

**OKANOGAN COUNTY
ORDINANCE NO. 2015 - 9**

**AMENDING OKANOGAN COUNTY'S ZONE MAP FOR
NICKEL COVE REZONE**

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/High Density".

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.

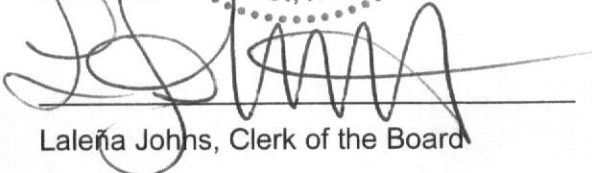
SECTION 2: ZONE MAP AMENDMENT

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).

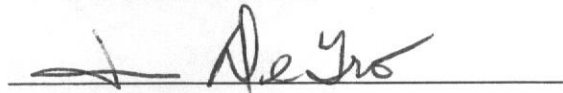
DATED at Okanogan, Washington this 8 day of September, 2015.



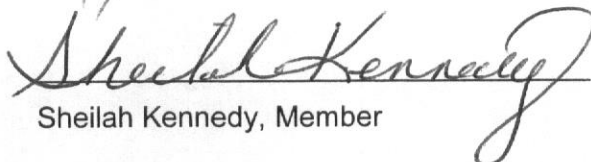
ATTEST:


