



## Planning Commission Meeting Minutes

1 A meeting of the Okanogan County Regional Planning Commission was held on Monday,  
2 November 25, 2013 at 7:00 pm. The meeting was held in the Commissioners' Hearing Room 123  
3 5th Ave N., Okanogan, WA.

4 **PLANNING COMMISSION MEMBERS** present included: Chair Albert Roberts, Vice Chair Phil  
5 Dart, Commission Member Schulz, Commission Member Mark Miller, and Commission Member  
6 Tim Woolsey

7 **OKANOGAN COUNTY STAFF MEMBERS** present included: Director of Planning Perry Huston,  
8 Senior Planner Ben Rough DPA Steve Bozarth and Okanogan County Clerk of the Board Laleña  
9 Johns

### 10 **APPLICANTS OR THEIR REPRESENTATIVES:**

### 11 **OTHERS IN ATTENDANCE:**

12 Chair Roberts called the meeting to order at 7:00 pm.

### 13 **Approval of November 25, 2013 Agenda**

14 Commission Member Schulz moved to approve the November 25, 2013 Planning Commission  
15 Meeting Agenda. Commission Member Dart seconded the motion. Motion passed.

### 16 **Approval of October 28, 2013 Meeting Minutes**

17 Commission Member Dart moved to approve the October 28, 2013 Planning Commission Meeting  
18 Minutes as presented. Commission Member Schulz seconded the motion. Motion passed.

19 Commission Member Dart moved to amend the minutes on line 214 to change the starting time for  
20 the Trailside Planned Development hearing from 7:30 p.m. to 7:00 p.m. Motion was seconded by  
21 Commission Member Schulz. Motion passed.

### 22 • **Public Hearing Item #1**

### 23 **Code Amendment CA 2013-1 "SEPA Exemptions" – Continuance**

24  
25 Sr. Planner Ben Rough gave a brief summary and stated the hearing is a continuance of the Code  
26 amendment "SEPA exemptions." Sr. Planner Rough stated the final draft of the resolution is  
27 prepared and ready to sign it if the board finds it appropriate. If amendments are required he asked  
28 the board to authorize Chairman Roberts to sign at a later date.

29  
30 Commission Member Dart moved to approve the resolution to the BOCC, including exhibits A  
31 through C as well as any wording that needed to be added. Commission Member Schulz seconded  
32 the motion. Motion carried.

33 **Public Hearing Item #2**

34 ❖ **Trailside Planned Development 2012-1**

35 Director Huston gave a summary of the discussions from the previous meeting. The BOCC held a  
36 SEPA appeal hearing and the SEPA appeal was dismissed, not due to there being no SEPA issues  
37 brought forward, because there were, but because it was not brought to the right venue. He stated  
38 the proponent is here and Sr. Planner Rough is available for questions.

39 Sr. Planner Rough gave his summary of the Trailside application as presented. The application had  
40 not changed from the previous version. One thing that was added to the commissions November  
41 packet was the new comments. Planner Rough handed those in for the record.

42 Chair Roberts asked if there were questions of the board. There were none at that time.

43 Chair Roberts requested the sign in sheets that listed people who wanted to testify on the **Trailside**  
44 **Planned Development 2012-1.**

45 Chair Roberts asked that when called that person is to come up and testify.

46 Ken Madden 508 Goat Creek Road Mazama. Mr. Madden provided a draft plat map of the Trailside  
47 Planned Development. He set up some large graphics for his testimony. The last time he met there  
48 were two items to be taken care of. The first item was the SEPA appeal which was heard by the  
49 BOCC and was dismissed. The second item happened at the end of the last meeting. There was  
50 public testimony that there was some material defect in the code 17.19. He stated there are no  
51 loopholes in the PD code. This PD is legal and satisfies the code. He read from his proposal and  
52 pointed to the property layout in Mazama. The lot is not a regular geographical shape. From the  
53 assessor's records he provided a sample photo of a house and garage. He provided another photo  
54 that shows proposed lots 2 and 3, both sites have very few trees in the outline of the building site.  
55 The outline is 45x65 ft. square, just under 3000 sq. ft. He described the three lots and the open  
56 space. The Zone of influence is less than 25% of the overall 8.66 acre site. He proposed three  
57 building sites that mirror other land development layouts in the Chetaqua Ranch PD. He described  
58 his proposed measures to mitigate such as controlled water consumption with a group feed  
59 metered well with restrictors, dual flow toilets, one access road with one connection to Goat Creek  
60 Rd, air quality benefits due to restricted wood burning stoves, fire protection measures due to metal  
61 roofs, and geothermal cooling. He asked the board to approve the PD.

