

Okanogan County Board of Commissioners
7/1/2019

Present:

Jim DeTro - JD, BOCC

Chris Branch - CB, BOCC

Andy Hover - AH, BOCC

PH - Perry Huston, Director of Planning and Development

Angela Hubbard - AHu, County Planner

Audience: New lead of Republican party.

Summary of Significant Discussions:

1) Non-agenda item: poorly written Code causes problems. Final take-away: the purpose for items in Code should be made clear and supported in the Comprehensive Plan. In the case in point, there are contradictory definitions of Accessory Dwelling Units, Multi-family dwellings, overnight rentals, total impervious surface, “footprint” of dwellings, and garages. In addition, it was emphasized that interpretations of the Planning Department do not replace clarity in Code. Revision of some Code and related definitions must be done. (See Attachment “Definitions. DwellingUnit.070119”)

2) Water Availability Study Areas, WRIA 48: Mitigation Language edited. AH shares draft Wolf Ck restricted area draft mitigation plan from Ecology. Groundwater injection discussed, possible triggering of SEPA. Branch addresses necessity of sampling/testing vs simple review. Regarding this, AH states:” I like this because it talks about Ecology guidance, etc. When I hear Mr. Huston does this, does that. I don’t like it. I like it when I hear he is following the guidance.” Infiltration galleries, possible need for a more rigorous evaluation process regarding wells discussed. (See Attachment Ordinance.Amend17A.400.120.mitigation.07012019)

3) Draft Resolution: Exempt well policies, WRIA 48: Financing of mitigations: affluent vs average person. County’s possible role. Branch suggests mini-summit on county mitigation draft attended by CELP, Ecology, WRIA 40 Planning Unit, Water Conservancy Board, maybe others - all BOCC agree. PH to request dates from Ecology .
(see Attachment Resolution.wria48.exemptwellpolicies)

4) WRIA 49 Watershed Plan Update: New Funding Request - Well tracking grant. Application for additional \$250,000 grant is in, for things that could not be done with the \$300,000: Prioritization, Net Ecological Benefit. (See Attachment WRIA49.NewFunding.AgreementTemplate.062119.Final.062819 2)

5) Census 2020: OFM has downgraded Okanogan County in relation to growth. We are now #29 out of the 39 counties. (See Attachment ofm_aprill_press_release)

Planning Dept: Study Session Published Agenda:

1:30 PM Update – Planning Department – Director Perry Huston Planning Dept Study Session

- 1) Water Availability Study Areas
Mitigation language
- 2) Draft Resolution-Exempt well policies WRIA 48
- 3) WRIA 49 watershed plan
Update-new funding request
Well tracking grant
- 4) Comprehensive Plan
OFM revised projections

Actual Proceedings:

Non-Agenda Item: 1:30 - Confusion in Code over definitions and requirements for multi-family dwellings, accessory dwelling units, required footprints of structures, inclusion of garages or not, overnight rentals, and purpose of existing Code provisions relating to these. All of these are brought up due to an application in the Methow.

PH - An issue has arisen that I want to bring to your attention. Methow Valley Review District has an additional restriction that accessory dwellings cannot be more than 1,500 square feet. Now a primary residence is 1,520 sq feet (total building under the roof line.) Includes an attached garage. The proposed new accessory dwelling unit will be well in excess, if you do it the way we have always done it. The proponents are arguing it's not that far over the limit, but the discussion gave rise to whether or not you count the garage.

17.20.315. If no kitchen and bathroom, is not a dwelling. The idea of scattering a lot of buildings around..... there is an idea of this in the code. But now, the accessory dwelling - one had a door to parts in barns, etc. 17.20.320. May be attached or detached from primary dwelling, etc. Dropping down to multifamily section, if you have 2 dwelling units in a building, we have always called it multifamily, but it could also be called accessory. And also, should you count the non-living space?

CB - Is there a provision for duplexes in Code? Multi-family could be more than two. Make a definition for duplex, and if there's an accessory unit, it would need to be detached.

BOCC - reads parts of the code as projected: accessory dwelling may be attached or detached. So is attached a multifamily dwelling? This needs to be tightened up a bit.

AH -Could they right now build a garage of any size they wanted to?

