



SKAMANIA COUNTY PLANNING COMMISSION

AGENDA

Tuesday, July 16, 2019 @ 6:00 PM

SKAMANIA COUNTY COURTHOUSE ANNEX, BASEMENT MEETING ROOM
170 NW VANCOUVER AVE, STEVENSON, WA

I. CALL TO ORDER

II. ROLL CALL

III. AGENDA ITEMS

1. Approval of minutes from the June 18, 2019, Planning Commission Meeting.
2. PUBLIC HEARING, CONSIDERATION, AND RECOMMENDATION on proposed Zoning Map amendments affecting Unmapped lands in the Underwood area. Continued from June 4, 2019. This continued public hearing concerns only the following three parcels:

#6	03-10-00-0-0-0400-00	Broughton Lumber Co
#8	03-10-00-0-0-0800-00	Broughton Lumber Co
#24	03-10-00-0-0-0300-00	SDS Co
3. PUBLIC WORKSHOP to consider the possibility of allowing single-family dwellings or recreational cabins in the Commercial Resource Lands 40 zone within the High Lakes area.

IV. PLANNING COMMISSION BUSINESS

V. ADJOURN



Skamania County Planning Commission

PLANNING COMMISSION MEETING MINUTES

**Tuesday, June 18, 2019
Skamania County Annex
170 NW Vancouver Avenue
Stevenson, WA 98648**

Planning Commission Members:
Present:

John Prescott, Dee Bajema
Mathew Joy (arrived after meeting start),
Cyndi Soliz, Tony Coates

Community Development Department Staff
Present:

Alan Peters, Andrew Lembrick, Mike Beck
Teri Wyckoff

Absent: Cliff Nutting, Lesley Haskell

AUDIENCE

See attached sign-in sheet.

PROCEEDINGS

Meeting was called to order at 6:00 P.M. by Chair, John Prescott
Quorum was met.

AGENDA ITEMS

1. Approve Minutes from the June 4, 2019 Planning Commission meeting.
 - a. Motion was made by Cyndi Soliz and seconded by Tony Coates to approve the minutes of the June 4, 2019 Planning Commission Meeting.
 - b. Motion passed 4-0.

 2. PUBLIC WORKSHOP on proposed critical areas ordinance.
 - a. Alan Peters introduced the County's consultants, Ethan Spoo and Dustin Day of WSP, and explained the purpose of the critical areas update and the update schedule. Mr. Peters explained that the County's deadline to complete this review is June 30, 2019, and that this is not likely to be met.
 - b. Mr. Peters provided examples of how the proposal would impact new development project.
 - c. Mr. Spoo and Mr. Day outlined the changes in the current draft that have been made in response to comments at the last workshop.
 - d. Chair Prescott opened the meeting to public comment. Two members of the public provided comments.
 - i. Joe Birkenfeld provided public comment.
-

- ii. Staci Patton, provided public comment.
 - e. The Planning Commission asked several questions of Staff and the consultants about the proposal. Mat Joy reviewed several RCWs and WACs regarding whether or not the County is required to plan for critical areas. The Planning Commission had particular concern over the proposed increases to riparian buffers. The Planning Commission requested additional time to review the proposed draft before the next work.
 - f. The Planning Commission scheduled the next critical areas workshop for August 6, 2019.
3. Planning Commission decided to cancel the July 2, 2019, meeting. The next meeting will be July 16, 2019.
4. MEETING ADJOURNED

ATTEST

Planning Commission Chair

Secretary



Skamania County Community Development Department

Building/Fire Marshal • Environmental Health • Planning

Skamania County Courthouse Annex

Post Office Box 1009

Stevenson, Washington 98648

Phone: 509-427-3900 Inspection Line: 509-427-3922

STAFF REPORT

TO: Skamania County Planning Commission
FROM: Alan Peters, Assistant Planning Director

REPORT DATE: July 10, 2019

HEARING DATE: July 16, 2019

PROPOSAL: Zoning Map amendments affecting Unmapped lands in the Underwood (Parcels #6, #8, and #24)

Background

The Skamania County Planning Commission is completing a review of zoning in parts of unincorporated Skamania County in the Underwood area. This review is limited to any privately-owned parcels within the Unmapped (UNM) zone. Community Development Department Staff has identified 30 parcels in the study area. After five workshops held February through May 2019, the Planning Commission held a hearing on June 4, 2019, regarding proposed zoning map amendments. The Planning Commission forwarded a recommendation to the Board of County Commissioners to rezone 27 parcels. Zoning for these 27 parcels was approved by the Board of County Commissioners on June 25, 2019. The Planning Commission closed the hearing with regard to those 27 parcels, but continued the hearing to the July 16, 2019, Planning Commission meeting for three additional parcels:

#6	03-10-00-0-0-0400-00	Broughton Lumber Co
#8	03-10-00-0-0-0800-00	Broughton Lumber Co
#24	03-10-00-0-0-0300-00	SDS Co

These three parcels are associated with the Whistling Ridge Energy Project that was approved by the State of Washington on March 5, 2012, on recommendation by the state's Energy Facility Site Evaluation Council (EFSEC). The project covers a site of about 1,000 total acres on property owned by SDS Co/Broughton Lumber. This project site includes the entirety of Parcel 6 and portions of Parcels 8 and 24. The site is approved for wind turbine generators, access roadways, and electrical connection systems. The Washington Supreme Court upheld this approval in a decision issued August 29, 2013.

Statutory limits on rezoning

Per RCW 80.50.090, the County is precluded from changing the zoning of the proposed site because EFSEC previously determined that the proposal is consistent with the existing zoning of Unmapped (UNM).

RCW 80.50.090(2)

Subsequent to the informational public hearing, the council shall conduct a public hearing to determine whether or not the proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances. If it is determined that the proposed site does conform with existing land use plans or zoning ordinances in effect as of the date of the application, the city, county, or regional planning authority shall not thereafter change such land use plans or zoning ordinances so as to affect the proposed site.

