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November 13, 2015

Mr. Ben Rough, Senior Planner

Okanogan County Office of Planning and Development

123-5th Ave North, Suite 130

Okanogan, Washington 98840

Re: Determination of Significance and Request for Comments on Scope of the EIS for the Okanogan County Zoning Update.

Dear Mr. Rough:

Thank you for the opportunity to comment on the Scope of the proposed Environmental Impact Statement (EIS) for the Okanogan County Zone Code Update, pursuant to the State Environmental Policy Act (SEPA). The Methow Valley Citizens' Council (MVCC) offers the following comments for your consideration:

TIMING

The draft Zone Code and the EIS come at an inopportune time. As you know, the Futurewise/MVCC lawsuit against Okanogan County regarding the

Comprehensive Plan is scheduled for a hearing in Superior Court on November 23, 2015. It would seem both fiscally prudent and good policy to delay further expenditure of dollars, staff resources and the involvement of the Planning Commission until the Court has offered guidance to all parties in its decision. MVCC is unaware of any legal deadlines that would drive the self-imposed schedule that Okanogan County has undertaken.

No one can predict the outcome of the court action. However, should Futurewise/MVCC prevail in the lawsuit, the Court may well remand the Comprehensive Plan on which the draft Zone Code is based, thereby putting a hold on the Zone Code and the EIS. One of the key contentions of the plaintiffs is that there should have been a lasting Determination of Significance and EIS on the Comprehensive Plan, not on the Zone Code. Furthermore, the purpose of an EIS should be to inform the decision makers of the environmental consequences of one or more alternatives. The aggressive timeline for the Planning Commission to hold hearing on the draft Zone Code in January 2016 suggests that either (1) the proposed EIS will be rushed, incomplete, or fail to evaluate viable alternatives in a good faith manner, or, (2) that the Planning Commission recommendation will be disregarded in the first instance.

Similarly the draft Cluster Land Division/Subdivision code is not available for review by the public at this time, and it represents a key provision of development and growth regulation. How can the

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public reasonably be expected to see the complete picture of what is allowed and not allowed with this missing piece? (See comment 11 below)

We note that the Critical Areas Ordinance update is far behind schedule, and the county's Shorelines Master Program has yet to be approved by Ecology. How can Zone Code maps be produced without these underlying requirements in place?

For these reasons, MVCC suggests that the draft Zone Code, EIS, and Planning Commission hearings be put on hold until there is greater clarification on the status of the Comprehensive Plan. If Okanogan County prevails on all counts, then the clock can be started again.

SCOPING

If Okanogan County persists in proceeding with the EIS, we offer the following suggestions and comments:

1. The Methow Valley Citizens' Council supports the County's Determination of Significance for the draft Zone Code.

While MVCC believes that the Determination of Significance should have been retained for the Comprehensive Plan, we have no quarrel with the County's determination that "...this proposal (the draft Zone Code) is likely to have a *significant adverse impact* (emphasis added) on the environment."

2. The No-Action alternative should be to retain the existing Zone Code.

The impacts of the draft Zone Code should be compared to the existing Zone Code in terms of density, water supply and quality, transportation, air quality, public services and safety, Critical Areas, Shorelines, and Resource Areas. Other alternatives to be comparatively analyzed for environmental consequences include the draft Zone Code included in the Comprehensive Plan update dated June 15, 2005, and the October 16, 2009 draft Zone Code.

3. Project Review and Enforcement:

- **The EIS should fully examine the authorities and describe the regulatory timing and process gaps among the Planning, Building, and Health Departments for project applications, review and enforcement, especially as they relate to water quantity and water quality.**
- **The EIS should include a description of the authorities and practices of the Health Department regarding their process for determining "The adequacy and availability of lawful water supplies."**

Appendix A of the Scoping Notice purports to describe the project review process in Okanogan County. One question is whether the County has the process in place to adequately mitigate the consequences of this draft Zone Code. A more pertinent question is whether Okanogan County has

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the authorities in place and the will to require and enforce those mitigation measures. MVCC is aware of a number of past and present developments that indicate a lack of coordination among departments. The EIS should fully examine the authorities and gaps for land use regulation that lie within the Planning, Building, and Health Departments, especially as they relate to water quantity and water quality (see comment 5 below). We suggest that the EIS include a description of the authorities and practices of the Health Department regarding : "The adequacy and availability of lawful water supplies is required for the issuance of any subdivision conditional use permit and building permit under the requirements of state law and implementing cases." (see June 21, 2015 letter from Ecology to Mr. Huston.)

4. Impacts of high-density development in Rural Zones:

- **The full build-out allowed under the draft Zone Code should be analyzed relative to density, uses, transportation, public services, public safety, Critical Areas, Shorelines, Resource Areas, air quality, water supplies and water quality.**

The densities allowed by the draft Zone Code in rural areas are simply stunning. Rural 1 (High density rural, an oxymoron if there ever was one) provides for one primary residence, one accessory dwelling, or five apartment units on a one acre lot. Rural 5 Zone allows up to 25 apartment units, while Rural 20 allows up to 100 apartment units.

