

**BOARD OF OKANOGAN COUNTY COMMISSIONERS**  
**06/21/2017**

**In Attendance at Meeting:**

Jim DeTro- JD (BOCC)  
Andy Hover - AH (BOCC)  
Chris Branch - CB (BOCC)  
Lalena Johns - LJ (County Clerk)  
Perry Huston - PH (Admininstrator & Planning Director)  
Angie Hubbard - AHu (Planning Department)  
Albert Lin - AL (Deputy Assistant Prosecutor)  
Brian DePlace - BDP (Methow Valley Citizen's Council)

*These notes have been taken by one of several volunteer citizen note takers and published on the website of Represent Okanogan County (ROC.) The notes have been taken as close to verbatim as possible, with any writer's comments or explanations in italics. For officially approved minutes of Board of Commissioner meetings, normally published at a later date, see [www.okanogan-county.org](http://www.okanogan-county.org).*

**Summary of Discussion - Shoreline Master Program (SMP)**

*A broad range of topics were discussed. The clarification of buffers vs. setbacks is being worked on. The commissioners examined various aerial views of sample shoreline locations designated as 'Rural' to determine how appropriate the restrictions imposed by the draft SMP would be. The possibility of amending land use designations within the Shoreline was raised. AH questioned the counting of restoration projects as mitigation for loss of ecological function due to development allowed by the SMP. 'No net loss' was discussed at length. Overlapping regulations - SMP, Critical Areas, floodplain management, zone code - were discussed. The commissioners expressed the desire to simplify and integrate the various regulations and to make them readily understandable to landowners. PH noted that, at some threshold of change to the existing document, more public input will be required. AH expressed concerns over liability to the County if development is allowed in hazardous areas. CB suggested incorporating the floodplain in the SMP to reduce permitting requirements. CB also suggested deferring examination of designations until after deciding if proposed setbacks are adequate. Commissioners will review the revised definitions provided by Planning and the 'Development Standards' and 'Use' charts prior to continuing discussions on the afternoon of Monday the 26<sup>th</sup>.*

**9:00 Meeting starts**

**Shoreline Master Program (Continued from 06/12 meeting)**

PH - *(clarifies definitions - wetland buffer, vegetation management area)* Setback vs. buffer. Recommend tidying up the definitions and go throughout the document. Walk language from wetland buffer into veg. management.

CB - Suggest waiting until we (?)

PH - Lennard (*Lennard Jordan, with the Department of Ecology (ECY)*) is coming to town on the 28<sup>th</sup>. Meet with Hubbard and I, unless you want to attend. Go over where we have gotten with the document. One concern is that too many modifications will require another public comment period before adoption. They have initiated the adoption process - it is DOE's document right now.

AH - *(inaudible)*

PH - Everything we have done so far has been in response to DOE's comments. Go to maps?

AH - Methow River. Everyone has a stake in that one.

AHu *brings up map of Twisp - Winthrop. Natural, conservancy, shorelines residential,*

AH - On Methow you have a lot of Natural *(one of the designations for land within the shoreline zone)*

AHu - Conservation easements,

PH - Some could be based on scoring...

AHu *goes to scoring table for the property shown*

AH - Perry - What is Conservancy *(another designation)?*

PH - In some cases, based on score. In some cases based on more restrictive uses *(CE?)*

AH - One concern with no net loss - restoration projects, those actually lend to more development.

PH - Understand. My interpretation is that is consistent with no net loss. Big distinction between critical areas and shoreline program. Critical areas you protect. Shoreline program allows development, as long as no net loss.

AH - Let's say that this is adopted today. Then, somebody puts a CE on a property...

PH - You have to amend your designation.

AH - So, any future enhancement is additional, and there is no change to future development.?

PH - No. You would have to go through process to amend the Shoreline Program.

CB - So, if it is designated as Natural, it doesn't guarantee that there is enhancement?

PH - No. It is not automatic. You and ECY would have to amend the document. Interplay with SMP, zoning.

AH - So, when planning commission was going through document... No net loss. Taking a CE, making it 'Natural', did that allow them to...

PH - That decision happened after the planning commission had the document.