EFSEC’s Adjudicative Order, dated October 6, 2011, provides some additional insight into the meaning of this statute:

We conclude that the evidence and applicable law support the County’s certificate of consistency, that Project opponents have failed to present a credible case against it, and that the Project is therefore consistent with the Conservancy designation in the Comprehensive Plan. The County will be prohibited from changing the land use plan and zoning ordinances applicable to project lands for the life of the Certificate.

The Washington State Supreme Court’s August 29, 2013 ruling also states:

After the informational public hearing, EFSEC is required to "conduct a public hearing to determine whether or not the proposed site is consistent and in compliance with city, county, or regional land use plans or zoning ordinances." RCW 80.50.090(2). If consistent, the local jurisdiction cannot subsequently amend any rules to affect the proposed site. If inconsistent, EFSEC can preempt the conflicting regulations and allow the project to move forward. RCW 80.50.110(2); Residents 165 Wn.2d at 311 n.13.

Staff Recommendation

To not violate RCW 80.50.090(2), Staff recommends that the Planning Commission not make any recommendation to change the zoning of Parcel #6, #8, and #24.

While choosing not to rezone these properties does not require any formal action, the Planning Commission may adopt a motion in order to state its reason for retaining the existing zoning.

Analysis of Alternatives

There are several alternative actions that the Planning Commission could take with respect to these three parcels. The following alternatives were proposed by the Friends of the Columbia Gorge and Save Our Scenic Area in their June 4, 2019, letter and were discussed in some extent at the June 4, 2019, Planning Commission meeting.

1. Rezone Parcel #6, #8, and #24 to Commercial Resource Lands 40 (CRL-40) with the adoption of the following proviso:

This zoning shall not apply to the development of the Whistling Ridge Energy Project ("WREP") pursuant to the March 5, 2012 Site Certification Agreement ("SCA") for the WREP, so long as the SCA remains in effect.

If the County could rezone these parcels, CRL-40 might be an appropriate zone option for them. This zone is consistent with the Conservancy designation and has been applied to some adjacent parcels. Other adjacent zones include Forest Lands 20, Forest Agriculture 20, and Residential 10.

The use of these parcels is also consistent with this zone as they are primarily devoted to growing trees for long-term commercial timber production and are large in acreage (the UNM portions are 155 acres, 250 acres, and 1622 acres).

Staff does not recommend this alternative. However, should the Planning Commission recommend this alternative, Staff recommends the following additional language be added to any adopted ordinance:

In order to comply with RCW 80.50.090(2), this zoning shall not apply to the development of the Whistling Ridge Energy Project ("WREP") pursuant to the March 5, 2012 Site Certification Agreement ("SCA") for the WREP, so long as the SCA remains in effect.

2. Rezone the portions Parcel #8 and Parcel #24 that are outside the approved project site.

The entirety of Parcel 6 is located within the approved project site. Friends' June 4, 2019, letter states that the "at a minimum, the Unmapped portions of parcels #8 and #24 outside the approved WREP site (which total 250.5 acres and 1,226.37 acres, respectively) can and should be zoned now." Based on Staff's review, only 74.56 acres of Parcel #8 is Unmapped and outside of the boundaries of the approved project site.

Staff does not recommend this alternative. However, should the Planning Commission recommend this alternative, Staff recommends that any adopting ordinance specifically exclude the legal description of the site boundary as provided in the Site Certification Agreement.

Review Criteria and Findings

Choosing not to rezone these properties does not require any formal action, though the Planning Commission may adopt a motion in order to state its reason for retaining the existing zoning. The following applies only if the Planning Commission wishes to forward a recommendation the Board of County Commissioners to rezone these parcels in any way.

Skamania County Code (SCC) Chapter 21.18 – Zoning Text and Map Amendments

21.18.030 County initiated map amendments.

County initiated map amendments are amendments to the official zoning map that are not proposed for specific parcels by the landowners of the parcels. Rather, the amendments are generally countywide in nature. These legislative actions usually occur when a new zone classification is created, when the board of county commissioners has adopted an amendment to the land use maps in the comprehensive plan, or when it is determined that the existing zone classification is out of character with the surrounding area. Such action shall occur in accordance with the procedures set forth in RCW 36.70. County initiated map amendments may only be initiated by the board of county commissioners or the planning commission.

Staff Findings:

Any proposed amendments would be initiated by the Planning Commission under the direction of the Board of County Commissioners. The Planning Commission opened a public hearing on June 4, 2019, and continued this hearing to the July 16, 2019, meeting date. The amendments are subject to the procedures in RCW 36.70 as outlined below.

Revised Code of Washington (RCW) 36.70 Planning Enabling Act

36.70.580 Official controls—Public hearing by commission.

Before recommending an official control or amendment to the board for adoption, the commission shall hold at least one public hearing.

36.70.590 Official controls—Notice of hearing.

Notice of the time, place and purpose of the hearing shall be given by one publication in a newspaper of general circulation in the county and in the official gazette, if any, of the county at least ten days before the hearing. The board may prescribe additional methods for providing notice.

36.70.600 Official controls—Recommendation to board—Required vote.

The recommendation to the board of any official control or amendments thereto by the planning agency shall be by the affirmative vote of not less than a majority of the total members of the commission. Such approval shall be by a recorded motion which shall incorporate the findings of fact of the commission and the reasons for its action and the motion shall refer expressly to the maps, descriptive and other matters intended by the commission to constitute the plan, or amendment, addition or extension thereto. The indication of approval by the commission shall be recorded on the map and descriptive matter by the signatures of the chair and the secretary of the commission and of such others as the commission in its rules may designate.