5. Air quality:

- **The EIS should carefully evaluate and model the impacts of increased density, outdoor burning, and in indoor wood stove heating.**

Air quality is of significant concern in parts of Okanogan County, especially for PM 2.5 caused by outdoor and indoor burning during times of air stagnation. Presumably, a significant portion of new homes will heat with wood burning stoves. Given the densities allowed by the Comprehensive Plan and draft Zone Code, air quality could suffer to the point that the County could reach non-attainment status sometime in the future. We ask that the EIS carefully evaluate and model the impacts of increased density, outdoor burning, and in indoor wood stove heating. If the County intends to offer the requirement for certified stoves in new construction as mitigation, then the County needs to enforce that provision rigorously.

6. Water Resources:

- **The EIS of zone designations should analyze the likely impacts of the development allowed within that zone, to include impacts on senior water right holders and users and instream flows for the Okanogan and Methow Rivers.**
- **The EIS should consider an alternative which relies on studies (such as the Aspect study) that document lack of water availability in the Methow Valley.**

We understand that interruptible water rights are not allowable for residential development. Given that some permit exempt wells in some areas may be required to cease pumping to protect senior water rights and instream flows, **we ask that the County describe the authorities and**

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procedures to identify and notify these users and to inform future purchasers of land of the risk they take. *Caveat emptor* is not an adequate policy given the complexity of the water resources situation in Okanogan County. The EIS should consider an alternative which relies on studies (such as the Aspect study) that document lack of water availability in the Methow Valley.

7. Water quality:

- **The EIS should explain what ordinances or other regulations are in place, and how they are enforced, in order to mitigate the risk of groundwater contamination from on-site septic systems in higher density zones.**
- **The EIS should clarify how ordinances or other regulations will be developed and enforced to mitigate the risk of surface water contamination from development activities and/or installation of on-site septic systems in higher density zones.**

Groundwater: Given the densities possible, especially in the Rural High Density zone, it is of paramount importance that Okanogan County has the staff, expertise, and authorities to regulate well drilling and septic systems on one acre properties. The risk of too many septic systems on smaller lots poses a greater threat of contaminating groundwater needed for domestic drinking water wells and for degradation of surface water quality. As stated in Ecology's June 21, 2013 letter to Mr. Huston, "In higher density zones, the County will need to describe how areas of higher risk to ground water contamination from on-site septic systems will be identified based on geology, soil types, water table characteristics, proximity to water bodies, groundwater monitoring, etc...". We ask that the EIS explain what ordinances are in place to mitigate these risks.

Surface Water: Again, as stated in Ecology's June 21, 2015 letter to Mr. Huston, "Within the high density zone designations, please describe how areas of higher risk to surface water contamination from development activities and/or installation of on-site septic systems will be identified, based on geology, soil types, water table characteristics, proximity to water bodies, etc. Please explain how ordinances will be developed to mitigate the risk by specifying stormwater construction requirements or best management practices, required septic system type or technology, location, etc.

8. Agriculture:

- **The EIS should examine how much agricultural land could be lost to other uses under the draft Zone Code.**

It appears that the Ag zoning description exists, but we are unable to find any ag land designated on the zone maps. If Ag has been converted to Rural 20, then existing ag land could then have one primary and one accessory dwelling, or five apartment units per acre for a total of 100 units.

9. Methow Review District "Hardship" Conditional Use Permits (CUP):

- **The EIS should evaluate the visual impacts and impacts on adjacent property values of such hardship dwellings, as well as the availability of water and septic.**

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The Draft Zone Code allows an administratively granted CUP on non-conforming lots for "demonstrated family hardship" (undefined) cases in the MRD in all zone classes. Unlike other CUPs, this hardship is granted at the discretion of the Planning Director nee Zoning Administrator nee Zoning Adjustor. No advance notice of application to adjacent property owners would be provided. It is apparently the intent of this CUP to allow a temporary dwelling to be installed on properties in addition to the primary residence. Since the hardship dwelling would have to be removed after some time limit, it can be assumed that the only practical dwelling would be a mobile home, single wide or double wide. There appears to be no requirement for a Health Department determination of adequate water and septic, unlike accessory dwellings. The EIS should evaluate the visual impacts and impacts on adjacent property values of such hardship dwellings, as well as the availability of water and septic.