AH - So, that was a net increase in protection?

PH - Right. They made effort to identify areas where they would change designation, mostly around lakes.

CB - If you were changing designations and it was already in CE, then it would make sense to put it in 'Natural'.

*AHu goes through scoring table.*

CB - Critical areas taken from WDFW's habitat?

AHu - Yes.

CB - No net loss info taken from what area? County-wide, same basin?

PH - Discussion about reducing setback was largely site-specific. They never drilled in on that.

AHu - Mitigation plan for encroaching on setback. Site-specific.

CB - Is there a separation between what is in-kind and what is out-of-kind?

PH - Nothing to say that it can't be managed. One discussion was preserving one shoreline to mitigate for degrading another - no.

CB - If you say you are affecting one function, then mitigation requires that you address that function somewhere else.

PH - Yes.

CB - *(too rapid to record)* About using a professional.

AHu - Right. *(too rapid)*.

CB - Lake Osoyoos. They encroached on a buffer, but turned a Cat. 2 wetland into a Cat. 3.

AH - Is there a layer showing Fish & Wildlife (WDFW) habitat conservation areas?

AHu - No, but I can go get it.

AH - Multiple comments talking about the finding shall show no net loss of ecological functions. Not too hard with a wide buffer, but getting down to 25 ft., that is going to be tougher.

AHu - Depends on species you are protecting. *(Goes to get the maps)*

CB - There was an administration *(describes a joke - 'No, net loss)*

*Note taker provides input regarding enhancement of ecological function associated with 'restoration' projects.*

*AHu brings up aerial view. Discussion of setbacks, allowable uses. Discussion of severe channel migration zone. Designated setback of 50 ft.*

*AH reads CUP language for developing within the severe CMZ, including limitations on structural bank protection.*

AH - *(to note taker)* That sounds pretty protective.

*Note taker points out that when the county commissioners declare a state of emergency due to flooding, land owners are allowed to do anything to protect their houses from the river, at the worst possible time for stabilizing banks. That is when a lot of rip rap is end-dumped into the river. She also notes that at some time in the future, a bridge will wash out, eliminating access for dump trucks, and quite a few houses may end up in the river.*

PH - Move away from shoreline critical areas. (*too rapid*)

*AHu leaves to get the 100 year floodplain layer.*

PH - Time to time, conversation of consolidating all the (*too rapid*)

CB - What would it take to add your zoning requirements to the SMP? The most significant piece of restriction is the SMP, because you don't change it - ECY does.

PH - I suppose (*too rapid*).

CB - If you are making a designation of a piece of property. You know you have shoreline, you know you have floodplain, CMZ. Why put in a situation where a person says 'I know I can do this according to the SMP'? (*PH agrees*). Don't set yourself up - don't create the lots.

PH - That would be in your zone code.

CB - Could do it in your CAO.

PH - Consistency - does it work the way it should? We tried that 10 years ago.

CB - One thing we did, took F&W critical areas, overlaid them with floodplain, CMZ. Where they overlap, why not protect under the SMP? We know that area really well, know it has these things in it, why set it up where somebody has to hire a biologist (*to conduct a biological assessment*)? We have seen that. Those people had to pay a lot of money to figure out the little part of the property they had bought for a subdivision.

PH - With the planning commission, there was a consistent theme. They kept gravitating back to finding a process to allow the landowner to find a way..

AH - What you are saying is, when you have 3 overlays, why don't you have one?

CB - When one overlay is restrictive - why go there?

AH - Like 100 year floodplains...

*(multiple conversations)*

PH - Lots of ½ acre lots. Health department restrictions.

CB - Here is what I get: 'I am getting the runaround'

AH - (*to CB*) You are talking about multiple documents. Everyone reads through the SMP, don't read the zone code. Understand that. But we are trying to get to a good document we can adopt. How are you going to.... Right now, we have been put under the gun. Is there regulatory change that you want to apply before it goes back to ECY? Or are ECY edits good enough?

JD - And you are going to get sued, no matter what.

CB - To Jim's point, what can we do best to make this comprehensive... Designation changes might get us there another way?

PH - I think you have some latitude to do that - if it is tied to public comment. If you make it more restrictive.