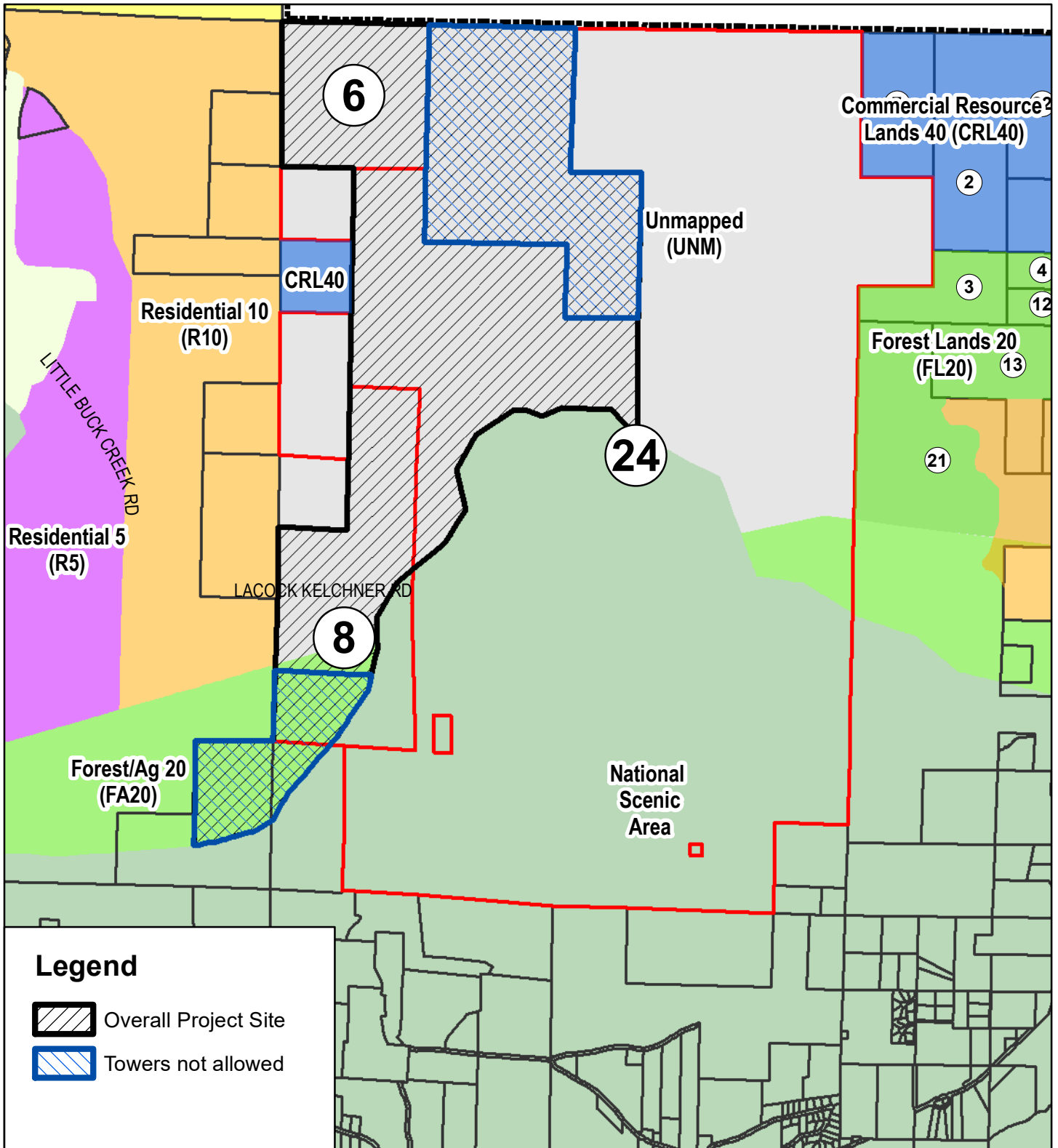
Staff Findings:

Any proposed amendments would be initiated by the Planning Commission under the direction of the Board of County Commissioners. A public hearing on the proposed amendments was opened on June 4, 2019. Notice of this hearing was published in the Skamania County Pioneer on May 15, 2019, and on the County's website. The Planning Commission continued this hearing to the July 16, 2019, meeting date, at the June 4, 2019, meeting, consistent with the requirements of RCW 42.30.100.

After closing the continued public hearing, the Planning Commission may make a recommendation to the Board of County Commissioners on any proposal. Staff has prepared draft motions for the Planning Commission's consideration.

Attachments

1. Draft Motion – Staff Recommendation
2. Draft Motion – Alternative #1
3. Draft Motion – Alternative #2

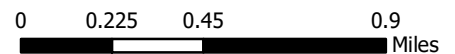


DISCLAIMER: This map product was prepared by Skamania County and is for information purposes only. It may not have been prepared for, or be suitable for legal, engineering, or surveying purposes.

ZONING MAP - Whistling Ridge Energy Project

Underwood Area Zoning Review

SKAMANIA COUNTY
Community Development Department





Skamania County
Community Development Department
Building/Fire Marshal • Environmental Health • Planning

Skamania County Courthouse Annex

Post Office Box 1009

Stevenson, Washington 98648

Phone: 509-427-3900 Inspection Line: 509-427-3922

Staff Recommendation

**SKAMANIA COUNTY PLANNING COMMISSION MOTION
TO RETAIN EXISTING ZONING OF PARCELS 6, 8, AND 24**

The Skamania County Planning Commission conducted a public hearing to consider zoning map amendments as part of its review of privately-owned Unmapped lands in the Underwood area on June 4, 2019, and July 16, 2019.

I, _____, do hereby move that the Skamania County Planning Commission make the following Findings of Fact, and Conclusions.

