

**AMENDING OKANOGAN COUNTY'S ZONE MAP FOR
STRONG REZONE – CODE AMENDMENT 2014-4**

SECTION 1: FINDINGS AND RECITALS:

WHEREAS, the applicant proposes a rezone in order to accommodate future development.

WHEREAS, THIS rezone application was processed in accordance with OCC 17.37 "Amendment of Zoning Code".

WHEREAS, the comprehensive plan designation is "Rural".

WHEREAS, the current zone designation is "Rural 1" and the proposed zone designation is "Suburban Residential".

WHEREAS, the Okanogan County SEPA Responsible Official issued a final determination of non-significance in accordance with OCC 14.04 "Environmental Policy".

WHEREAS, the Okanogan County Hearing Examiner conducted an open record public hearing. The Hearing Examiner approved the rezone application but lacks authority to amend the County's zone map.



WHEREAS, the Board of County Commissioners conducted a closed record public hearing at which time they considered the decision of the Hearing Examiner.

SECTION 2: ZONE MAP AMENDMENT:

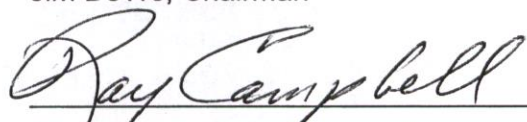
BE IT THEREFOR ORDAINED, the Board of Okanogan County Commissioners do hereby approve amendments to the official Okanogan County Zoning Map as shown in Attachment A. This decision which is supported by findings of fact (Attachment B) and conclusions of law (Attachment C).

DATED at Okanogan, Washington this 5th day of January, 2015.

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**

ATTEST:


Laleña Johns, Clerk of the Board

Jim DeTro, Chairman



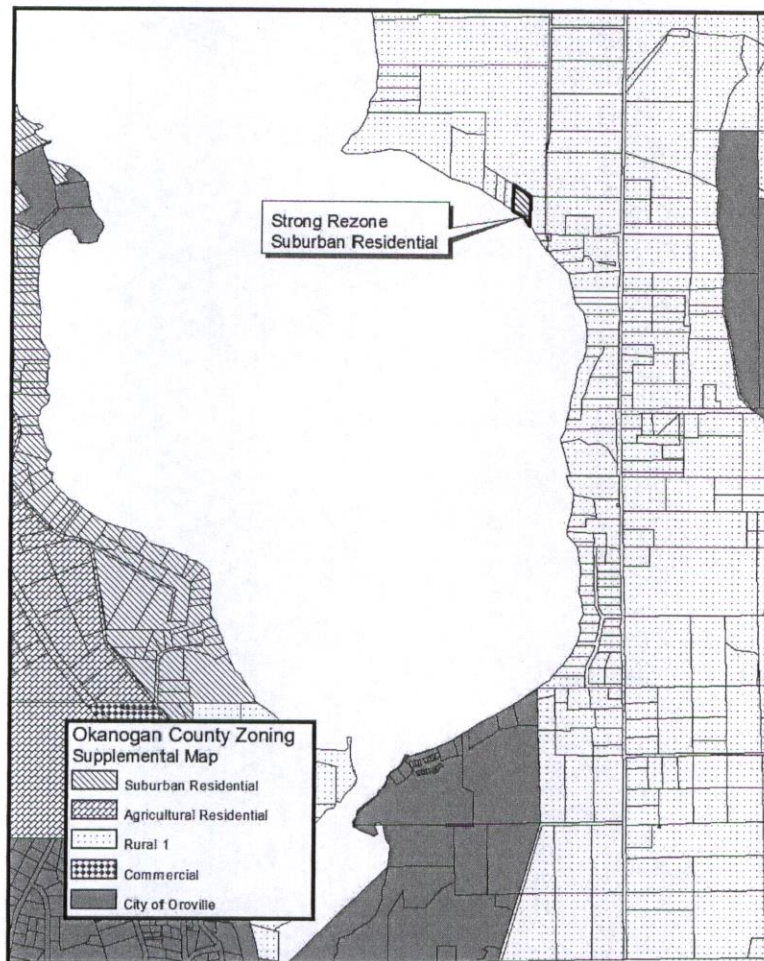
Ray Campbell, Vice-Chairman



Sheilah Kennedy, Member

Attachment A

Zone Map



Legal Description

A part of Lot 13, Okanogan Smith Irrigated Tracts, according to the official plat thereof, as recorded in Book D, page 35 of plats in the office of the Auditor of Okanogan County, State of Washington, described as follows:

COMMENCING at the Northwest corner of Lot F, said Okanogan Smith Irrigated Tracts;
Thence North $88^{\circ} 41' 30''$ West a distance of 149.0 feet;
Thence North $57^{\circ} 40' 00''$ West a distance of 200 feet and the TRUE POINT OF BEGINNING;
Thence South $01^{\circ} 18' 30''$ West a distance of 235.63 feet to the shoreline of Osoyoos Lake;
Thence South $57^{\circ} 40' 00''$ East along said shoreline a distance of 95.29 feet;
Thence South $57^{\circ} 40' 00''$ East a distance of 148.29 feet along said shoreline;
Thence North $01^{\circ} 18' 30''$ East a distance of 299.75 feet;
Thence North $57^{\circ} 40' 00''$ West a distance of 200 feet, more or less, to the TRUE POINT OF BEGINNING.

AND ALSO subject to and with a non-exclusive easement for ingress and egress, said easement being a 30 foot strip of land lying 15.00 feet on each side of a line beginning at a point on the East boundary line of said Lot 13;
Whence the Northeast corner of said Lot 13 bears North $01^{\circ} 18' 30''$ East a distance of 266.50 feet;
Thence running South $01^{\circ} 18' 30''$ West a distance of 1640.01 feet;

Thence North $88^{\circ} 41' 30''$ West a distance of 188.04 feet;
Thence North $57^{\circ} 40' 00''$ West a distance of 436.94 feet.

Also identified by tax parcel number 6400330012.

Attachment B

The following are findings of fact:

- 1) An application for an amendment to Okanogan County's Zone Map has been submitted by Troy Strong. The application title and project number is "Strong Rezone, Code Amendment 2014-4".
- 2) The subject property 1.18 acres identified by tax parcel number 6400330012. The physical address is 35 Big Time Drive, Oroville, WA.
- 3) The comprehensive plan designation is "Rural" although the comprehensive plan designation at the time of application was "Suburban Residential".
- 4) The current zone designation is "Rural 1" although the zone designation at the time of application was "Minimum Requirement". The proposed zone designation is "Suburban Residential".
- 5) Applications for zone map amendments are processed in accordance with OCC 17.37 "Amendment of Zoning Code".
- 6) During the review process for this application, the Okanogan County completed an update of the County-wide Comprehensive Plan, including adoption of a new comprehensive plan and interim zone code. Adoption occurred December 22, 2014. This application was submitted on July 23, 2014. This application is vested in the rules in place at the time of application.
- 7) On July 23, 2014 a complete application for a rezone was received and vested.
- 8) On August 7, 2014 the threshold SEPA determination was issued.
- 9) On August 12, 2014 notice of application and threshold SEPA determination was mailed to adjacent landowners and commenting agencies for their respective review and comment.
- 10) On August 13, 2014 notice of application and threshold SEPA determination was published in the Omak Chronicle (Okanogan County's periodical of record) and the Oroville Gazette-Tribune.
- 11) On August 27, 2014 the SEPA comment period ended.
- 12) On September 3, 2014 the final SEPA determination was issued.
- 13) On September 8, 2014 notice of public hearing and final SEPA determination was forwarded to commenting agencies, adjacent landowners, and interested parties of record.
- 14) On September 10, 2014 notice of public hearing and final SEPA determination was published in the Omak Chronicle (Okanogan County's periodical of record) and the Oroville Gazette-Tribune.
- 15) On September 25, 2014 the SEPA appeal period ended. No appeals were received.
- 16) By no later than September 29, 2014, 3 notices of public hearing were be posted on and near the property. An affidavit of public notice has been submitted into the record for this application.
- 17) On October 9, 2014 the Okanogan County Hearings Examiner conducted a public hearing for this project. At this hearing, the public was given opportunity to enter testimony and submit written comments into the record.
- 18) At the hearing, Edward Cupp (agent) testified on behalf of the applicant, Troy Strong, testifying about the general nature of the rezone request. Mr. Cupp further testified that they had not submitted any development proposals to the County concurrently with the rezone application.