CB - So, if we see challenges to not net loss. Should we look at that? What if we see that it is going to cause a lot of hardship to the land owners?

JD - Exactly. Look at the owner of the Malott school. He thought he would be able to...

CB - That is exactly what I am talking about. Why would we zone it that way?

AHu - You can't assume that every single CUP is going to be approved.

CB - But there is some expectation that you will allow those uses to occur.

AH - Not a planner, but when I go down river, it is so variable. Some places, I can guarantee that you that in my lifetime, the river will be there. That right there is a lot different than an area where there is a steep bank...

JD - Most constant thing is change.

AH - Want to get to the right answer. Just looked at a place on Salmon Creek. They have been there since 1947. Creek is all over the place. They want to graze cattle. Told them to get an electric fence. In Shorelines, where does fencing come in?

CB - For ag, I don't think fencing is a problem. Went to a place (*Becker Ranch?*) the whole thing is wetland, and they manage it for wetlands. They graze cattle there. The designation is 'Protected'. Getting back to this particular piece, all I am trying to do is take the various layers and ask whether the designation is appropriate for all the regulations that apply. Can't build in floodplain. Frequently flooded. The SMP - no net loss of ecological function.

AH - In zone code, why isn't there a section for properties adjacent to bodies of water, why doesn't it reference - 'see the SMP'?

CB - Then you do have to have appropriate designation, when you go there.

AHu - Designations took into account existing uses.

AH - Economic benefit. If we allow a house, then they expect that we will have to protect them. We will have to bail them out.

CB - Interesting thing (*tells story, too rapid to record*). Why do we set ourselves up for that? How are we looking at this? It is going to get more difficult.

AH - Want to know the things you think need to be changed in the document.

CB - Overriding interest property rights?

AH - To an extent, people have right to use their property, but need regulations.

CB - Pay close attention to how we are designating. If you can't build in floodplain, why set designation that allows you to build in the floodplain?

AH - A residential structure can't be built. Pole barn in floodplain... where does that fall into this document? How do you get to the point where you have latitude to have a structure that doesn't cause damage within the CMZ?

CB - In the SMP, when you look at all those details, in the Ag zone, what does it say, and do you make an exemption for that?

AH - Shouldn't the Shoreline document be the one that regulates within the SMP?

CB - If the zone code (*too rapid*)

PH - Comp plan and zone code provide over-arching information that informs the others.

AHu - SMP identifies specific uses.

CB - Playing cards - does SMP trump zoning?

AHu - Right.

PH - All play in tandem. It would be nice if we could get to the point where all those things are consistent.

CB - Two things you said - 'all' and 'it would be great'. Why not correct what you can? Attended a workshop by our lands manager. SMA is not ESA, but lots of areas are designated critical habitat. Let's pay attention to that. Overlapping regulations are what I am trying to get at.

AH - Don't know your position on this document, yet. Need to know what you want to see. To be perfectly comfortable with this, I would have had to be involved from the beginning. Can't do that. Have buffer issue, designations, comments - buffer setbacks are not big enough, archaeological areas, habitat conservation areas - some people want to see them everywhere, some people don't want them at all. UCSRB (*Upper Columbia Salmon Recovery Board*) is doing reach assessments.

CB - Raising issues that we need to answer.

AH - Fine.

CB - I will leave you alone on this, allow you to go forward, but if I propose changes you need to understand why.

AH - OK. Landowners all need to know... I can throw out 25 ft... In some places they have 25 ft. In some places they have 150 ft. I think they know what they are doing.

CB - Going down river system, through rural environment. I am going to buy this property. Go to SMP. What can I do? What is the setback? Have this menu of shoreline designations. Based on what I see, I am going to apply...

PH - Commissioners, you are discussing without having a motion on the floor. If the question was 'Do the commissioners want to revisit the designations...'

CB - (*Indicating map*) I move we change that designation from Rural to Natural.

AH - In only that one spot?

CB - No, in that section...

AH - Why?

CB - Because I see a lot of....

PH - Commissioners are talking without a 'Second'.

AH - I am not going to second that...