FINDINGS OF FACT

1. Certain privately-owned parcels in unincorporated Skamania County have a zoning designation of Unmapped. Although this designation is consistent with the Comprehensive Plan, the Board adopted Resolution 2017-30 on August 8, 2017, and directed the Planning Commission to review these Unmapped parcels.
2. The Planning Commission initiated its review of 30 Unmapped parcels in the Underwood area on February 13, 2019, and held additional workshops on March 5th, March 19th, April 2nd, and May 7th of 2019, and forwarded a recommendation to the Board of County Commissioners on June 4, 2019, to rezone 27 of these parcels.
3. Three parcels: #03-10-00-0-0-0400-00, #03-10-00-0-0-0800-00, and #03-10-00-0-0-0300-00 are part of the Whistling Ridge Energy Project (WREP) approved by the State of Washington on March 5, 2012, on recommendation by the state's Energy Facility Site Evaluation Council (EFSEC).
4. These three parcels are located within the Unmapped zone.
5. On October 6, 2011, EFSEC issued a Final Adjudicative Order, concluding that the project is consistent with local land use provisions, including the Unmapped zone and the Conservancy designation of the Comprehensive Plan.

6. RCW 80.50.090 prohibits the county from changing land use plans or zoning ordinances so as to affect the proposed site of a project determined consistent with local land use provisions by EFSEC.

CONCLUSIONS

To not violate RCW 80.50.090(2), the County cannot change land use plans or zoning ordinances to affect the proposed site of the Whistling Ridge Energy Project.

MOTION

Based upon the findings of fact and conclusions, I move that the Planning Commission retain the existing zoning of Parcels 6, 8, and 24 and forward no recommendation to rezone these parcels.

Motion seconded by _____.

AYE

NAY

Lesley Apple Haskell

John Prescott

Dee Bajema

Tony Coates

Mathew Joy

Cliff Nutting

Cyndi Soliz

Planning Commission Chair

Date

Secretary

Date



Skamania County
Community Development Department
Building/Fire Marshal • Environmental Health • Planning
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Stevenson, Washington 98648
Phone: 509-427-3900 Inspection Line: 509-427-3922

Alternative #1

**SKAMANIA COUNTY PLANNING COMMISSION
MOTION TO RECOMMEND APPROVAL OF
AMENDMENTS TO THE ZONING MAP FOR PARCELS 6, 8, AND 24**

The Skamania County Planning Commission conducted a public hearing to consider zoning map amendments as part of its review of privately-owned Unmapped lands in the Underwood area on June 4, 2019, and July 16, 2019.

I, _____, do hereby move that the Skamania County Planning Commission make the following Findings of Fact, and Conclusions.

FINDINGS OF FACT

1. RCW 36.70 authorizes Skamania County (the County) to adopt or amend zoning regulations and a zoning map.
2. Certain privately-owned parcels in unincorporated Skamania County have a zoning designation of Unmapped. Although this designation is consistent with the Comprehensive Plan, the Board adopted Resolution 2017-30 on August 8, 2017, and directed the Planning Commission to review these Unmapped parcels.
3. The Planning Commission initiated its review of 30 Unmapped parcels in the Underwood area on February 13, 2019, and held additional workshops on March 5th, March 19th, April 2nd, and May 7th of 2019, and forwarded a recommendation to the Board of County Commissioners on June 4, 2019, to rezone 27 of these parcels.
4. Three parcels: #03-10-00-0-0-0400-00, #03-10-00-0-0-0800-00, and #03-10-00-0-0-0300-00 are part of the Whistling Ridge Energy Project (WREP) approved by the State of Washington on March 5, 2012, on recommendation by the state's Energy Facility Site Evaluation Council (EFSEC).
5. On October 6, 2011, EFSEC issued a Final Adjudicative Order, concluding that the project is consistent with local land use provisions, including the Unmapped zone and the Conservancy designation of the Comprehensive Plan.

6. RCW 80.50.090 prohibits the county from changing land use plans or zoning ordinances so as to affect the proposed site of a project determined consistent with local land use provisions by EFSEC.
7. The proposed zoning map amendments are consistent with the Comprehensive Plan's Conservancy Designation.

CONCLUSIONS

Based on the Staff Report, public comment, and deliberations, the proposed amendments protect the general health, safety, and welfare of the public, and should be recommended to the Board of County Commissioners for approval.

RECOMMENDATION

Based upon the findings of fact and conclusions, I move that the Planning Commission recommend to the Board of County Commissioners rezone Parcels 6, 8, and 24 to Commercial Resource Lands 40 (CRL40) with the following stipulation:

In order to comply with RCW 80.50.090(2), this zoning shall not apply to the development of the Whistling Ridge Energy Project ("WREP") pursuant to the March 5, 2012 Site Certification Agreement ("SCA") for the WREP, so long as the SCA remains in effect.

Motion seconded by _____.

AYE

NAY

Lesley Apple Haskell

John Prescott

Dee Bajema

Tony Coates

Mathew Joy

Cliff Nutting

Cyndi Soliz

Planning Commission Chair

Date

Secretary

Date



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Alternative #2

SKAMANIA COUNTY PLANNING COMMISSION
MOTION TO RECOMMEND APPROVAL OF
AMENDMENTS TO THE ZONING MAP FOR PARCELS 8 AND 24

The Skamania County Planning Commission conducted a public hearing to consider zoning map amendments as part of its review of privately-owned Unmapped lands in the Underwood area on June 4, 2019, and July 16, 2019.

I, _____, do hereby move that the Skamania County Planning Commission make the following Findings of Fact, and Conclusions.

FINDINGS OF FACT

1. RCW 36.70 authorizes Skamania County (the County) to adopt or amend zoning regulations and a zoning map.
2. Certain privately-owned parcels in unincorporated Skamania County have a zoning designation of Unmapped. Although this designation is consistent with the Comprehensive Plan, the Board adopted Resolution 2017-30 on August 8, 2017, and directed the Planning Commission to review these Unmapped parcels.
3. The Planning Commission initiated its review of 30 Unmapped parcels in the Underwood area on February 13, 2019, and held additional workshops on March 5th, March 19th, April 2nd, and May 7th of 2019, and forwarded a recommendation to the Board of County Commissioners on June 4, 2019, to rezone 27 of these parcels.
4. Three parcels: #03-10-00-0-0-0400-00, #03-10-00-0-0-0800-00, and #03-10-00-0-0-0300-00 are part of the Whistling Ridge Energy Project (WREP) approved by the State of Washington on March 5, 2012, on recommendation by the state's Energy Facility Site Evaluation Council (EFSEC).
5. On October 6, 2011, EFSEC issued a Final Adjudicative Order, concluding that the project is consistent with local land use provisions, including the Unmapped zone and the Conservancy designation of the Comprehensive Plan.