62 Chair Roberts asked Mr. Madden to stand by for any questions from the audience.

63 Bill Pope, owner of the Mazama Country Inn across from the applicant's project. Mr. Pope  
64 explained that there was a mistake in the RRD & MRD zone language. The statute was to have  
65 been updated but was not. The 8.5 acres should not be a planned development. According to the  
66 logic, this was never something the commissioner wanted. He stated the zones of influence was not  
67 meant to cover anything less than 10 acres. He asked the board to consider this. There is a

68 jurisdictional issue. Pre-application is required in the Mazama area and it was not considered in this  
69 instance. He urged the commissioners to review that chapter. It cannot be processed without the  
70 pre-application procedure. He pointed to his whiteboard. The lots are not clustered and according to  
71 the rules the PD is not clustered, they are spread evenly across the property. He explained some of  
72 the solar benefits would be unlikely. Mr. Madden should not be entitled to a bonus due to road  
73 design either. It is not innovative. He stated the open space abutment is less than 100 ft. along the  
74 edge in the zone of influence. He doesn't believe an accessory building is permitted. The lot size  
75 must be 5 acres and he doesn't believe there is anything in county code that permits three lots on  
76 8.5 acres.

77 John Sunderlund The reason the BOCC developed the Mazama Advisory Committee was to  
78 address these types of issues to avoid planned development designs such as this. Incentives were  
79 discussed and their benefits. Open space provided incentive features and it is the public benefit that  
80 earns the bonus. The concept of clustering requires linear or convex boundaries. The Planning  
81 Director is allowed to an extra 5%. Mr. Sunderlund provided a proposal map with red, yellow, and  
82 purple zones. Some of the zones of influence are outside the PD. The overall open space is only  
83 53% not the required 75%. The clustering requirements have not been met. Another item of  
84 concern is that the staff report stated that the CCR should not be present in the proposal and he  
85 disagrees with that. He described Legal sufficiency and what is required for the feature credit. The  
86 features are listed with no assurance that those are legally sufficient.

87 Peter Hill 10 Trailside and neighbor of this development. He discussed the pertinent exemptions in  
88 the code. This PD is less than the min. 10 acres. The Solar feature isn't earnest in its intent. The  
89 road is not an innovative design due to one for each site. He stated it is a disbursed design not  
90 clustered or contiguous. The private road is not a public benefit road. The accessory dwelling is an  
91 issue and puts additional residences on the property. The protections are put in place to protect and  
92 conform to the spirit of the community design. The open space in not a public benefit. This PD is  
93 against the spirit of the town and should be prevented from happening.

94 Kim Dales owns property at 50 Trailside Rd. She said that Mr. Madden purchased the property and  
95 was told it was rural residential and only one home could be built on the property. She said one  
96 reason she purchased her property was because the area was rural. She complained about not  
97 receiving notification of the PD and then wanted to slow down the project. She felt the development  
98 didn't meet the qualities of clustering. The incentive features were not present. She hopes the board  
99 will consider her testimony. All the larger lots were meant for only one single family dwelling.

100 Taryn Darlinghill she owns property at 10 Trailside Rd. Her property is most affected. Careful  
101 planning is integral to Methow's success. Everything is open and nothing is on the ridgeline. Her  
102 fear is that if approved this PD will stand as a precedence and things will change. Careful planning  
103 is in place. She wants the commissioners to be accountable to the extra density bonuses. She  
104 wants to make sure there is teeth to ensure the developer follows the proper laws.

