculture tax, or otherwise used for agriculture activities, to agriculture activities only, precluding other non-agriculture uses, would be detrimental to the industry in Okanogan County for several reasons:

- Many of the larger farms (100 acres and over) have lands actively in agriculture and others either not suited for agriculture or put to non-agriculture uses. The dedicating of a portion of that land to on farm non-farm activities enhances the revenues available to the farmer without detracting from overall farm productivity. A rule precluding or limiting that activity would be detrimental to the overall farm economy as many of the farms in Okanogan County rely on such activities to supplement income.
- Farmers are dependent on farm loans for crops and production. Tightening lending restrictions look not only to the crop but also to the farm value as a whole in agreeing to make these loans. If additional restrictions were imposed to limit activity on lands in agriculture tax to activities strictly tied to agriculture production, the appraised value of the farms could be significantly reduced and would limit the ability of the farmer to get the necessary crop loans—particularly following a bad crop year.
- It is often expensive to modify farming practices to achieve the higher productivity of modern operations. On occasion less productive lands are put to other, non-agriculture uses to help pay for the increased productivity on the remaining lands. A rule prohibiting such change or forcing the farmer into a lengthy rezone process would hamper the ability and flexibility farmers need to make necessary changes.

- Water is often the life blood of many of the agriculture activities. In Okanogan County we have recently seen fires and floods which have devastated lands in productive agriculture in a manner where it may not be feasible to begin farming again for many years. The ability to shift irrigation waters from an affected farm to one capable of replacing it is essential to maintaining the long term productivity of the farmer. An agriculture only zone which could limit the transfer of water from one farm parcel to another would be a major impediment to such changes and would be counter-productive to the objective of maintaining and enhancing the industry.

Okanogan County has the advantage of having more than 1 million acres in existing lands available for farming serving a diversified industry which operates successfully on a few hundred thousand acres. Water rights protections, conservation easements, right to farm and strong comprehensive plan zoning and property tax protections have served the industry well. The proposed new Zoning Ordinance preserves that flexibility and those protections and the pace and disbursed pattern of new development is such as to not pose any threat to that industry continuing and succeeding in Okanogan County.

In the context of the agriculture industry, the Zoning Ordinance presently under review is in many ways similar to the prior Zoning Ordinance of the County which has governed development for the past decade with no measureable or identified adverse impact on the agriculture industry. While some development has occurred where orchards once stood, in other locations new orchards are being planted. Unlike West Coast counties and others where development is at risk of crowding out agriculture resource lands, that crowding out is not a problem in the county. Flexibility, the ability to save and move water, and a friendly lending market are the principle issues in any potential expansion of resource uses, not the availability of land. The present zoning, with the additional priorities identified in the Comprehensive Plan and protections noted above, serve to maintain and enhance the industry and encourage the conservation of sufficient land for agriculture uses to meet the needs of the industry for foreseeable future.

2. Forest Resource Lands

Forestry, once a major industry in the county, has seen significant reduction in scope since the last century due primarily to environmental limitations and the substantial reduction in federal timber land sales which used to provide the bulk of forest products for the County industry. Most State and Federal lands are still held for multiple use including forestry and, at a very reduced scale, still provide the bulk of forestry activity in the county. In 2014, 23,079 thousand board feet of timber were logged as a combination of standard and salvage sales on public and private lands. Tribal lands have an active forest practice and the County does have designated forest tax land which provides incentives for rural owners to develop a forest management plan and to keep the lands in active forestry .

In Okanogan County, public and private lands are often used for both agriculture (grazing/open range) and for forest product thinning and harvest. The two activities have coexisted successfully in the County for more than 100 years. The County does not find any material interference one with the other and lands designated as agriculture resource lands are also designated for forest resource use where the trees are present.

The Zoning Ordinance permits and encourages forest practices in Resource Recreation, and Rural Resource lands where the bulk of the harvestable timber outside of the tribal lands are found. The key limitation on the forest products industry in the county is the lack of product put up for sale by state and federal agencies who control the critical mass of harvestable timber in the county. While the County policy is supportive of the industry, private lands are only a small portion of the industry potential in the area and urges a significant increase in the allowable forest product harvests under state harvest permits. Any foreseeable growth in the industry in the county is dependent on the availability of a critical mass of forest product resources from public lands not presently available.

3. Mining

Mining is another resource industry in Okanogan County. Due to the high cost of transportation and the very low density of development in the county, development related mining activities tend to be small and are approved through a site specific review process. Existing mines are designated mineral resource areas for purposes of RCW 36.70A.020(8) and are adequate to meet the development needs of the county for the foreseeable future. As existing mines need to expand or development warrants a new mine in a given area, the County site plan review process is sufficient to address site specific environmental issues.