PH - Yes. But some zones have lot coverage stipulation

AH - If I have a main house but wanted an accessory dwelling unit, I could - as long as it's under 1500 sq ft? Also, could I build a detached garage? So coverage issue doesn't make sense - because you can cover more space.

Was this brought to the Planning Commission? This is in 17A, which was revised in 2016. I know part was looked at and changed. Previously, the accessory dwelling couldn't be more than 1/2 of the amount of the original dwelling so they make it a fixed number instead. They have reviewed at least those sections of code; I don't know if they have changed those definitions.

AH - Asks for the verbiage that shows the 1,500 sq ft.

AHu - They don't have the entire zone code on this computer. *She will get a copy. Leaves.*

PH - What I'm leaning towards is a better definition of accessory dwelling and requiring it to be detached. Anything beyond a duplex would be multi-family.

CB - Is this different from the Interim code?

PH - Yes, that was adopted the other day. It's online. You would need to dig around to find special restrictions.

AH - I get goofed up on this ...like accessory dwelling says you can attach it to a house. So if I have a living space that is 1500 square feet, and I want to build a unit for my mother in law and want it really close, I couldn't do it by the code? Because it's an accessory dwelling? This is semantics, but the way you are looking now, with a garage attached - if I have a 1500 sq ft house and want to attach it under one roofline??? That's where I find it to be... if I build it a certain way, and I have a 5,000 sq ft house and want to put a 1500 sf house plus a big garage there, I can do that.

The Planning Commission is looking at it from coverage perspective, it doesn't do what they intended. You have taken a small portion of residences with attached garages that are little, so that can be the accessory unit. It limits a certain portion of the people that own these.

CB - It makes me want to look back at the amendments to see the recitals - as to why we are doing this.

PH - the references (?) are universal, but (second page)

CB - So it was to offset the impacts of overnight rentals?

PH - My understanding was, yes - it restricts those who want to build a second house to rent out...it must be less than 100 ft from the dwelling limit.

CB - Have we considered putting limits on the overnight rentals instead of dealing with all this?

PH - May make more sense, but this is not always how these things develop. Marijuana came in and sort of stole the show.....

CB - That's not as important as the opportunity to fix it. Let's target what we are targeting rather than convoluting the code. Describing what the accessory dwelling is for is important. Why are we doing it? It's an affordable housing unit, or should be.

PH - but.....

CB - *How* it happened isn't that important.

AH - Nowhere does it say anything about footprint.

PH - That's true; it's the way we've applied it.

CB - So what is the footprint limitation for?

PH - This is the way we have applied it. We never batted it around until now. The idea was to prevent someone from building the 2,000 sq ft garage next to your home.

AH - But living in a garage space isn't legal....if it were me, I'd say: Show me in code where it tells you where it isthe footprint of the house,,,,, and that I could build 1,500 sq ft that is a living space AND a garage AND a 50,000 sq ft.

I understand that you've done this....it sets a limitation on a small aspect of people. Instead of doing something, what was the purpose to have a foot print? I could have a garage and a tiny apartment in the garage; I could build another huge house...

PH - The objective is lot coverage, and it's not particularly effective.

CB - Lot coverage is intended to do what?

AH - My idea is impenetrable surfaces.

CB - Agrees.

AH - I think a side effect is aesthetics in addition to impervious surfaces.

CB - Aesthetics is risky business. The trouble is that everyone has a different view of what is aesthetic.

AH - If I said lot coverage could only be 10% vs. 100 %, I have to show impervious surface.....

CB - It's more of an issue when you have small lots.

PH - That is my experience. In your MRD 20, lot coverage is 5%. MRD-1 it's 30%.

AH - It gives you 13,000 sq ft of coverage. Pretty Big. *Gives other expanses of huge numbers.*

CB - We need to say why we are doing certain things. Approach it head-on . There would be all kinds of discussion/argument about this. Put the purposes for these sorts of regulations in the Comp Plan. What are the fundamentals? What are we trying to accomplish?

Today, my impression of an accessory dwelling and samples in the code are a lot smaller than that. When you have an accessory dwelling that is bigger than my house, then in my mind that is another use. When you get to overnight rentals,.... now we are looking at huge structures being accessory dwellings.