105 John Hayes land use planner who has completed 97% of the planned developments in the area.  
106 The reason for doing planned development is the densities. He talked about the small properties.  
107 He discussed the water quality tax. He discussed the incentives and the limits regarding soil. He  
108 talked about the past discussions to provide a ULID for the area. It all ties back to history. He  
109 created the 8.6 acre property. It was outside the commercial property area. Bottom line is he never  
110 approached it for 200% on any of them. A guest house included with the main house has never  
111 happened. He stated there is a legal aspect to this that and it should come down to that. Two  
112 dwellings are preposterous.

113 Chair Roberts finished those persons from the list. He asked if anyone else wished to testify not on  
114 the list.

115 Ken Westman He stated he did multiple short plats. He indicated he presently resides at 33 Crumb  
116 Rd. He is on the Mazama Advisory Committee. He said life in the Upper Methow is different than  
117 over here and they do the best they can to preserve their country side. He thinks this is wrong and if  
118 approved, it establishes a dangerous precedence.

119 There being no further testimony, Chair Roberts closed public testimony.

120 Director Huston asked how the board would like to proceed.

121 Commission Member Schulz asked if the Mazama Advisory Committee was consulted. Director  
122 Huston stated he did not know and did not follow up on that. Commission Member Schulz asked if  
123 proper notices and notifications were completed. Sr. Planner Rough stated they do not go out in the  
124 field to see if the property was posted however there are notarized affidavits provided to the  
125 Planning Dept. from the developer that the property was posted. Chair Roberts asked whether  
126 notices were sent out to adjacent land owners. Sr. Planner Rough explained the notices were sent  
127 out in accordance with the requirement, placed in the newspaper of record, and the notices were  
128 posted.

129 Commission Member Dart asked about the zones of influence. How does the Planning Department  
130 come up with those zones and are they accurate. Director Huston stated there was some previous  
131 discussion about the planned development but staff is not prepared to make a recommendation  
132 today.

133 Chair Roberts asked about the forest management and how they intend to reduce the fire hazard.  
134 Sr. Planner Rough stated that is a good question for the proponent. Each property is unique. Chair  
135 Roberts asked if there was something in county code to address this. Sr. Planner Rough replied  
136 that there is a handbook used for guidelines, however it is not enforced.

137 Commission Member Dart asked about fire ingress and egress. Sr. Planner Rough stated the  
138 county's road standards are the minimum road standards. The project can be conditioned if it is  
139 really an issue.

140 Commission Member Woolsey asked about how the Mazama Advisory Committee advises the  
141 developer and whether the planning staff attends those discussions. Director Huston stated when  
142 they are asked to attend they do. Commission Member Woolsey asked Director Huston if the  
143 department was not making a recommendation because they did not agree with the legal  
144 conclusions made by the proponent. Director Huston replied there could be arguments for both  
145 sides and it is up to the Planning Commission to decide. Commission Member Woolsey stated that  
146 the Planning Department should do more to guide the Planning Commission. Director Huston  
147 responded that the Commission is responsible for the final decision.

148 Commission Member Miller stated he would not speculate that the proponent knew about the error,  
149 as the code is being referred to. He is more concerned with the lot densities and open space. He  
150 said it creates some question about what a PD is, in the future.

151 Commission Member Schulz moved to recommend denial of the Trailside PD 2012-1 to the County

152 Commissioners due to the following reasons:

- 153 1. Proposed lots are not clustered as required by OCC 17.19-037.
- 154 2. In the Pre-application process there was no attempt made to consult Mazama Advisory  
155 Committee as required under OCC 17.14A-110G.
- 156 3. Application is not entitled to the maximum density under OCC 17.19-030.
- 157 4. The 8.5 acres is below the 10 acre minimum allowed for that zone.
- 158 5. The detached accessory dwelling may be allowed in certain circumstances when a family  
159 hardship is established, but is not allowed here.
- 160 6. This project adversely affects neighboring properties.

161 Commission Member Miller seconded the motion.

162 Commission Member Woolsey proposed the motion be amended by deleting item #4 on the list.  
163 Commission Member Woolsey stated he felt that the commission might run into a little bit of trouble  
164 with the black letter of the law with their decision, otherwise he likes the motion.