There is some precious metals mining in the county, with major resources found primarily on public lands. Regulation of these activities is addressed primarily by federal permits and practices. The County will address local issues through its local permit process where allowed and appropriate but no special designation is warranted and at this time beyond current regulations. Where mining is to occur on public lands it is essential that local coordination occur to avoid material impacts to the waters, wildlife, recreational resources and transportation facilities of the county and that the potential for such impacts is identified and mitigated in advance of any permits or approvals.

VI. Summary of Impacts and Controls

New growth and development is illustrated in each of the districts through Appendix 3. Whether the "no action" alternative of the proposed Zoning Ordinance, the range of impacts and ability to control them remain the same--there is no material difference as the reduced densities in the rural resource area reflect the predominant pattern of development under the old zoning.

The consequence of new development caused by population growth or the growth of the vacation industry are still at sufficiently low levels and sufficient dispersion to proceed

under the proposed Ordinance with adequate controls available through the suite of official controls.

- **Industrial commercial increase—Less than one permit per year in each district adequately addressed by permit review.**
 - **Air quality issues—No non-attainment areas in the county, no material increase by reason of limited development—WDOE regulations, limits on industrial and commercial emissions, burn bans and inversion warnings sufficient.**
 - **Water quality—construction related—Shoreline no net loss, critical area buffers and protections, construction period NPDES regulations and Clean Water Act regulations deemed sufficient to address the minor impacts which may occur.**
 - **Water quality—development —Addressed by Health Department regulations for onsite septic systems which address soils, depth to groundwater and distance to surface water, shoreline no net loss requirements and critical area buffers.**
 - **Water quantity—By WRIA as determined by WDOE pursuant to WAC 173-548, Methow, WAC 173-549 Okanogan.**
 - **Water quantity—public water supplies—Controlled by WDOE/WDOH water rights certifications and regulations for class A and B water systems.**
 - **Water quantity—exempt wells—The limits of RCW 90.48.050 as interpreted by the courts and enforced by reason of lawful water requirements for building permits, subdivisions, planned unit developments and conditional uses.**
 - **Plants—There will be some displacement of plants in areas where new or expanded development will occur under the proposed Zoning Ordinance. That is an inevitable consequence of a growing population. The County critical area ordinance does protect identified threatened and endangered species and habitats. In addition, the substantial public lands in the county (58% of the county land area) protect the diversity of plant life in the county and new development will have a negligible impact.**
 - **Animals—The County critical areas ordinance does have protections for threatened and endangered wildlife which are presently in place and subject to updates to assure continued protections. The very limited scope of development, and the fact that most occurs in areas of existing development, will have limited if any impact on the animal populations. Recreation activities on public lands may increase as population increases, but the agencies in charge of those lands encourage public access. The regulatory review for projects impacting critical areas and shorelines as well as subdivision, PUD and conditional uses, also consider such impacts through the SEPA process. For larger projects with potential for material impact, more detailed administrative review and approvals are required and provide the tools to provide needed protections and mitigations.**

- Energy and natural resources—New development will impose an incremental increase in energy use and natural resources. But with a growth rate of less than ½ of one percent (0.5%) each year, the incremental increase is well within the capability of local sources to address, and County review mechanisms for users with unusual demand or impact are sufficient to address the unique situation
- Environmental health—The zoning rules do not per se create exposures to situations affecting environmental health. Agriculture, forestry, mining, industry, commercial uses and even households may use materials considered toxic but which are subject to strict regulations. County project review can identify and address the isolated conditions where more detailed investigation and possible conditions or limitations are required.
- Noise—No material increase in ambient background noise is anticipated by reason of new development under the ordinance due to limited growth within a very large area—WDOE noise regulations are deemed sufficient for general purposes and County permitting process can address specific situations.
- Land and shoreline uses—The County review process for building permits, subdivision controls, planned development, conditional uses, shoreline permits, critical area and other controls are considered sufficient to assure that the development occur in a pattern deemed in the best interest of the overall county economy and environment. While any development under land use plans may have some impact, the very low density, slow pace of growth and large size of the county warrants the flexibility granted to potential users under the controls used by the County to control development.
- Housing—The whole purpose of the new Ordinance is to identify where new housing related developments should occur, at what density limits, overlay requirements and at the intensity specified, making provision for the widest variety to serve all possible needs and using the regulatory controls to address possible impacts. Affordability is a very big issue in the county and unnecessary limitations which have the consequence of limiting access or increasing costs to affordable housing is not in the public interest.
- Aesthetics—The County plan does impose bulk and density limits on development which is deemed appropriate for the size and scale of the county. Industrial and agricultural height limits are appropriate for a county with a history of agriculture and forestry activities. No specific criteria have been identified for other aesthetic considerations.
- Light and glare—This is not considered a problem for standard residential development and can be addressed through regulatory controls for larger projects. The County encourages development to consider night sky/dark sky issues in more rural areas, but to date has not made that a requirement as safety at night can be a competing factor.