AHu - It was also sort of a clustering issue for habitat, keeping the houses close together.

CB - We always get into piecemeal zoning, and

PH - The primary structure in this case was under the old Shoreline Master Code. If they put the accessory unit at 100 foot mark...they were willing to move it back, but they can't.

CB - I'm not advocating for PH to say..."well, it's only such and such a number under the limit."

AH - But if I come in arguing the letter of the law, there is no way he can tell, me (about the garage)....the fact that in this code it says in MRD code p. 2, accessory dwelling unit must be 1500 sq ft ...goes to "dwelling units," "garages" - (? unclear.)

PH - In this situation, the perimeter of the building with attached garage is 1500 sq ft. They are arguing that they shouldn't have to count the garage.

AH - If I am starting out raw, I can build a big house and then a 1500 ft living space house along with a big garage. But this interpretation of the code is combining all this. Our coverage requirements.....

CB - I see what you are saying. It's getting convoluted as hell.... and how much work does it take to convert a garage to another living space?

PH - I am letting you know we continue to wander through all these.

AH - If you want to interpret this way, the definitions need to be simplified.

PH - IE: How do you calculate the 1500 sq ft? Would we win in front of Hearing Examiner? I don't know!

CB - Example: the guy next door has a garage in his house. It didn't take long to make it into a room for all the foster kids. They are under same roof. That's one thought I'd have.

AH - So if I have a house and an attached garage, is it legal for me to make it a living space?

PH - You would have to get a building permit.

AH - So if I'm at 1500 sq ft as living space and I have another house on the premises and I go to apply for a building permit, do we say that would put you under the 1500 sf?

AHu - There is no additional footprint.

CB - I'd venture to say that a lot of people would make that dwelling unit without a permit.

AH - That's not legal.

CB - I understand, but it's part of the things we talk about when we make the rules. We have a lot of illegal things.....do we say we have to go back and say we are going to make all of them legal? *(Everyone shakes heads.)*

PH - Whatever the objective is, yes, it needs to be spelled out. It should say this is how we do it.

AH - Another question: Your interpretation of 1,500 sq ft is the footprint?

PH - Well, under the.....

AH - Is a 3-story house 1500 sq ft? I can have a 4,500 sq ft house and still have the same footprint. That's why the dwelling unit is the living space. It means all rooms. So in a 3-story house, you have to count all floors.

PH - If we rearrange, the foot print for 2 stories - could only be 7500 sq ft?

CB - Did Planning Commission design the code, or was it passed to them?

PH - Passed to them. I asked an advisory member for details and they did not remember much.

CB - I had a developer say if you make the rules, I'll abide by them. For a person who makes the \$\$ in this situation - that's the way it is. Make it clear. I don't agree with certain groups making a code and then passing it on to another body, especially in a small county like this.

AH - If we can't find anyone who knows what the objective was, then....you can do lot coverage with lot coverage, and distances between houses.....but taking the sq ft of the foundation is hanging me up. You can put as many stories as you want.

CB - My question is why are we doing this? The reason belongs in the Comp Plan.

PH - When we adopt any comp Plan, if we can figure out what we want to do....if it is lot coverage, put a lot coverage description. In the interim, we will say let's clean it up .

CB - Good idea - and make sure the Comp Plan supports it....I have been through these discussions a lot in my career. On the other side, if you take what wasn't written well, you can...there is a zoning bulletin and you can read case after case of these types of things (*controversies due to Code not being well-written.*)

AH - I like things spelled out. I don't like it to be an interpretation of someone.....

CB - When some people make interpretations, sometimes things get a little twisted.

AH - In this case, there is nothing that says the sq ft is the perimeter of the building.

C - On multi-family dwelling, consider this: even though it is a Planning Commission issue, you have a multifamily USE. You might have a multifamily use situation where they are not connected.

PH - We have come up against that, especially when we come up to lodging for overnight accommodations. The only distinction between this and nightly rentals is that you have to have something about recreation. In nightly rentals, only one on a parcel. If you have a trail going through your parcel, you might read the definition of a lodge, etc.you could have many detached rental units....

CB - If you have a property and want multifamily dwellings and it's multifamily use..... say I have 5 houses for the purposes of living, not commercial.....it would be a multifamily use. This might be a remedy for affordable housing. Maybe the housing trust would be interested.