165 Commission Member Dart seconded the amendment motion made by Commission member  
166 Woolsey.

167 Commission Chairman Roberts called for a vote, motion passed with Commission Member Schulz  
168 opposed.

169 Commission Member Dart asked whether there was any legal consulting done whether the  
170 accessory buildings were legal on a lot like this. Directory Huston responded that the Code in the  
171 Methow says you can have an accessory dwelling within certain restrictions on a legally conforming  
172 lot.

173 Sr. Planner Rough pointed out that a PD is a rezone and do those regulations carry over. The code  
174 is not clear, and the Planning Commission can make that decision.

175 Commission Chairman Roberts asked for a vote on the motion to deny Trailside PD 2012-1. The  
176 Motion passed.

177 **Public Hearing Item #3**

178 ❖ **Code Amendment CA 2013-2 "Marijuana Operations"**

179  
180 Director Huston discussed several items to frame the nature of the hearing. The board it is not  
181 here to discuss whether Marijuana is legal or not. That has already been decided. This is a  
182 discussion on where and how the county will permit the business. There is a challenge due to the  
183 state creating an abbreviated application process. The commissioners have set a Public Hearing  
184 for December 9 at 6:00 p.m. in order to expedite the process. He recommended the commission  
185 members gather everything they need in order to provide the BOCC with their recommendation  
186 tonight. This will be valuable but is not everything the BOCC will use in making their decision.

187  
188 Chair Roberts asked for definitions of producer, processor, and retailer.  
189

190 Commission Member Schulz asked what a producer is in terms of a fruit grower. He would rather  
191 see it referred to as producer/grower so it is less confusing.  
192

193 Director Huston introduced Steve Bozarth, Okanogan County DPA. Commission Member Dart  
194 asked about the county being in the middle of it. DPA Bozarth advised against going into anything  
195 here other than what is at hand.  
196

197 Chair Roberts stated those who testify have a 5 minute time limit.  
198

199 Michael Buffalo Mazzetti stated he is at a disadvantaged because he doesn't have the staff report  
200 that the commission has and doesn't know what is before them. He stated the benefits of  
201 Marijuana. He read from his prepared list. He stated marijuana is an economical benefit unlike any  
202 other agricultural product. If the county requires a CUP it is redundant government control. The  
203 state is tightly regulating it already and if more layers are added to that it will drive business away.  
204 Republicans have historically been against regulatory control. In his opinion there should be no  
205 conditional use permits required. The state law has already put enough regulations on this type of  
206 business.  
207

208 Martha Lynch requested the board not require a conditional use permit on cannabis. She doesn't  
209 want the county to supersede the state law. Please don't require additional government oversight.  
210 As a citizen she would like to see less regulation.  
211

212 Stacy Oakland submitted comments already she is in favor of the conditional use permits. She  
213 would like the county to error on the side of caution and keep in mind that the liquor enforcement  
214 officer will be not be able to control adequately.  
215

216 Andi Ervin submitted comments in writing. She supports adoption of conditional use permits.  
217 Marijuana is significantly different than apples. She discussed the increased use of marijuana by  
218 youth. She listed the items that should be added to the conditional use permit. She suggested  
219 adding a new section specific to businesses, provide a Title assignment clause and reassignment  
220 of the permit, additional conditions imposed to protect nearby residences, and one year permits  
221 and required review.  
222

223 Lesia Eiffert provided her comments in writing. She read from them. She is in favor of amending  
224 the code to identify permit requirements for marijuana operations. She is concerned about  
225 increase access to the marijuana by youth in the county. She read her recommendations to be  
226 included in the code amendment.  
227

228 Don Grey explained what he has heard. State law requires a producer to keep paperwork and  
229 receipts when product is sold. The entire process is a mountain of paperwork. He stated I 502 was  
230 passed by 55.7% of the people in the state and responsibility was given to the state to control it.  
231 The federal government insisted that the product not be given to anyone under 21 years old and  
232 that is why records must be kept. The paperwork for the disposal of the byproduct of the materials  
233 must also be kept. He encouraged the commissioners to facilitate this.  
234

235 Dave Sorenson encouraged the board to make no recommendation to require a conditional use  
236 permit for producer and processor of marijuana. The state is going to regulate the market and he  
237 believes the county should not regulate it as well. As a builder he would like to be available to  
238 those putting these projects together. He feels this is a good economic generator. It will continue to  
239 be a problem for children exposed to marijuana. There is no other agricultural product that requires

240 CUP. He discussed Douglas County and what they passed in regards to marijuana and that it not  
241 be treated any different than other agriculture product or business.