10. Wildfire:

- **The EIS should evaluate the impact of what the draft Zone Code does and fails to do in wildfire prevention, preparation and response, and how inadequate planning for new developments in WUI areas may place homeowners and responders at greater risk.**
- **The EIS should evaluate the additional risk to future property owners of failing to plan adequately for flash flood events in known at-risk areas.**
- **The EIS should describe the current progress in accomplishing those policy action items, and plans for completion if the CWPP is to be used as a legitimate tool for review of development proposals.**

Like the Comprehensive Plan, the draft Zone Code is virtually silent regarding wildfire. Other than noting that building permits, subdivisions, and minor land use applications would be reviewed against "wildfire protection policies," there is no mention of wildfire prevention, preparation or protection measures in the draft Zone Code. There is also no reference to the county's Community Wildfire Protection Plan (CWPP), which should form the foundation for good policies such as those found in the Wildland Urban Interface (WUI) Code. Given the devastating fires in Okanogan County in the past two years and the lessons that should have been learned following the loss of hundreds of homes in both events and three firefighter fatalities in 2015, it is difficult to understand the County's resistance to acknowledging the relationship between land use planning and fire prevention and response. Setting up a situation in which future housing developments can be built in the WUI without specific requirements to allow for the safe ingress and egress of residents and equipment, and without ensuring adequate water for initial attack is a hazard to future homeowners as well as first responders. The EIS for the draft Zone Code should evaluate not only what is in the draft, but what is lacking. In this case, we ask that the EIS evaluate the impact of what the draft Zone Code does and fails to do in wildfire prevention, preparation and response, and how inadequate planning for new developments in WUI areas may place homeowners and responders at greater risk.

Similarly, the well-established relationship between severe wildfires and subsequent flash flood/debris flow events needs to be acknowledged, and is not. Adequate measures that should be in place to prevent or mitigate building in areas that have been identified as at-risk for such events

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are not found in the draft Zone Code. There are several studies completed or underway in the burned areas of the Carlton Complex and the 2015 wildfires that identify areas at risk of damage to "life and property" for 5 – 7 years following a fire; at a minimum these locations should be incorporated into the draft Zone Code. Since this has not been done, the EIS should evaluate the additional risk to future property owners of failing to plan adequately for flash flood events in known at-risk areas.

Appendix A of the scoping notice mentions "wildfire protection policies" several times. Apparently this refers to the 2013 Community Wildfire Protection Plan (CWPP). A quick examination of the mitigation measures in the CWPP shows that Okanogan County is the lead agency on a number of high priority measures, yet only a few of those measures have actually been completed, and many have been deleted. For example, the CWPP has not been incorporated into the Comprehensive Plan and the WUI standards that would apply to buildings, roads and subdivisions have not been adopted. If the 2013 CWPP is the "wildfire protection policy" on which the County will rely in the review process for proposed development, then it is inadequate until the high priority action items related to Policy are implemented and functioning. The EIS should describe the current progress in accomplishing those policy action items, and plans for completion if the CWPP is to be used as a legitimate tool for review of development proposals.

11. Planned Unit Developments (PUDs):

- **It is not possible to assess the full effect of the draft Zone Code without having the Cluster Land Division/Subdivision ordinance to review, nor is it possible to suggest the full range of scoping comments and alternatives given this lack.**

A major issue of concern for the Methow More Completely Planned Area (MCPA) is associated with Planned Developments (PD) now called planned unit developments (PUD). The new PUD chapter remains a much-reduced version of the original PD. However, PD permits will no longer be required in the MCPA—the draft code effectively makes the PUD process optional. Development activities that used to require a PD permit in the MCPA will now be processed as Conditional Use Permits (CUP), and when appropriate, will be subject to the new Subdivision Ordinance—to be called the "Cluster Land Division" ordinance. However, there is no assurance the good standards and density bonus requirements of the original PD will be included. Again, it is not possible to assess the full effect of the draft Zone Code without having the Cluster Land Division/Subdivision ordinance to review, nor is it possible to suggest the full range of scoping comments and alternatives given this lack.

12. Visual Impacts:

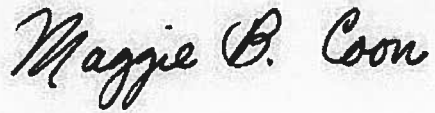
- **The EIS should examine the visual impacts of allowing 9 or 10 story agricultural commodity storage buildings in the zones where they are to be allowed.**

Of particular concern is Agricultural Commodity Storage, with height limits up to 100 feet (about 9 to 10 stories)—a new use to be allowed in most zones throughout the County including the MCPA. Under Definitions (17A.020.050), the use is defined as "storage for agricultural products to be sold

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or processed at a later time." Agricultural commodity storage does not show up on the District Use Chart but in the zone sections defining height limits. The EIS should examine the visual impacts of allowing 9 or 10 story agricultural commodity storage buildings in the zones where they are to be allowed. Such buildings would be out of scale even in Okanogan County's industrial areas, and grossly inappropriate in other rural zones.

Thank you again for the opportunity to comment.

A handwritten signature in black ink that reads "Maggie B. Coon". The signature is written in a cursive, flowing style.

Maggie Coon
Board Chair
Methow Valley Citizens' Council

Cc: Tim Trohimovich, Futurewise Director of Planning & Law