PH - I will look ahead at various definitions when we get to zone code.....

Water Availability Study Areas: Mitigation language - edits to draft. (A little after 2:30)

PH: I re-arranged the language on mitigation. *No one has copy of this. Angie and Perry go to check. During the lull in coverage, Isabelle Spohn (note taker) approaches Cmr. Hover with a comment that some of the attendees at the recent Open House in Methow were unhappy that the upcoming July 8th hearing on the purchase of land for the gravel pit near Methow is at a time when working people cannot attend. She encourages a continuance of the hearing at a time in the evening after normal work hours..)*

PH and AHu return; Discussion on Water Availability mitigation language.

Section 6

PH: In reading through, I got to thinking that I kind of implied that a mitigation plan would be sort of a pre-application. What I did was tie it to whatever the land application is, reviewed only in combination of building permit, etc....would just follow the approval process. I still need to tinker with it. It will be mitigation if you want apply it....

AH - So “building permit” should be taken out of it.

AHu - Takes it out. ...only the others, like binding site plans, planned development, large lot segregation, short subdivision, etc. etc.

CB - When you get to a mitigation plan that becomes more complex.....

PH - Short subdivision, all of its agencies, etc. would be involved and consulting. If they have to

PH - There is no SEPA exemption for groundwater injection. In this particular case, what they are proposing as mitigations could trigger SEPA.

CB - I think that may be clear in the SEPA rules, but if not, could our own SEPA procedures include that?

PH - Perhaps that wouldn't hurt.

CB - When Water Conservancy board moves water around, I think they have to use SEPA. (Groundwater injection, etc.)

AH - You heard it from???

CB - One of the members of the Water Conservancy board. That's why when we do this mitigation part, I would propose we have a mini-water summit and say we are proposing some mitigation things for this ...have certain individuals at the table, such as Methow Watershed council....I asked Paula (?Jewel?) and someone from the Water Conservancy board.. Let's put our draft down in front of them and say, “What problems do you see?” It would be prudent to do things like that. I mentioned it to Jewel because she's gone through some painstaking things re this.

AH - I think in Walla Walla, they are doing some of that. Get their take on it.

JD - They had pilot program on that . Some people participated in water banking, bought a program like this. I talked with a son - in-law. They have a deal like an information center with kiosks and magnetics on the floor.

CB - In Columbia River Project, we went around and looked at programs. I'm not saying drag it out and create a different council, etc.....

AH - No, you are saying let's take a position and ask these people what the risks are of this position.

CB - Do it with our watershed planning group; bring on CELP (Center for Environmental Law and Policy) to sit at the table. I would like to see what this looks like to them. If they see problems, they will be the first... We went through this whole thing in Waterville, where a water rights atty offered to review our proposal for free....*(but apparently others didn't agree.)*

One of the first things I would do is ask CELP what they think about it. I could not see any harm in it. It was just before the Yelm case, where the determination they made meant we would have failed, so we would have spent the whole time in court otherwise.

The mitigation piece is the part that concerns me the most.

Storage takes and cisterns... these are pretty straightforward.

PH - If I go through cisterns right - groundwater injections - I don't even have that opportunity because *(???muffled.)*

CB - If that were in your court, and you got to say who ones here legitimate, and you get to decide whether they are blowing smoke.....

PH - An infiltration gallery is what it is , etc etc. ...we got into this discussion. Even though it came up out of ground, it went back into the ground, there is still some concern about what went back in...we looked at it, and we were right.

CB - It was a closed system.

PH -The point is that we reviewed it.

CB - And wasn't part of it that it went through the storm water discharge issues and back into the river, so it was tested?

Same in Oroville, and Tonasket...the issue is that we had to sample the water. We were actually pulling from a deeper aquifer, so they pulled it from a higher aquifer that the people pulled their drinking water from, and they contaminated it. Oroville doesn't treat its water. Others are all putting chlorine in. The interesting part of it is that Oroville doesn't need to treat their water because they found out that putting chlorine in caused lead and copper to leach into it. So they pulled out the chlorine from it and they have the best water around. That's the point. No matter if you pull water from one place, you need to check the water if you put it back in.

