



Planning Commission Meeting Minutes

A meeting of the Okanogan County Regional Planning Commission was held on Monday, April 25, 2011 at 7:00 pm. The meeting was held in the Commissioners' Hearing Room 123 5th Ave N. Okanogan, WA.

PLANNING COMMISSION MEMBERS present included: Chair Albert Roberts, Vice Chair Becki Andrist, Commission Member Phil Dart, Commission Member Tamara Porter, Commission Member Mark Miller, Commission Member Tina Wood, and Commission Member Dave Schulz.

OKANOGAN COUNTY STAFF MEMBERS present included: Director of Planning Perry Huston, Senior Planner Ben Rough, Natural Resource Senior Planner II Angela Hubbard, and Administrative Secretary Sharon McKenzie.

APPLICANTS OR THEIR REPRESENTATIVES: Gagandeep Bains.

OTHERS IN ATTENDANCE: Luella A. Rehmke, James R. Rehmke, Karen Fancher, Bill Fancher, Laurie Morgan, A. C. Morgan, Nevada Harris, Bill Harris, Echo Penley, Bill Penley, Tony Frey, Nancy Frey, and Nancy Soriano.

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

Approval of April 25, 2011 Agenda

Commission Member Schulz moved to approve the April 25, 2011 Planning Commission Meeting Agenda as corrected. Commission Member Dart seconded the motion. Motion passed.

Approval of March 28, 2011 Meeting Minutes

Commission Member Schulz moved to approve the March 28, 2011 Planning Commission Meeting Minutes as presented. Vice Chair Andrist seconded the motion. Motion passed.

Public Hearing Item #1

- **Bains LPA 2011-1 ~ continuance**

Chair Roberts continued the public hearing on the **Bains LPA 2011-1** requesting a summary report from Staff. Senior Planner Rough requested the Affidavit of Public Hearing be placed into the record. He noted the continuation of the hearing is due to the public notice not being complete. Senior Planner Rough briefly reviewed the proposal.

Chair Roberts asked if there were any questions for Senior Planner Rough. It was suggested that in the future there be a copy of the project CC&Rs for the Planning Commission to refer to in order to make sure the Planning Commission does not put conditions that conflict with the CC&Rs.

Senior Planner Rough briefly described the zone district for the Barnholt District. He stated the proposal fits within the boundaries of the zone district. He noted the Barnhold District is not the same as the Minimum Requirement District which has the agricultural district allowing one residential unit per 20 acres. The Barnholt District allows one residential unit per two acres.

Chair Robert requested Mr. Gagendee Bains come forward and speak to the issue.

Gagendee Bains, Proponent of the project residing in Omak, said Senior Planner Rough has covered the description of the project.

Addressing the question regarding the well location being 20 feet from the property line, Mr. Bains said the well in question is on the neighbor's property and is an irrigation well that will be used for the irrigation on the project. He said the domestic water Group B system will be on Lot 11.

Chair Roberts asked Mr. Bains if there were any further clarification he would like to present regarding the testimony from last month.

Mr. Bains said "no".

Chair Roberts called for anyone wishing to give public testimony.

Karen Fancher residing in Okanogan and an adjoining property owner to the project said she is concerned about:

- 12 additional lots and the effect the whole neighborhood with all the extra dogs and people
- overall impact
- status of the irrigation rights out of the well.

Bill Fancher residing in Okanogan said he is concerned with the concentration on the land. He said he feels this project is an extreme case (regarding the density). Mr. Fancher said there is a well on the property that they take their water from for domestic use. He stated if there is a water right, it should be exercised somewhere else and not in their back yard. He said Mr. Bains has a new pump in the well. If there is a water right, the right should not come out of the well right next to their house.

Addressing the question regarding ingress/egress to the well for repair and maintenance, Mr. Fancher said the repair person would have to be on his lawn. He stated there is an easement granted for access to the well.

AC Morgan residing in Okanogan said when a person buys property, if all is done by code and the requirements of the agencies, a person should do what he wishes to do with the land. He said if he had bought the property, he would have divided it as Mr. Bains has done. Mr. Morgan said he does not feel the division of the property as proposed would be that bad. He noted if the Fanchers could have kept the land, it would be kept the same. Mr. Morgan said the Planning Commission

has the duty to do the right thing and instruct Mr. Bains to do the right things necessary to develop the land.