6. RCW 80.50.090 prohibits the county from changing land use plans or zoning ordinances so as to affect the proposed site of a project determined consistent with local land use provisions by EFSEC.
7. Portions of Parcel #03-10-00-0-0-0800-00 and Parcel #03-10-00-0-0-0300-00 are located outside of the boundaries of the approved project site.
8. The proposed zoning map amendments are consistent with the Comprehensive Plan's Conservancy Designation.

CONCLUSIONS

Based on the Staff Report, public comment, and deliberations, the proposed amendments protect the general health, safety, and welfare of the public, and should be recommended to the Board of County Commissioners for approval. Per RCW 80.50.090(2), the County cannot change land use plans or zoning ordinances to affect the proposed site of the Whistling Ridge Energy Project.

RECOMMENDATION

Based upon the findings of fact and conclusions, I move that the Planning Commission recommend to the Board of County Commissioners rezone Parcels 8 and 24 to Commercial Resource Lands 40 (CRL40), excepting the legal description of the Whistling Ridge Energy Project site boundary as provided in the Site Certification Agreement dated March 5, 2012.

Motion seconded by _____.

AYE

NAY

Lesley Apple Haskell

John Prescott

Dee Bajema

Tony Coates

Mathew Joy

Cliff Nutting

Cyndi Soliz

Planning Commission Chair

Date

Secretary

Date

Alan Peters

From: Arnold Whitley <airtime@gorge.net>
Sent: Wednesday, July 10, 2019 7:29 AM
To: planningcommission
Subject: Zoning Map amendments affecting Unmapped land in the Underwood area.

** WARNING: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. **

Arnold Whitley
231 Wess Rd
Underwood, WA 98651

July 10, 2019

Dear Skamania County Planning Commission,

I strongly support Skamania County's efforts to adopt zoning for the three unzoned (aka Unmapped) parcels in Underwood. These three parcels need to be zoned, just like all other privately owned property in the County. All landowners in our community should be required to abide by the same rules, which means adopting zoning to provide certainty about appropriate land uses and to protect neighboring property owners and their property values.

To not adopt zoning for these three parcels would provide the landowners with preferential treatment and would amount to illegal spot zoning, because it would allow any type of use on these parcels, with no regulation under the County's zoning ordinance. Factories, junkyards, residential subdivisions on small lots, slaughterhouses, and power plants could all happen on these parcels as long as they remain Unmapped, unless a court declares such a use to be a nuisance after costly litigation.

I understand that the Washington Governor previously approved the Whistling Ridge Energy Project, and that the Whistling Ridge site encompasses about one-third of the unzoned lands on these parcels. But that energy project has not moved forward after being approved more than seven years ago, and the permit will expire in March 2022. The County should adopt zoning now, while also recognizing that the new zoning will not affect the Whistling Ridge project so long as the permit remains in effect.

At a minimum, the County should adopt zoning for the 1,301 acres of unzoned land located outside the approved Whistling Ridge project site. This land is not, and cannot, be part of the approved project, and there are no plans to try to make it part of the project. Adopting zoning on these 1,301 acres will not affect the Whistling Ridge site. Furthermore, leaving this land unzoned just because it is part of the same parcels as the project site would violate the Skamania County Comprehensive Plan.

I implore Skamania County officials to do the right thing and adopt Commercial Resource Lands 40 (CRL-40) zoning for the three identified parcels in Skamania County. This will protect commercial forestlands for forest uses, protect our quality of life, and help reduce the risk of incompatible and harmful land uses in the future. Thank you very much.

Sincerely,
Arnold Whitley

Alan Peters

From: Kalama Reuter <kalama@embarqmail.com>
Sent: Wednesday, July 10, 2019 10:29 AM
To: planningcommission
Subject: Zoning Map amendments affecting Unmapped land in the Underwood area.

** WARNING: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. **

Kalama Reuter
920 NE Fields Ave
White Salmon, WA 98672

July 10, 2019

Dear Skamania County Planning Commission,

I strongly support Skamania County's efforts to adopt zoning for the three unzoned (aka Unmapped) parcels in Underwood. These three parcels need to be zoned, just like all other privately owned property in the County. All landowners in our community should be required to abide by the same rules, which means adopting zoning to provide certainty about appropriate land uses and to protect neighboring property owners and their property values.

To not adopt zoning for these three parcels would provide the landowners with preferential treatment and would amount to illegal spot zoning, because it would allow any type of use on these parcels, with no regulation under the County's zoning ordinance. Factories, junkyards, residential subdivisions on small lots, slaughterhouses, and power plants could all happen on these parcels as long as they remain Unmapped, unless a court declares such a use to be a nuisance after costly litigation.

I understand that the Washington Governor previously approved the Whistling Ridge Energy Project, and that the Whistling Ridge site encompasses about one-third of the unzoned lands on these parcels. But that energy project has not moved forward after being approved more than seven years ago, and the permit will expire in March 2022. The County should adopt zoning now, while also recognizing that the new zoning will not affect the Whistling Ridge project so long as the permit remains in effect.

At a minimum, the County should adopt zoning for the 1,301 acres of unzoned land located outside the approved Whistling Ridge project site. This land is not, and cannot, be part of the approved project, and there are no plans to try to make it part of the project. Adopting zoning on these 1,301 acres will not affect the Whistling Ridge site. Furthermore, leaving this land unzoned just because it is part of the same parcels as the project site would violate the Skamania County Comprehensive Plan.