242  
243 David Kurt represents 400 students in Omak High school. He stated his son will not be addicted to  
244 apples and this is a schedule 1 drug and it should be treated differently than apples. The LCB  
245 cannot regulate the liquor now, how are they going to regulate marijuana. His concern is that we  
246 should support our youth. He asked the board to remain open minded on this.

247  
248 Sandy Sidney She said this is economics and it's an opportunity to add to the tax base and should  
249 include consideration of the schools. Parents are responsible for their children. Recognize that the  
250 state already has regulation.

251  
252 Jeremy Moberg provided some history of the process. Originally the state wasn't going to allow  
253 growing cannabis outdoors. He testified with Joel Kretz to change this. He addressed the tax  
254 support to bring the tax back to the counties. It will be lobbied to return the tax back in proportion to  
255 the amount produced. The county's ordinance is ill conceived and too broad. The ordinance  
256 includes all three operations. It is legal by initiative. Marijuana is a legal crop and should be  
257 addressed as agricultural product. The schools are already protected in the state law. There is no  
258 other regulation that isn't already placed by the state. He discussed legal jeopardy. There are  
259 many benefits associated by it. A very small area will provide very little impact to the county. He  
260 asked the board to recommend no conditional use permits.

261 Dave Jorgenson member of community coalition. He is concerned about keeping marijuana away  
262 from kids under 21 years old. The age of first use increases for potential future use. There are some  
263 commonalities among the groups. The conditional uses they are asking for to ensure the law could  
264 work for business profits but also keep it away from kids. The conditional use permits will ensure  
265 the state laws are followed.

266 Laurie Jones Omak Community Coalition, Community Health Director Public Health. She  
267 encouraged the board to consider putting in place the CUP requirement. Most users state  
268 marijuana as the number one drug. There are three LCB enforcement officers in the state. They will  
269 be hard pressed to enforce the laws and will be challenged to do so. The coalition strongly  
270 encourages the board to place conditions on this.

271 Robert Hankins explained the CUP process Oroville used when it had a large tobacco growing  
272 area. It was not regulated and he disagrees that a CUP should be required for marijuana. He hopes  
273 that there is no more regulation placed on cannabis because he would like to see more growing  
274 here. He would like to encourage that it be grown for food, fiber, and fuel. He fears that by setting  
275 precedence here that it will inhibit the future growing and uses of hemp. He believes the board will  
276 tie the hands of economics if they condition this. Look at the retail side of it under a different  
277 proposal.

278 Blain Sullivan Ellisforde He stated he is a state licensed applicator. Cannabis is a potential noxious  
279 weed. Restricted pesticides can only be used as labelled. The cannabis could be providing pockets  
280 of pests that could invade neighboring landowners. There could be pests the cannabis plants  
281 harbor. The historical techniques have been devastating to the environments. Under the state law it  
282 might not be considered an issue.

283 Mikel Gredvig Tonasket. He doesn't agree with requiring a CUP. The citizens voted to legalize  
284 marijuana. It is not a product that will drive people crazy. He believes a CUP is not necessary to

285 grow this product in this county.

286 Kinnidy Hart is against requiring a CUP. Keeping it out of the hands of those under 21 is already  
287 addressed by state law. She doesn't think the county should take on the enforcement of the  
288 product.

289 Steve Wortok stated the cannabis is the only agriculture product that will be thoroughly regulated.  
290 He thinks access to marijuana is not good for us as a people. Economically it goes into the hands of  
291 drug dealers and gives opportunity to syphon off some of the funds for good use. We have an  
292 opportunity to monitor from the ground up. Only ag product that will be grown under security 24/7  
293 very difficult to slip it through the back door very easily. It will be expensive to grow. He encouraged  
294 the board to read the law and understand it. He believes the law already provides protection of the  
295 youth.