PH - Encourage you to try to lend some direction. If the commissioners are not interested in changing designations...

CB - Let me answer. If I say that I don't want to visit designations right now. If we go to setbacks and find the setbacks are okay, but the designations are not appropriate...

AH - How do we do that?

CB - Suggest we review the setbacks and then decide.

AH - Okay.

CB - So if we review setbacks. The use chart starts the same way. If we find inconsistencies, then we may find ourselves back there. It is more a monumental change to revisit the designations.

AH - Okay. Let's review the setbacks on the rural residential.

CB - *(too rapid)*

AH - Understand that. Not just talking about river. Talking about every body of water in County.

PH - Not every waterbody. There is a threshold. Critical areas picks up the rest.

CB - Sorry to be dragging it out, but we need to understand.

AH - Want to know how much work the document needs.

CB - ECY's comments have to be addressed; other people's comments should be addressed... If we think no matter what we are going to get sued...

AH - I agree.

*AHu brings up Shoreline Development Standards table. PH reads from table.*

AH - Development standards - Rural - 50ft. Is that a setback, a buffer...?

PH - 50 ft. setback, concurrent 50 ft veg. management area.

AH - Conservancy *(reads from table 15 ft. view corridor; 150 ft.)*. Does that make sense to you?

*(Discussion of view corridor, what is allowed; AHu leaves to get more info)*

AH - 25 ft is probably a good vegetation buffer; probably have a bigger setback.

PH - *(describes differences between buffer, setback, veg. management areas)*

AH - Can't make them concurrent.

PH - To begin to identify your objectives. Preserving shoreline area; public safety. If commissioners want to other layers on - they have different objectives.

AH - So, flood management. 75 ft. setback in this area for public safety. Where does flood management piece come in?

AHu - 75 ft. back and meet floodplain management.

AH - 75 ft. setback, but still need to meet floodplain management. If I were coming in, wanting to build on riverfront property. Where would I go to see most regulatory document?

AHu - First place we would tell them to look is SMP.

AH - But that is not the most regulatory.

PH - Depends on location. In Methow Review District it is different.

AH - Okay. So, go to SMP, read through that and think you can build within 50 ft....

AHu - We try to let them know everything they need to know.

PH - We put a lot of time in doing that.

AH - (*too rapid*)

PH - Laundry list of things you need to consider.

AH - Because of diversity of geography, important to have a site analysis. Have to have an answer for people.

PH - Zone code creates a site analysis process. Come in and say 'I want to buy this or use this - what do I need to know'. Send a crew out. Tell them what the zone code says.

AH - We were in Rural. 50 ft. setback and veg. management buffer. Want to build a house. Go to map. Want to put a house right there...

*AHu marks the spot and measures distance to river.*

PH - One of the things I am hearing is that you want to separate the building setback from the veg. management zone.

AH - Yes, I do. (*CB concurs*)

JD - I have been through this process twice. Am going to let you add your changes.

*Side conversations while dealing with map difficulties. CB emphasizes the need for meeting health department requirements. Discuss making site visit to ground truth the requirements of the SMP.*

AH - Need some goals for today. One is to change buffer definitions; don't know about designation changes....

CB - That is why we need a field trip.

PH - Take a look at (?).

AH - Minimum difference between two needs to be 10 ft. Whatever you make a buffer, the setback needs to be 10 ft. more. You can still operate a piece of machinery and not be into the buffer. Maybe the buffer becomes larger for certain cases.

PH - Could consider a separate measurement for veg. management area. Could have less need for site visit. Safety vs. functionality. Look at Development Standard and Use charts.

*AHu gets map up.... Back to example. Discussion of rural restrictions. Severe CMZ.*

AH - Go down to lower valley (*outside of Methow Review District*).

PH - July 10, 1:30 meeting with ECY to discuss new roles and responsibilities. (Whatcom/Hirst)

*AHu brings up map showing Lightning Pine RV*

AH - Reason I bring this up: this is the one person who thought there should be no shorelines.

PH - They want all the lots to extend to the shoreline (*instead of having the existing common area occupying the shoreline*).

AH - So, if we take out the restrictions...

PH - You will get a truckload of lot line adjustments.