I implore Skamania County officials to do the right thing and adopt Commercial Resource Lands 40 (CRL-40) zoning for the three identified parcels in Skamania County. This will protect commercial forestlands for forest uses, protect our quality of life, and help reduce the risk of incompatible and harmful land uses in the future. Thank you very much.

Sincerely,
Kalama Reuter

Alan Peters

From: Jacob Meyer <meyerjak@hotmail.com>
Sent: Wednesday, July 10, 2019 7:49 AM
To: planningcommission
Subject: Zoning Map amendments affecting Unmapped land in the Underwood area.

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Jacob Meyer
908 Sun Tillikum St.
North Bonneville, WA 98639

July 10, 2019

Dear Skamania County Planning Commission,

I strongly support Skamania County's efforts to adopt zoning for the three unzoned (aka Unmapped) parcels in Underwood. These three parcels need to be zoned, just like all other privately owned property in the County. All landowners in our community should be required to abide by the same rules, which means adopting zoning to provide certainty about appropriate land uses and to protect neighboring property owners and their property values.

To not adopt zoning for these three parcels would provide the landowners with preferential treatment and would amount to illegal spot zoning, because it would allow any type of use on these parcels, with no regulation under the County's zoning ordinance. Factories, junkyards, residential subdivisions on small lots, slaughterhouses, and power plants could all happen on these parcels as long as they remain Unmapped, unless a court declares such a use to be a nuisance after costly litigation.

I understand that the Washington Governor previously approved the Whistling Ridge Energy Project, and that the Whistling Ridge site encompasses about one-third of the unzoned lands on these parcels. But that energy project has not moved forward after being approved more than seven years ago, and the permit will expire in March 2022. The County should adopt zoning now, while also recognizing that the new zoning will not affect the Whistling Ridge project so long as the permit remains in effect.

At a minimum, the County should adopt zoning for the 1,301 acres of unzoned land located outside the approved Whistling Ridge project site. This land is not, and cannot, be part of the approved project, and there are no plans to try to make it part of the project. Adopting zoning on these 1,301 acres will not affect the Whistling Ridge site. Furthermore, leaving this land unzoned just because it is part of the same parcels as the project site would violate the Skamania County Comprehensive Plan.

I implore Skamania County officials to do the right thing and adopt Commercial Resource Lands 40 (CRL-40) zoning for the three identified parcels in Skamania County. This will protect commercial forestlands for forest uses, protect our quality of life, and help reduce the risk of incompatible and harmful land uses in the future. Thank you very much.

Sincerely,
Jacob Meyer

Alan Peters

From: Steve Erickson <steveerickson720@gmail.com>
Sent: Tuesday, July 9, 2019 8:58 PM
To: planningcommission
Subject: Zoning Map amendments affecting Unmapped land in the Underwood area.

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Steve Erickson
720 Cherryview Lane
White Salmon, WA 98672

July 9, 2019

Dear Skamania County Planning Commission,

I strongly support Skamania County's efforts to adopt zoning for the three unzoned (aka Unmapped) parcels in Underwood. These three parcels need to be zoned, just like all other privately owned property in the County. All landowners in our community should be required to abide by the same rules, which means adopting zoning to provide certainty about appropriate land uses and to protect neighboring property owners and their property values.

To not adopt zoning for these three parcels would provide the landowners with preferential treatment and would amount to illegal spot zoning, because it would allow any type of use on these parcels, with no regulation under the County's zoning ordinance. Factories, junkyards, residential subdivisions on small lots, slaughterhouses, and power plants could all happen on these parcels as long as they remain Unmapped, unless a court declares such a use to be a nuisance after costly litigation.

I understand that the Washington Governor previously approved the Whistling Ridge Energy Project, and that the Whistling Ridge site encompasses about one-third of the unzoned lands on these parcels. But that energy project has not moved forward after being approved more than seven years ago, and the permit will expire in March 2022. The County should adopt zoning now, while also recognizing that the new zoning will not affect the Whistling Ridge project so long as the permit remains in effect.

At a minimum, the County should adopt zoning for the 1,301 acres of unzoned land located outside the approved Whistling Ridge project site. This land is not, and cannot, be part of the approved project, and there are no plans to try to make it part of the project. Adopting zoning on these 1,301 acres will not affect the Whistling Ridge site. Furthermore, leaving this land unzoned just because it is part of the same parcels as the project site would violate the Skamania County Comprehensive Plan.

I implore Skamania County officials to do the right thing and adopt Commercial Resource Lands 40 (CRL-40) zoning for the three identified parcels in Skamania County. This will protect commercial forestlands for forest uses, protect our quality of life, and help reduce the risk of incompatible and harmful land uses in the future. Thank you very much.

Sincerely,
Steve Erickson

Alan Peters

From: Carol Edwards <caroledwards18@msn.com>
Sent: Tuesday, July 9, 2019 4:38 PM
To: planningcommission
Subject: Zoning Map amendments affecting Unmapped land in the Underwood area.

Follow Up Flag: Follow up
Flag Status: Flagged

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Carol Edwards
PO Box 341
Underwood, WA 98651

July 9, 2019

Dear Skamania County Planning Commission,

I strongly support Skamania County's efforts to adopt zoning for the three unzoned (aka Unmapped) parcels in Underwood. These three parcels need to be zoned, just like all other privately owned property in the County. All landowners in our community should be required to abide by the same rules, which means adopting zoning to provide certainty about appropriate land uses and to protect neighboring property owners and their property values.

To not adopt zoning for these three parcels would provide the landowners with preferential treatment and would amount to illegal spot zoning, because it would allow any type of use on these parcels, with no regulation under the County's zoning ordinance. Factories, junkyards, residential subdivisions on small lots, slaughterhouses, and power plants could all happen on these parcels as long as they remain Unmapped, unless a court declares such a use to be a nuisance after costly litigation.