AH - I like this because it talks about Ecology guidance, etc. When I hear Mr. Huston does this, does that. I don't like it. I like it when I hear he is following the guidance.

CB - On the groundwater recharge facilities, it requires a little more....

AH - Ecology has already sent a mitigation plan for the closed Wolf Creek Basin. It will be different for all the different basins. It says if you pull the water out of here and put it back in there, that will mitigate. They didn't go into water quality, etc. I've seen them supply

CB - Ecology went to court on Twisp water and lost.....

PH - I have (*tied?*) the mitigation plan to a land use application instead of justwe are running into problems. People are calling and want me to tell them if they can get or use a well. I tell them if I had an application in front of me right now, you would either get approved or disapproved, but I have no idea about 5 years from now, especially if we are talking about the Lower Methow. Right now there is water left in the Lower Reach. These front-loaded decisions....

CB - Every one wants to know before they put their money down.

PH - When we were doing the certificates of water availability, we put a 5- year life span on them. If you didn't put it to use, you lost it.

CB - Another question - getting down to the specific rule, here is the evidence...the well log. I know that there are plenty of water availability acknowledgement approvals where the well went dry. I wonder if the approval procedure is rigorous enough. That is an issue with the person using the well. Around Oroville, a well was deemed adequate, and then the well went dry. They were fortunate because they could get city water and hooked up. The city wasn't providing water at the same time but saw the problem and helped out.

AH - That's always an issue. (*A well going dry.*)

CB - Could it be the risk is reduced by having a more rigorous evaluation process?

AH - What if I went into a pocket that went dry after 2 years?

CB - But these wells went dry right away. The question: is there a little bit more rigorous test figured out by anyone?

PH - We are still wrestling with that standard in the work group: 350 gallons per day....if it produces this a day, you are ok.

AH - Health says 1,250 gallons per day is necessary.....This was supposed to be the standard.

PH - Your health standards off to the side, how much do you really need to bathe, etc? How do I divide my 5,000 gallons per day?

AH - That's not what it says. I will find the section for you. Even for watersheds that have differentyou still have to develop the wells for 1,250 gal per day, even if you use less water.

AH - In Campbell-Gwinn: If a house gets 750 gal per day, that's what we have decided it takes, but the well still needs to produce 1,250 gal per day according to the standards.

PH - Well, ok - actually, that number is still a little bit (hazy?) (*Cites several numbers used by Aspect and others.*) Anyway, we need to have that discussion sooner or later. I will continue to work on this. I hear no snags on this. Will come back to this.

Draft Resolution-Exempt well policies, WRIA 48

PH - I saw another thing I need to change. In restricted areas: Two categories of wells: after 1976, before 1991. The ones before 1991 don't have those letters from Ecology, but Ecology is allowing the use of these wells.

Section 5 - The ones after 1991 have to have the letter that they are not in hydraulic continuity. They are allowing these people to use the wells. (He has added 2 new sections.)

Section 7 - in red.

CB - Wants to see cases where more mitigation was required.

AH - I thought Aspect came in and said that is what happened in Walla Walla.

CB - I didn't see the details. I saw a picture, heard conversation.

PH - They never did send us that, now that I think of it. I'll see what I can get.

PH - There is still some room to try to pin down how site-specific I will allow this to be rather than a more general approach in terms of mitigation.

AH - How much is the county willing to help out (with) mitigations? If I am very rich, I will hire my 100 geologists to build a mitigation plan. What am I doing for everyone else? We say no, we are sorry, we can't give you an individual strategy, we have to do a basin-wide mitigation? What do we do? Pay for the plan, or ????

PH - There is a precedent for that - The Thorndike proposal - They were required to oversize their structure and they have late-comer fees. Barker oversized his in anticipation of Champerty Shores. On a much larger scale, Suncadia (*Kittitas County*) oversized and capitalized enhancement to support their development and ancillary developments. There were late-comer agreements. The rich guy would build an infiltration gallery and they would project it out. Theoretically, you could require it to be oversized tank then have late-comers. The whole discussion of forming the water utility, setting up mitigations, infrastructure, collecting fees to haul water, whatever.

CB - Still have financial mechanism you have to employ.