AH - Restrictions are 100 ft.

PH - (*clarifies*)

*Discussion of frontage requirements, minimum lot size. Could have 8 lots, if you can meet minimum acreage.*

AH - So, this is in Rural.

AHu - No floodway; OHW.

AH - Measure back 50 ft. (*AHu does*). So, when this changes - 50 ft. This is pretty bad. Theoretically you could move that house half the distance to the river. Guess what I am saying is, to preserve ecological function of the river, is 50 ft. sufficient to do that?

CB - Say you have 25 ft. veg. zone, I would say yes you could.

*AH asks note taker for her opinion regarding affecting the ecological function with a 50 ft. setback. Note taker's answer relates to the historic dynamism of the river; where historically stable, less buffer is needed to preserve ecological. AH asks Brian DePlace, who replies that he doesn't see the loss to the landowner of putting them back out of the floodplain. Refers to cumulative impacts of many low level activities that don't require permits.*

JD - Some provision for building up a pad for a house.

CB - Can put that fill in there (*floodplain development permit*).

AHu - Zero rise... Have never gotten one.

CB - Eventually you will affect it.

*Note taker mentions that hydraulic modeling is more art than science and can be structured to yield desired result; take them worth a grain of salt.*

AH - So in this instance, a 25 ft. veg buffer might work, but would a 25 ft. setback? No.

CB - That is where a CMZ might help us.

AH - Almost noon. We are going to get the definitions for the 3; revise chart; and review the use chart.

PH - Almost in the context of what you allow. Would look at that.

CB - today we looked at Rural. Need to look at Rural-Residential.

AH - What would it cost to do a biological assessment?

CB - (*refers to one he knows of, but doesn't mention a cost*)

AH - Bring up F&W conservation area map. Want to understand.

PH - That is the linchpin. Habitat. Merely because it is in the shoreline zone doesn't make it critical habitat.

AH - I get that, but anywhere there are listed species... That is why I am asking about the economic burden of a study. Can that study say - so you can't do anything here?

CB - If I had a relatively robust vegetation protection buffer, would that be satisfactory as a robust protection? I would be willing to assert that.

AH - I agree, but Western Gray Squirrel...

CB - If there is a squirrel or a bat, then I have to look at that.

PH - (*too rapid*)

AHu - Current or proposed?

CB - Here is an example. Looked at all the F&W habitat along Lake Osoyoos, it was primarily the shoreline.

AH - Speaking theoretically - I don't care about fish. I want to be a stone's throw from the water. Where are the regulations to keep that person from doing that? Do we need to apply F&W habitat standards to everywhere there are endangered fish?

CB - Depends. (*cites example*)

*Discussion of map info available;*

AH - Going down the river, anywhere from Mazama to Pateros is going to require a habitat management plan.... Can we go to Okanogan?

*AHu goes to Lake Osoyoos.*

CB - So, what you have in the purple, the species that are in that are... ducks, chukkars, white tailed deer...

AHu - This is just priority species' habitat.

AH - Comment was that all river corridors with listed fish need to be habitat conservation zones.

CB - Primarily looking at certain birds and fish in shoreline area. We looked at what we could do to protect them. Dealt with through vegetation protection. Makes sense to address the species.

AH - Not really following you. Let's say you are downstream of Oroville. If I wanted to build in there, I would have to do a habitat management plan.

CB - According to the plan I did, no.

AH - Just talking about County.

AHu - I think what he is saying is that you have that covered with the veg. management plan.

CB - Exactly.

AH - So, if we have these designations... Rural designations - fish, wildlife, bird species - in the Methow. So, the habitat for the eagles are going to differ from the habitat for the sock-eye. Need an analysis to understand what used to live there, what kind of protection is needed. Could have different requirements.

JD - AL, do you want to talk?

CB - We need to wrap it up.

AH - Think we have made progress...

PH - Go through Development Standard and Use charts. These things allow things or don't allow things that have never occurred in Okanogan County. Keep that in mind. If Monday you come in prepared to start....

*12:20 Shoreline discussion ends. Commissioners go into executive session to discuss current litigation. Note taker leaves.*