I understand that the Washington Governor previously approved the Whistling Ridge Energy Project, and that the Whistling Ridge site encompasses about one-third of the unzoned lands on these parcels. But that energy project has not moved forward after being approved more than seven years ago, and the permit will expire in March 2022. The County should adopt zoning now, while also recognizing that the new zoning will not affect the Whistling Ridge project so long as the permit remains in effect.

At a minimum, the County should adopt zoning for the 1,301 acres of unzoned land located outside the approved Whistling Ridge project site. This land is not, and cannot, be part of the approved project, and there are no plans to try to make it part of the project. Adopting zoning on these 1,301 acres will not affect the Whistling Ridge site. Furthermore, leaving this land unzoned just because it is part of the same parcels as the project site would violate the Skamania County Comprehensive Plan.

I implore Skamania County officials to do the right thing and adopt Commercial Resource Lands 40 (CRL-40) zoning for the three identified parcels in Skamania County. This will protect commercial forestlands for forest uses, protect our quality of life, and help reduce the risk of incompatible and harmful land uses in the future. Thank you very much.

Sincerely,
Carol Edwards

Alan Peters

From: Keith Brown & Teresa Robbins <humansol@teleport.com>
Sent: Wednesday, July 10, 2019 12:29 PM
To: planningcommission
Subject: Zoning Map amendments affecting Unmapped land in the Underwood area.

** WARNING: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. **

Keith Brown & Teresa Robbins
211 Malfait Tracts Road
Washougal, WA 98671

July 10, 2019

Dear Skamania County Planning Commission,

We have been actively engaged with Skamania County's comprehensive planning and zoning issues for nearly 20 years. In the beginning of even considering the review and potential zoning of all unmapped lands in Skamania County, we urged that the Planning Commission and the Board of County Commissioners undertake this long overdue and promised process. We applaud the Planning Commission's and Board of County Commissioner's diligence in this matter thus far.

Now, there are only three remaining unmapped parcels in the Underwood area. This needs to be finished, in fairness to all landowners, by zoning these unmapped parcels. All landowners in our community should be required to abide by the same rules, providing certainty about appropriate land uses while protecting neighboring property owners and their property values.

We were intricately involved in the EFSEC review regarding Whistling Ridge Energy Project and are fully aware that the Washington Governor previously approved a limited version of the original proposal. This limited Whistling Ridge site encompasses only about one-third of the unzoned lands on these three parcels.

Not adopting zoning for these three parcels would provide the landowners with preferential treatment, amounting to illegal spot zoning. It would allow any type of use on these parcels. Factories, junkyards, residential subdivisions on small lots, slaughterhouses, and power plants could all happen on these parcels as long as they remain unmapped, unless a court declares such a use to be a nuisance...only after costly litigation.

This energy project has not moved forward after being approved more than seven years ago, and the permit will expire in March 2022. The County should adopt zoning now, recognizing that the new zoning will not affect the Whistling Ridge project so long as the permit remains in effect. At a minimum, the County should adopt zoning for the 1,301 acres of unzoned land located outside the approved Whistling Ridge project site.

We respectfully urge the Planning Commission and the Board of County Commissioners to do what is fair and right, and adopt Commercial Resource Lands 40 (CRL-40) zoning for these three identified parcels. This will protect commercial forestlands for forest uses, protect our quality of life, and help reduce the risk of incompatible and harmful land uses in the future.

Thank you very much.

Sincerely,
Keith Brown & Teresa Robbins



FRIENDS OF THE COLUMBIA GORGE

VIA EMAIL

July 10, 2019

Skamania County Planning Commission
Courthouse Annex, 170 NW Vancouver Ave.
P.O. Box 1009
Stevenson, WA 98648
planningcommission@co.skamania.wa.us

Re: Unmapped Parcels in Underwood Area

Dear Planning Commissioners:

Friends of the Columbia Gorge (“Friends”) and Save Our Scenic Area (“SOSA”) provide the following comments on the above-referenced zoning matter. Our organizations’ members include hundreds of people who live, work, and recreate throughout Skamania County. We are interested in Skamania County’s review of its Unmapped lands, and the County’s review of and updates to its Commercial Resource lands. We have participated in the public processes for these matters, and are encouraged to see the progress made by the County over the past two years.

Countywide, only three privately owned Unmapped parcels remain, all located in Underwood. On the previous Underwood zoning map, these three parcels are numbered #6, #8, and #24. We previously submitted maps showing the zoning, tax assessment status, and aerial photographs of these parcels. All three parcels are currently used for commercial timber production. Below are statistics for the three parcels, as well as the for approved site for the Whistling Ridge Energy Project (“WREP”), which totals about one-third of the Unmapped portions of these parcels:

Whistling Ridge Energy Project

Original proposed site: 1,152 acres

Final approved site: 744.2 acres

Unmapped and inside approved site: 727.26 acres

Resource Production 20 (FOR/AG-20) and inside approved site: 16.94 acres

Parcel #6 (Broughton Lumber Co.)

Total: 155.36 acres

Unmapped portion: 155.36 acres (entire parcel)

Unmapped and inside approved Whistling Ridge site: 155.36 acres (entire parcel)

Unmapped and outside approved Whistling Ridge site: none

Parcel #8 (Broughton Lumber Co.)

Total: 365.18 acres

Unmapped portion: 250.5 acres

Unmapped and inside approved Whistling Ridge site: 176 acres

Unmapped and outside approved Whistling Ridge site: 74.5 acres

Parcel #24 (SDS Co., LLC)

Total: 3,050.66 acres

Unmapped portion: 1,622.27 acres

Unmapped and inside approved Whistling Ridge site: 395.9 acres

Unmapped and outside approved Whistling Ridge site: 1,226.37 acres

Total Unmapped: 2,028.13 acres

Unmapped and inside approved Whistling Ridge site: 727.26 acres

Unmapped and outside approved Whistling Ridge site: 1,300.87 acres

The three identified parcels should not be left Unmapped, but rather should be zoned as Commercial Resource Lands 40 (CRL-40). All three parcels meet the criteria for designation as Commercial Resource Lands because they are primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production; they have the appropriate growing capacity, productivity, and soil composition for long-term commercial timber production; and they are generally remote and far from public services and infrastructure.