AH - Wants to share the e-mail he got about the Wolf Creek concept of mitigation. He projects it from his computer. Outlines a plan. Well is outside the restricted area, in a type of housing and shed, and it would feed into an outlet pipe with a control valves that would in turn send a small but constant flow of water into a shallow bed infiltration system. The infiltrated water would then slowly head for the creek to mitigate for the in-house consumptive use of future homes, etc. (*Question - How about outdoor watering for green space/ gardens?*) Shows picture of a well site outside a closed basin pumped out to an infiltration gallery.

PH - Back to our description of the rich guy who wants to build. Would you do the local improvement district, etc??

CB - It's to feed the stream.

PH - In the restricted areas, you can't get a well. It came up when the DOE was reviewing the Pipestone Canyon event center. Convuluted. In the end the DOE and I agree that commercial use of the water would be a new water use and therefore not something we could grandfather in. They are working out with an engineer a proposed mitigation plan there, whereby rather than using a tank or cistern, they could use the onsite well but mitigate the water that comes out, to preserve the closed tributary. They are working on it as we speak. WDOE is open to reviewing that. In terms of the resolution..... I can go back through and polish it up.

Did the commissioners want to adopt our policies for 48 by Resolution, or Code sections? I would like to do a draft like Chris is talking about, hand it to WDOE. What do you think? (*Note that here he does not include CELP, Watershed Council, and others suggested by Branch.*)

I can do that, if that is my instruction. All agree.

Perry will formalize this draft.

AH - But I want a face-to-face meeting.

PH - I can send it out and ask if the (BOCC?) is interested in setting up a meeting.. Dates?

CB - Do a DoodlePoll.

AH - I would ask **them** for dates.

CB - I need to give Jewell a reply.

PH - I will send it out. I will work on it. Only for water availability study areas.

WRIA 49 Watershed Plan Update: New Funding Request - Well tracking grant.

PH - the application has gone in.

Wording of application - tracking sub basins for vulnerability and opportunity.

What it is: We have our \$300,000 to do WIA 49 update. This is additional \$\$ for \$250,000 (per WRIA ?): The technical advisory group is coming up with data gaps and things that should be done that we could not do with the \$300,000:

- 1) **Prioritization**
- 2) **Net Ecological Benefit assessment.** EDT model for NEB assessment. If we get our \$\$, we would put in administration cost for administering the grant. You, as lead entity working with initiating governments, would (?) for task one.

Hasn't been awarded yet. We finished up last Thursday or so. They are in their review. We should know in next couple of weeks.

Administrative Officer Study Session

- 1) **Purchase and sale agreement: Methow Open House-Report: On agenda, but not done at this meeting.** From BOCC comments, note taker gathers that it was done at an earlier time, maybe the AM session.

2) Census 2020

Outreach meeting with Census folks: July 23, 2019 2:00 p.m. OFM: We have been downgraded, according to growth. Population: 42,730 for 2019. Haven't rolled this out to 2020 yet. We are 29th out of the 39 counties. We are still growing. Population change 2018-2019: 240. "Natural" Increase: 9. "Net Migration" 249. (*Went rapidly - this may not be all correct.*)

- 3) **Ceiling Tank:** Tanya Craig is bird dogging the budget part.

4) Upcoming Dates:

Next week: PH will issue DEIS on Comp Plan. 45 day comment period for everyone to weigh in.

July 8th: Purchase and sale agreement hearing (gravel pit)

July 22: Planning Commission meeting on Capital Improvement & Water Study areas in the Methow.

July 23: Census meeting.

August 19th: Special meeting: Planning Commission public hearing on Comp Plan. Comment period will extend past the public hearing.

August 26: Planning Commission meeting on Comp Plan.

3:30 - Planning/ Admin sessions over.

Maurice Goodall: Discussion of speakers, apparently in the Arena. Speakers working off a radio transmitter. The issue seems to be strength of transmitter. These things....the sounds are ..it makes a difference where they are placed. It makes a difference. Has to be checked. Another issue is that depending where you point them. They will test the system.

AH - Wants them up above. We will have to create a deck for the (?) to sit on. It will need to span one of the alleys. It will have to go up high. Must have it going by September. Tell him August 1.

BOCC leaves.