Bill Harris residing in Okanogan said he hand dug his well and noted there are areas where it is difficult to find water. He said he is concerned where Mr. Bains is going to put his well. Mr. Harris noted better areas to put the well. He said as far as the development, Mr. Bains bought the property as agricultural land. He said there should not be so many lots, but perhaps only 4 or 5 lots. He said his water is not good. He said he thought when they started the Barnholt Association, that would stop this type of development.

Addressing the question of high arsenic, lead, and alkaline levels, Mr. Harris said he had tests done and the results showed very high levels.

Bill Penley residing in Okanogan noted the Barnholt Association was formed and a sign is place outside the Barholt District which says to contact the Planning Department. He read Section 17.08.010 from the County Code. Mr. Penley said he is concerned about the number of residents for the size of the land and the amount of water necessary. He stated he is concerned this number will affect his well.

Tony Frey residing in Okanogan and next door to development said he has a mediocre well. He said he has difficulty with his well in October and November. He stated he is concerned about the number of houses between his house and the river. Mr. Frey said looking across to the highway and seeing houses will violate Section 17.08 of the County Code. He said the District maintains the character to the neighbor, maintains agriculture and the values. He said building 11 homes within a small area and with the water situation will create a problem.

Echo Pinley residing in Okanogan said she would like to echo the sentiments of the other residents. She read the code 17.08.010. She said she is concerned with her children going to school with all the new houses and new people. She said if they wanted to live in the city they would move to the city. She stated the property was auctioned as agricultural only. She said if they had known it was not going to be agricultural only, they would have bid on the property. She said they like their neighbors and 11 new neighbors is a lot to deal with along with the water and the economic impacts.

Laurie Morgan residing in Okanogan said 20 acres of orchard takes a lot of water compared to 11 homes. She noted the Barnholt District came up with its own rules. She said the District allows one home site per two acres. She noted Mr. Bains' property is in the 2 acre zone. She said you can either have 11 acres agricultural with spraying activity or 11 acres with dogs. She said the Penleys put in another home as did the Harris' and the Gillespies split their land which was orchard. She said she sees no difference in what has happened and what is proposed.

Nevada Harris residing in Okanogan said proposed project was their property. She said they did keep a piece by the river. She said she does not know if Mr. Bains plans to keep the property or whether the residences are going to be rented. She said you cannot rent houses and you cannot run a business.

Chair Roberts asked is anyone else wished to testify. There being no other testimony, Chair Roberts closed the meeting to public comment.

Chair Roberts asked Mr. Bains to come forward.

It was pointed out the Planning Commission does not make the decisions regarding water and water rights but the Department of Ecology makes that decision.

Addressing the question regarding moving the well, Mr. Bains stated he is looking into it was to move 25' but if it was to be moved 300', he would have to be careful.

Addressing the noise, Mr. Bains said he would look into screening and other things to make the neighbor happy.

Mr. Bains clarified the well was for the orchard and will be used for irrigation. The domestic well will be put on lot 11.

For clarification, Director Huston stated the use of an exempt well is for domestic water. He said outside irrigation is to come through the irrigation right. He said the Department of Ecology only allows a half acre per parcel to be irrigated from an exempt. He noted if Mr. Bains cannot obtain the water right for irrigation, there will be a challenge. He said Mr. Bains can negotiate a water right for another outside source.

Addressing questions regarding the Barnholt Association, Senior Planner Rough said the Association had been notified of the project and had commented. He said many members of the Association had also commented. Senior Planner Rough stated all subdivisions in the entire county must comply with the underlying zone. He said before final approval, the Proponent would have to prove all conditions had been met. He noted as individual landowners come in, the proposed uses must comply with the Barnholt District rules.

Addressing the question of rental units, Senior Planner Rough said all transient rental activity is a prohibited use throughout the entire county. He said the only way to get it allowed is through a Planned Development or a rezone. For clarification, he said bed and breakfasts are allowed because the landowner lives on the premises.

Chair Roberts said he would entertain a motion.