296 James Depanyard The National Forest has many marijuana grows which are well guarded.  
297 Entering the forest is dangerous and many fear what could happen if they come across a grow. He  
298 recommends the county follow the state of Washington and regulate this so those who do it illegally  
299 are prosecuted by law.

300 Don Kilpatrick He stated children have access to marijuana already. Marijuana is the least of our  
301 problems. Alcohol is the gateway drug not marijuana. He stated now there is a chance to do it right.  
302 There is so much bad information out there. The county doesn't need to place any more laws on  
303 this because there are plenty already by the state. He hopes and prays the community realizes it is  
304 here to stay.

305 Chair Roberts asked if there was anyone else who wished to testify. There being no other  
306 testimony, Chair Roberts closed the meeting to public testimony.

307 Commission Member Dart asked staff to run through the CUP process. Director Huston explained.  
308 The time frame for issuing a CUP is 30-60 days and is a realistic timeline.

309 Commission Member Schulz is sick and tired of unfunded mandates. The county should get its fair  
310 share of tax revenue. He expressed concern over the county having to enforce the state law. Steve  
311 Bozarth stated he doesn't know whether the state is set up to handle enforcement. Director Huston  
312 stated the county does charge a CUP fee that is adequate and all costs would be covered. Costs  
313 for ongoing enforcement is unknown.

314 Commission Member Miller asked Steve Bozarth if he read the law. He replied that he didn't read  
315 the whole thing but has skimmed it. Commission Member Miller asked about fence height. He  
316 asked if there was a fence maximum in any of the zones in the county. Sr. Planner Rough  
317 explained anything above 8 ft. could be considered a structure. He also has not seen a year round  
318 water permit yet. He discussed the Open Space act and stated the taxable rate goes way down.

319 Commission Member Dart stated this would be the only agricultural product that would require a  
320 CUP.

321 Commission Member Woolsey moved to recommend the commissioners not regulate the growing,  
322 producing or retail of marijuana. Commission Member Dart inserted that he would like to see the  
323 retail part be under a CUP. Commission Member Woolsey stood by his motion. Chair Robert called

324 for the vote. Commission Member Schulz opposed, three in favor. Motion Passed.

325 **Old Business**

326 Director Huston gave a brief update on the hearings examiner hire. Commission Member Dart  
327 asked how the Hearings examiner will affect the Planning Commission work load. Director Huston  
328 stated there will still be substantial work for the commission.

329 **New Business**

330 The Planning Commission will set December 16<sup>th</sup> for a special meeting in December. The item is a  
331 Final Determination for a PD. The regularly scheduled meeting of December 23rd will not be held.

332 Vice Chair Woolsey moved to adjourn the meeting. Commission Member Dart seconded the  
333 motion. Motion passed.

334 **Adjourn**

335 Chair Roberts adjourned the meeting at 10:00 p.m.

336 **SUMMARY OF MOTIONS**

337 *Vice Chair Dart moved to approve the November 25<sup>th</sup>, 2013 Planning Commission Meeting*  
338 *Agenda as amended. Commission Member Schulz seconded the motion. Motion passed.*

339 *Commission Vice Chair Dart moved to approve the October 28, 2013 Planning Commission*  
340 *Meeting Minutes as presented. Commission Member Schulz seconded the motion. Motion*  
341 *passed.*

342 *Commission Vice Chair Dart moved to amend the previously approved minutes.*  
343 *Commission Member Schulz seconded. The motion passed.*

344 *Commission Member Schulz moved to recommend denial of the Trailside PD 2012-1 to the*  
345 *County. Motion passed.*

346 *Commission Member Woolsey moved to amend the reasons for denial of Trailside PD 2012-*  
347 *1. Commission Member Dart seconded the motion. The motion passed with Commission*  
348 *Member Schulz opposing.*

349 *Commission Member Woolsey moved to recommend the commissioners not regulate the*  
350 *growing, producing or retail of marijuana.*

351 Prepared by Laleña Johns  
352 Okanogan County Clerk of the Board