Laleña Johns, Clerk of the Board

**BOARD OF COUNTY COMMISSIONERS
OKANOGAN, WASHINGTON**

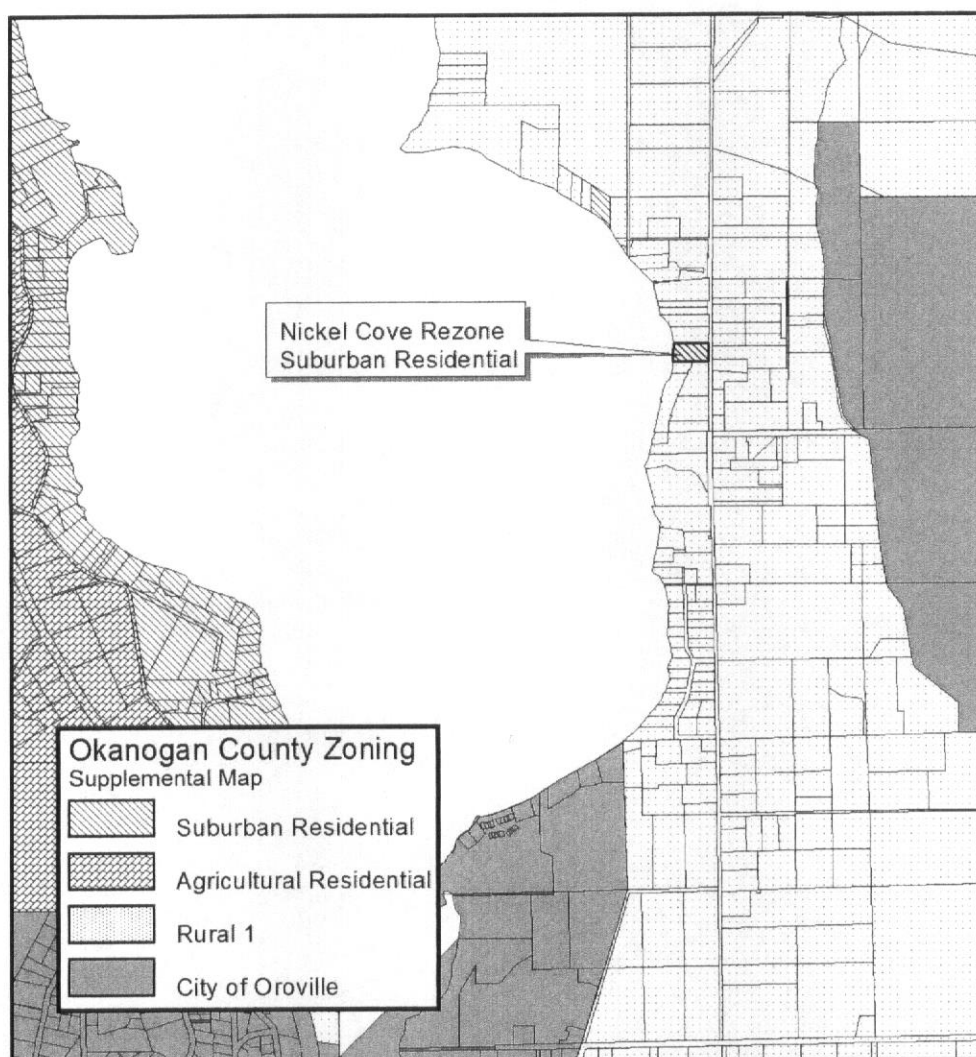

Jim DeTro, Chairman


Ray Campbell, Vice-Chairman


Sheilah Kennedy, Member

Attachment A

Zone Map



Legal Description

Tax Parcel 6400030002

That portion of Lots B & C of Okanogan Smith Irrigated Tracts, as per the plat thereof recorded in D of Plats, page 35, records of the Auditor of Okanogan, Washington; described as follows: Beginning at the SE Corner of Lot 'A' of said Okanogan Smith Irrigated Tracts; which is the S $\frac{1}{4}$ corner of Section 15, Township 40 North, Range 27 E.W.M.; Thence S 89°32'00" W on the South boundary line of said section 15 a distance of 20.00 feet to the West Right of Way line of Okanogan County East Lake Road; Thence N 01°16'00"E on said West Right of Way line a distance of 597.90 feet to the True Point of Beginning; Thence S 89°49'00" W a distance of 159.75 feet; Thence N 07°20'00" E a distance of 21.91 feet; Thence S 86°45'00" W a distance of 139.90 feet to the east shoreline of Osoyoos Lake; Thence N 06°01'08" E along the east shoreline of Osoyoos Lake a distance of 56.99 feet; Thence N 02°49'47" E along the said east shore line of Osoyoos Lake a distance of 87.49 feet; Thence N 89°49'00" E a distance of 289.28 feet to the west R/W line of Okanogan County Eastlake Road; Thence S 01°16'00" W on said west R/W line a distance of 158.28 feet to the true point of beginning.

Attachment B

The following are findings of fact:

- 1) Complete applications for a Rezone and Long Plat Alteration were submitted by Elmer and Ricka Nickel. The applications are processed concurrently and are vested as "Nickel Cove Subdivision and Rezone, Long Plat Alteration 2015-1".
- 2) The application proposes rezoning property to Suburban Residential and subdividing the property for the purpose of creating 2 residential lots.
- 3) The subject property is identified by tax parcel number 6400030002. The physical address is 117A Eastlake Road located north of the City of Oroville, WA.
- 4) The comprehensive plan designation is "Rural/High Density".
- 5) The current zone designation is "Rural 1". The proposed zone designation is "Suburban Residential".
- 6) Applications for rezones are processed in accordance with OCC 17.37 "Amendment of Zoning Code".
- 7) Applications for long plats, and alterations thereof, are processed in accordance with OCC Title 16 "Subdivisions".
- 8) On March 31, 2015 a complete application for a planned development was received and vested.
- 9) On April 6, 2015 notice of application and threshold SEPA determination was mailed to adjacent landowners and commenting agencies for their respective review and comment. On April 8, 2015 notice of application and threshold SEPA determination was published in the Omak Chronicle (Okanogan County's periodical of record). On April 9, 2015 notice of application and threshold SEPA determination was published in the Oroville Gazette-Tribune.
- 10) On April 22, 2015 the SEPA comment period ended.
- 11) On April 28, 2015 the final SEPA determination was issued. On May 6, 2014 notice of the final SEPA determination and public hearing was published in the Omak Chronicle (Okanogan County's periodical of record). On May 7, 2014 notice of the final SEPA determination and public hearing was published in the Oroville Gazette-Tribune.
- 12) On May 11, 2015 3 notices of public hearing were posted on and near the property and 1 notice was posted in the Omak US Post Office.
- 13) On May 21, 2015 the SEPA appeal period ended. No appeals were received.
- 14) On May 22, 2015 a Staff Report was prepared by the Office of Planning and Development and transmitted to Okanogan County Hearings Examiner. A copy of that report was also transmitted to the applicant.
- 15) On May 28, 2015 the Okanogan County Hearings Examiner conducted a public hearing for this project. At this hearing, public was given opportunity to enter testimony and written comments into the record.
- 16) At the hearing, the applicant testified about the general nature of the rezone and subdivision requests.
- 17) All testimony was taken under oath.
- 18) The entire planning department file was entered into the record.
- 19) 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 2014.