Vice Chair Andrist moved to recommend approval of the **Bains LPA 2011-1** to the Board of County Commissioners with the addition of Condition 17 which states the land must be tested for lead and arsenic to meet safe state standards. Commission Member Dart seconded the motion. Motion passed.

Public Hearing Item #2

- **Deliberations on the Okanogan County Critical Area Ordinance – *Continuance***

Director Huston recapped the status of the Critical Area Ordinance (CAO). He noted there were still changes being considered at the State level regarding agricultural activity in critical areas. He suggested addressing other issues until the State decided what they wished to do with this activity.

Director Huston further noted the directive for the Critical Areas Ordinance is in the Growth Management Act (GMA) and all Counties must comply be they GMA or not.

He said the different between the Shoreline Master Program (SMP) and the CAO is the SMP focused on no net loss. In the, CAO each area stands alone and must be protected. He said the CAO must be mitigated on a site specific approach. He also noted you are not required to restore an area. He said the CAO in shorelines are regulated by SMP. The CAO out of SMP regulated in CAO.

Natural Resource Planner II Hubbard opened the discussion with a review of the work done at the request of the Planning Commission. She said at the last meeting, the Planning Commission discussed the definitions. She said her memo of February 11, 2011 discussed the definitions that had issues, and she addressed the question why the need for citing the federal wetlands delineation manual. She noted the Statute now says to use the federal regional supplement. .

Natural Resource Planner II Hubbard reviewed the March 18, 2011 memo prepared for the Planning Commission which addressed the FEMA definitions vs. the CAO definitions. She noted the definition in the CAO for development vs. the FEMA definition and the challenge it creates. Staff was directed to find a consistent definition.

Director Huston noted that CAO is geared to habitat. He suggested that as the Planning Commission goes through their deliberation, try to balance the classifications the best way possible and when agencies freelance, try to pull things back into the County Ordinance.

In addressing the question of the chances to defend a CAO, Director Huston said using the agency maps as the foundation for the ordinance should work. He said as experience has shown, there can be different interpretations and political will plus financial capability play a role. He said if the CAO is supported by good science, it would help protect the CAO from over regulation.

There was discussion regarding the Department of Natural Resources (DNR) and DNR's impact on the CAO. Direction Huston said there should be no impact as the only responsibility of DNR is to manage the land

Director Huston said the Planning Commission will need to reconcile setbacks. He said to assist the Planning Commission, Natural Resource Planner II Hubbard can create visual aide. He said the agricultural lands will not be included at this time. The Staff instructions for the next meeting are:

- Create definition of critical areas that refers back to citation
- Reconcile setbacks. Consider where code adopts a setback or a body of regulation
- Create a visual aide of the setbacks leaving agricultural lands out for the time being.
- Think of another nomenclature or change the definition of development in the code.
- Tie in SMP for consistency
- Make sure regulation is where it should be.
- Tighten up connectivity of SMP and CAO.
- Be sure regulation is consistent

Vice Chair Andrist made the motion to continue deliberations on the Critical Areas Ordinance which will not be open to public comment, at the next regularly scheduled meeting on May 23, 2011. Commission Member Wood seconded the motion. Motion passed.

Old Business:

There was none.

New Business:

There was none.

Vice Chair Andrisc moved to adjourn the meeting. Commission Member Dart seconded the motion. Motion passed.

Chair Roberts adjourned the meeting at 9:37 p.m.

Summary of Motions

Commission Member Schulz moved to approve the April 25, 2011 Planning Commission Meeting Agenda as corrected. Commission Member Dart seconded the motion. Motion passed.

Commission Member Schulz moved to approve the March 28, 2011 Planning Commission Meeting Minutes as presented. Vice Chair Andrisc seconded the motion. Motion passed.

Vice Chair Andrisc moved to recommend approval of the Bains LPA 2011-1 to the Board of County Commissioners with the addition of Condition 17 which stated the land be tested for lead and arsenic to meet safe state standards. Commission Member Dart seconded the motion. Motion passed.

Vice Chair Andrisc made the motion to continue deliberations on the Critical Areas Ordinance which will not be open to public comment, at the next regularly scheduled meeting on May 23, 2011. Commission Member Wood seconded the motion. Motion passed.

Prepared by Sharon McKenzie
Administrative Secretary