- 19) All testimony was taken under oath
- 20) The entire planning department file was entered into the record.
- 21) No members of the public were present to offer testimony either in favor of or opposed to the proposal.
- 22) In order for the Hearing Examiner to approve the rezone, it must be found to be consistent with the Comprehensive Plan for Okanogan County, which was adopted in 1965.
- 23) The Comprehensive Plan designates the subject property as Suburban Residential.
- 24) The Suburban Residential comprehensive plan designation is described as "...those areas which have already been developed in a residential nature, or those areas which are likely to be developed for residential use contiguous to the town and communities in the county[.]" and "[t]he suburban residential land use classification is indicated for the periphery of Oroville, Tonasket, Omak..."
- 25) At the hearing there was significant discussion as to whether or not approval of this rezone would constitute an illegal "spot zone." The most widely quoted definition of "spot zone" in Washington law is found in Narrowview Preservation Association v. City of Tacoma, 84 Wn.2d 416 (1947) in which the court said "We have recently stated that illegal spot zoning is arbitrary and unreasonable zoning action by which a smaller area is singled out of a larger area or district and specially zoned for use classification totally different from and inconsistent with the classification of the surrounding land, not in accordance with the comprehensive plan."
- 26) The general area has been developed more consistent with the suburban residential classification than with the minimum requirement classification, which allows for a much wider range of uses.
- 27) It is undisputed that the small tract proposed for rezone is a small parcel surrounded by a large area of minimum requirement zoning; however, the suburban residential zone is not "inconsistent with the classification of the surrounding land" and the proposal is consistent with the comprehensive plan.
- 28) Planning staff testified at the hearing that when the original zoning (minimum requirement district) was established, there were no municipal water or services available and the file of record indicates those services are now available from the Town of Oroville municipality, suggesting that the time has come for the general area to be rezoned from minimum requirement district to suburban residential, based on applications received from property owners.
- 29) Planning staff further indicated that there is no docketed proposal for an area-wide rezone, it being the preferred policy of the County to "take them as they come" from landowners.
- 30) After conclusion of the public hearing, the rezone application was approved by the Okanogan County Hearing Examiner by written order dated October 13, 2014. This rezone approval is conditioned that the rezone application must be perfected by the Board of Okanogan County Commissioners amending Okanogan County's Zone Map.
- 31) Amendments to Okanogan County's zone map must be accomplished by ordinance of the Board of Okanogan County Commissioners. Ordinances may be approved only after a public hearing.
- 32) The Board of Okanogan County Commissioners conducted a closed record public hearing on November 10, 2014 in order to consider amendment of the County's official zone map in accordance with the decision of the Okanogan County Hearing Examiner. During this hearing, the record of the Hearing Examiner was entered into the record of the Board of Okanogan County Commissioners.

Attachment C

The following are conclusions of law:

- 1) An application was submitted by Troy Strong in order to rezone property to Suburban Residential in order to accommodate future residential development and subdivision of no more than two additional lots. This application was deemed complete.
- 2) The Comprehensive Plan designation, at the time of application, is "Suburban Residential". The proposal to amend Okanogan County's zone map, zoning the subject property as "Suburban Residential", is consistent with the Comprehensive Plan. The Comprehensive Plan suggests that zoning should accommodate residential development in close proximity to existing communities such as Oroville. It is the opinion of the Hearing Examiner that the Comprehensive Plan supports the proposed rezone.
- 3) During the review process for this application, the Okanogan County completed an update of the County-wide Comprehensive Plan, including adoption of a new comprehensive plan and interim zone code. Adoption occurred December 22, 2014. This application was submitted on July 23, 2014. This application is vested in the rules in place at the time of application.
- 4) The purpose of the rezone application is consistent with the Okanogan County Zone Code, specifically OCC 17.09 "Suburban Residential".
- 5) Comments from the public and state, federal, and local agencies were received, reviewed, and considered in analysis of this proposal.
- 6) No comments or testimony was received citing any part of the Comprehensive Plan that would prohibit this rezone.
- 7) The proposal is not an illegal "spot zone."
- 8) The conditions imposed are not unnecessarily onerous. The conditions imposed will protect public health, safety, morals, and general welfare.
- 9) All procedural application review requirements have been met thus far in accordance with OCC 17.37 "Amendment of Zoning Code".