- 20) The Comprehensive Plan designates the subject property as Rural/High Density.
- 21) The Rural/High Density comprehensive plan designation is described as "...the small unincorporated communities, neighborhood commercial areas, higher density residential areas, and other uses in the rural area benefiting from proximity to transportation and public services."
- 22) 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."
- 23) The general area has been developed more consistent with the Suburban Residential classification than with the Rural 1 classification, which allows for a much wider range of uses.
- 24) It is undisputed that the small tract proposed for rezone is a small parcel surrounded by a large area of Rural 1 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.
- 25) Planning staff testified at the hearing that municipal water and sewer utility services are available from the Town of Oroville.
- 26) Planning staff further indicated that Okanogan County is currently reviewing the zone code and with this process will determine whether it may be preferred and appropriate to rezone the entire Eastlake area as Suburban Residential.
- 27) There was discussion as to whether the applications were complete prior to the adoption of the current County comprehensive plan, with staff indicating that the application was not complete until long after the current comprehensive plan and interim zoning was adopted.
- 28) After conclusion of the public hearing, the rezone application was approved by the Okanogan County Hearing Examiner by written order dated. 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.
- 29) 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.
- 30) On September 8, 2015 the Board of Okanogan County Commissioners conducted a closed record public hearing 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) Development of this subdivision will include construction of miscellaneous infrastructure such as improving the approach and access point to Eastlake Road, connection to the City of Oroville water utility, connection to the City of Oroville sewer utility, improvements to existing irrigation infrastructure, land survey & monumentation, and various other site prep and improvements. Some improvements are necessary in order to comply with the County's subdivision requirements while others are not.
- 2) The Comprehensive Plan designation is "Rural/High Density". The proposal to amend Okanogan County's zone map to designate the subject property as "Suburban Residential" is consistent with the Okanogan County's Comprehensive Plan.
- 3) The long plat application and is consistent with the Okanogan County Zone Code, specifically OCC 17.09 "Suburban Residential".
- 4) A final SEPA Determination of Non-Significance (DNS) was issued by the Okanogan County SEPA responsible official in accordance with OCC 14.04 "Environmental Policy". All comments received during the comment period were evaluated for consideration of the final SEPA determination. The final SEPA determination was not appealed and is final.
- 5) Comments from the public and state, federal, and local agencies were received, reviewed, and considered in analysis of this proposal.
- 6) The subdivision can be made compatible with the surrounding neighborhood by requiring appropriate conditions of approval.
- 7) The conditions imposed are not unnecessarily onerous.
- 8) 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 Title 16 "Subdivisions".
- 10) All procedural application review requirements have been met thus far in accordance with OCC 17.37 "Amendment of Zoning Code".
- 11) The applications are properly reviewed in accordance with the comprehensive plan adopted by Okanogan County in December of 2014.
- 12) Two objections were filed by email but neither cited any specific reason why the applications should be denied.