- Historic and cultural preservation—The County has identified areas of cultural significance which can be discussed when a proponent proposes a project in a possible sensitive area. At that time, appropriate cultural surveys can be required and necessary conditions imposed.
- Transportation—Net traffic increase from new development is very limited, even when including through-travelers and visitors. Emphasizing new development proximate to existing roads, the County six-year road program and state road programs are sufficient to address the increased load and potential impacts from new road constructions and maintenance attributable to the new growth.
- Public services—As a general matter, the limited pace of growth is within the capability of service providers to accommodate through the normal planning processes. Schools, for example, see limited net growth due to population increases, and fire and other emergency services will see increased demand, but not at a level which cannot be accommodated. The reduction in density from one unit per acre to one unit per five acres in the Rural Resource area provides some limits on the size of projects near the public lands interface where fires and other natural hazards may be more prevalent. The County does promote a fire safety program to educate those who choose to live in the more rural areas, but cannot prevent such development.
- Utilities—The limited pace of growth spread across the expanse of the county is not expected to impose a material impact on the area’s utilities and is well within anticipated growth patterns and capabilities to serve.

VII. Summary and conclusion

A. Growth

Even the slow growth anticipated by the County will inevitably bring certain impacts over which the County has no control. But the Zoning Ordinance, combined with the regulatory controls used by the County when assessing proposed developments, allows the County to address and limit impacts where necessary. Upon review, the County has identified no material impacts under either the “no action” alternative or the proposed Zoning Ordinance which are caused by the nature of the uses and densities allowed. Likewise, there is no alternative necessary to the zoning uses which would be necessary to ameliorate development related impacts not already addressed by other means.

At the outset, the County identified the major concerns with the new Comprehensive Plan and Zoning Ordinance to be:

1. Density and Uses

The Zoning Ordinance under review identifies a variety of densities and uses allowed in the different zones. With respect to the allowed densities and uses, and considering the limited population growth and dispersed nature of development in the county identified in the Comprehensive Plan:

- Whether the County has project review and development controls in place to ensure that allowed densities will not cause a reasonable probability of more than a moderate impact to the natural elements of the environment including earth, air and both surface and ground water.

The answer is that the regulatory controls in place in the county are adequate to address these issues and avoid or require mitigation to prevent significant environmental harm or impacts.

- Whether the County has project review and development controls in place to ensure that allowed densities will not cause a reasonable probability of more than a moderate impact to the elements of the built environment including transportation, public facilities, utilities and public safety.

The answer is that the regulatory controls in place are adequate to address these issues.

2. Critical Areas, Resource Lands, and Shorelines

Whether the County has project review and development controls in place to ensure that:

- allowed densities and uses are managed to provide protection of critical areas, and encourage conservation of resource lands necessary to the promotion of natural resource industries
- achieve the goals and policies of the Shoreline Management Act
- to avoid a reasonable probability of more than a moderate impact to the affected environments by a proposed use under the new ordinance under review, and
- to avoid or mitigate or address potential adverse impacts identified during the permit review process.

The answer is that the regulatory controls in place in the county are adequate to address these issues and avoid or require mitigation to prevent significant environmental harm or impacts.

3. The Adequacy and Availability of Lawful Water Supplies and Protection of Water Quality

The answer is that the regulatory controls in place in the county are adequate to address these issues and avoid or require mitigation to prevent significant environmental harm or impacts.

APPENDICES

Appendix 1	Scoping Notice
Appendix 2	Comments to scoping notice
Appendix 3	Response to comments to scoping notice
Appendix 4	Maps of each district and summary sheets for each <ul style="list-style-type: none">a. Orovilleb. Tonasketc. Omakd. Nespeleme. Okanoganf. Brewsterg. Paterosh. Methowi. Zoning by School Districtj. Old Zoning by School Districtk. Okanogan County Population by School Districtl. Ownership by School District
Appendix 5	County Comprehensive Plan Maps <ul style="list-style-type: none">a. Comprehensive Plan Mapb. Transportation Map
Appendix 6	Prior zoning map and text
Appendix 7	Proposed zoning map
Appendix 8	Proposed zoning text
Appendix 9	District Use Chart
Appendix 10	OFM Estimated population growth for Okanogan County through 2040 <ul style="list-style-type: none">10A District Data10B Septic Permit
Appendix 11	Methow and Okanogan County water flows.
Appendix 12	Critical area maps
Appendix 13	WDFW Acquisitions 1940-2015

Appendix 14	15A Census of Agriculture published annually by the Department of Agriculture (2012)
	15B Agriculture by School Districts
	15C District Farmland Designation
Appendix 15	Burned Area Maps