

## Lauren Davidson

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**From:** Perry Huston  
**Sent:** Tuesday, May 03, 2016 4:25 PM  
**To:** Phil Millam  
**Cc:** Lauren Davidson; Angela Hubbard  
**Subject:** RE: Cottonwood Variance

Yes I will.

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**From:** Phil Millam [<mailto:phil.millam@gmail.com>]  
**Sent:** Tuesday, May 03, 2016 3:47 PM  
**To:** Perry Huston  
**Subject:** Cottonwood Variance

Perry, could you include our comments (attached) on the Gibbons property with the written comments that the Planning Commission comments is considering on the zone code? There are various zone code references and we would like it on the record.

Thank you,

Phil Millam  
Vice-chair, MVCC

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# The Methow Valley Citizens Council

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Dave Hilton, Environmental Health Director

Okanogan County Public Health District

P.O. Box 231

Okanogan, WA 98840

Subject: Gibbons On-Site Sewage Variance Request

April 26, 2016

Dear Mr. Hilton,

Thank you for the opportunity to comment on the above referenced variance. The Methow Valley Citizens Council's (MVCC) mission is to raise a strong community voice for protection of the Methow Valley's natural environment and rural character.

Issuing a variance to Tom and Tawnyel Gibbons, allowing the use of a holding tank sewage system to serve a temporary use trailer located at 13 Cottonwood Lane, appears to be a reasonable response given the situation, and MVCC has no objection to this variance. However, the requested variance and those that preceded it (Leuenberger, Vande Griend, Solie, Hays) are symptomatic of a much larger issue, which is the lack of coordination between the Health District, the Building and Planning Departments, and the Assessor's Office. Such coordination would ensure that all potential developments follow the correct permitting and regulatory pathways, before development occurs.

As we understand it, county code presently prohibits structures intended for habitation and sewage disposal facilities within the 100 year floodplain, in the Methow Review District (MRD). Yet numerous cabins, recreational vehicle carports, and outbuildings are located in the Cottonwood Lane development; many of these were built without permits (after 1974, some in recent years), and have utilized a variety of methods for sewage disposal. This situation is not unique to Cottonwood Lane. There are other sites on the Chewuch, sites within the Cedarosa and Twispavia neighborhoods, and likely sites elsewhere that share this problem of unpermitted or improperly permitted nonconforming floodplain development.

In situations like this where structures were not built legally, permit fees (and perhaps property taxes) were avoided, and now the owners or purchasers desire to retroactively make their developments legal. While MVCC does not advocate removal of the offending structures, we do encourage the county and Health District work together to avoid this situation in the future.

It appears that a number of part time and full time residents develop their land in phases, often starting with obtaining a permit for a septic system and a well, without thought to the underlying zoning and building codes, and existing Critical Areas (including wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and shorelines). Certain assumptions on size of dwelling, number of bathrooms, number of inhabitants

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etc, go into the application for on-site sewage disposal. If the development meets the state regulations, the septic permit is issued by the Health District, (or in this case, a variance is processed) and the landowner may think that any future building will meet the Zone Code and Critical Areas requirements. In fact, it appears that the Planning Department may have no knowledge of the development. Some people do not even bother with permits for on-site sewage disposal. Only the Health District enforces violations and requires retroactive corrections.

If the landowner applies for a building permit, a site plan is required, and the Planning Department reviews it against the Zone Code, Critical Areas and other requirements. If a structure is built without a building permit, there is no such Zone Code review. Additionally, as we understand it, the Assessor may become aware of the building and assess taxes, but not retroactively and without penalty. As a matter of policy, the Assessor does not notify the Building Department of unpermitted or nonconforming structures. If the landowner does retroactively apply for a building permit, he or she may be required to upgrade to meet code and pay the permit fee, but again without penalty.

***There appears to be no incentive to obtain a legal building permit if proceeding without one will delay paying property taxes and other fees with no penalty.*** This system needs to be fixed. Not only are structures being built in prohibited areas, they are being built without permits and payment of the appropriate fees and taxes. Meanwhile, newspapers report that Okanogan County is facing a financial crisis.

MVCC recommends:

1. That on-site sewage disposal permits should not be issued without advising the landowner applicant of the requirement for a Site Analysis, as well as any underlying Zoning and Critical Area requirements for the property, via the Planning Department. Requiring the landowner to consult with the Planning Department prior to approval would ensure that the landowner is aware of the permitting steps outlined in the "Develop your Dream" document. At a minimum, the landowner should be required to sign a stipulation as part of the on-site sewage permit, acknowledging that receipt of such a permit does not imply approval for any development beyond the sewage disposal system.
2. The County Assessor's office should immediately advise the Building Department if it discovers unpermitted structures. Taxes should be assessed retroactively to the date of construction, not upon discovery of the structure (we understand that a building permit automatically advises the Assessor of a taxable situation).
3. The Building Department should immediately consult with the Planning Department if it discovers unpermitted or nonconforming structures, and vice versa. The Planning Department should follow up with the property owner and other relevant agencies, and

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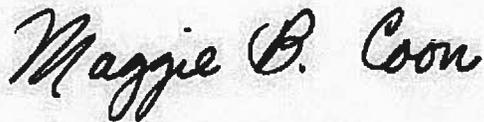
assess penalties as necessary to ensure that the proper permitting pathway is followed and enforced for each type of proposed development.

4. The Health District should continue to require that landowners retroactively upgrade on-site sewage facilities to meet the regulations upon discovery of illegal systems. The Health District should advise the Building Department if illegal structures are found. The Health District should continue to require that deed notices be put in place of variance requirements. Undeveloped land with similar circumstances as in Cottonwood Lane should not receive variances but be required to pursue all permit requirements pursuant to county code.
5. Okanogan County should issue a notice to the public that no variances will be allowed in the future for new construction without the proper permits, and that penalties and taxes will apply retroactively.

As noted previously, MVCC is aware of other developments similar to Cottonwood Lane, many of which would be preventable if Okanogan County would consistently coordinate and consult among departments, offices, and districts on review and approval of development applications and enforcement of violations. MVCC stands ready to support such efforts.

Thank you for considering our comments. Please feel free to contact us with any questions you may have about our concerns and recommendations.

Sincerely,



Maggie Coon  
MVCC Board Chair

Cc: Okanogan County Board of Health, Planning Department, Building Department, Assessor's Office, WA Department of Ecology