As explained in our prior letters, Skamania County can and should adopt zoning for these three parcels, while recognizing the statutorily vested rights to proceed with the Whistling Ridge Energy Project so long as the Site Certification Agreement (“SCA”) for the project remains in effect. (The SCA is set to expire March 5, 2022.) The Planning Commission should recommend adopting CRL-40 zoning for these three parcels, while also adopting the following proviso:

This zoning shall not apply to the development of the Whistling Ridge Energy Project (“WREP”) pursuant to the March 5, 2012 Site Certification Agreement (“SCA”) for the WREP, so long as the SCA remains in effect.

This provision will provide zoning protection to the subject parcels if the property owners decide to pursue uses other than the approved wind energy project. This provision also avoids the need for separate County review and action in the future when the SCA expires.

At a minimum, the Unmapped portions of parcels #8 and #24 outside the approved WREP site (which total 250.5 acres and 1,226.37 acres, respectively) should be zoned now.

There has been discussion of whether RCW 80.50.090(2) applies to the portions of parcels #8 and #24 outside the WREP site. This statute does not apply to these lands, because it expressly applies only to the “site,” which is defined to mean “any proposed or approved location of an energy facility, alternative energy resource, or electrical transmission facility.” RCW 80.50.020(19). Here, the State of Washington has defined the boundaries of the approved site, and the site boundary can be readily mapped using the State’s defined boundaries. Adopting zoning outside the approved WREP site will not affect the site in any way.

There has also been discussion of leaving the entirety of all three parcels Unmapped, to allow flexibility for the WREP developers should they desire to change the project at some point in the future. However, any changes to the defined site boundaries would need to go through another full review process regardless of the zoning, and the State has the authority to preempt local zoning in any event. Nor have the WREP developers expressed any intention to propose modifying the site boundaries. Nor have the developers taken any action to proceed with the project itself in the nearly seven and a half years since it was approved.

Ultimately, if the County decides to leave the Unmapped portions of parcels #8 and #24 Unmapped, it will be unlawful spot zoning because it will be designed to favor or benefit solely the WREP developers, and because this will be the only privately owned Unmapped land in Skamania County. Moreover, using the parcel boundaries—rather than the approved WREP site boundaries—as the dividing line between Unmapped land and zoned land would violate the Skamania County Comprehensive Plan, which states that “[l]and use patterns should follow along roads, rivers, township lines, range lines, section lines or quarter section lines rather than individual parcel lines to provide for uniform regular boundaries between land use designations.” Comprehensive Plan Policy LU.2.5.

The Planning Commission should recommend CRL-40 zoning for parcels #6, #8, and #24, and should forward this recommendation to the Board of County Commissioners for approval. The Planning Commission’s recommendations must be in the form of a motion and a statement of the Planning Commission’s findings and analysis, which must be forwarded to the County Commissioners within fourteen days of adoption. *See* RCW [36.70.600](#), [36.70.610](#).

Thank you for the opportunity to comment on these important planning and zoning matters.

Sincerely,

FRIENDS OF THE COLUMBIA GORGE



Nathan Baker
Senior Staff Attorney

ARAMBURU & EUSTIS, LLP



J. Richard Aramburu
Attorney for Save Our Scenic Area

cc (via e-mail): Alan Peters, Skamania County Assistant Planning Director
Adam Kick, Skamania County Prosecuting Attorney



Skamania County

Community Development Department

Building/Fire Marshal • Environmental Health • Planning

Skamania County Courthouse Annex

Post Office Box 1009

Stevenson, Washington 98648

Phone: 509-427-3900 Inspection Line: 509-427-3922

MEMO

TO: Planning Commission
FROM: Alan Peters, Assistant Planning Director
DATE: July 10, 2019
RE: Workshop to consider allowing dwellings in the CRL-40 zone in the High Lakes area

Background

The Planning Commission initiated a review of Unmapped lands in the High Lakes area of Skamania County on December 4, 2018, and held additional workshops on December 18, 2018, and January 8, 2019. Much of the discussion at these three workshops concerned the ramifications of rezoning to Commercial Resource Lands 40 (CRL-40) specifically with regard to potential for recreational cabins or single-family dwellings. Single-family dwellings are currently prohibited in the Commercial Resource Lands 40 zone.

At the June 4, 2019 meeting, the Planning Commission held a hearing regarding proposed Zoning Map amendments affecting Unmapped land in the High Lakes area. The Planning Commission forwarded a recommendation to the Board of County Commissioners to rezone lands in the High Lakes area to Commercial Resource Lands 40 (CRL-40) but elected to hold an additional workshop to consider further the possibility of allowing dwellings or cabins in this zone.

There are 5,336 acres of CRL-40 zoning in the High Lakes area and 30 parcels. Across the County, there are 10,632 acres in the CRL-40 zone and 72 parcels. Within the Swift CRL-40 and West End CRL-40 zones there are an additional 88,560 acres of land. At this time, Staff recommends limiting any consideration of allowing dwellings in CRL-40 to the High Lakes area.

Analysis

Per SCC 21.08.010, "dwelling unit" means a structure, or that part of a structure, which is used as a home, residence, or sleeping place by one family that contains kitchen facilities and sanitary facilities. The zoning code does not distinguish between a dwelling used for full-time occupancy or one used only seasonally or recreationally. "Cabin" is not a land use found in the zoning code. Enforcement of seasonal occupancy of a dwelling or cabin would be difficult. For these reasons, Staff considers any structure that satisfies the definition of dwelling unit to be a single-family dwelling.

Per SCC 21.59.060, single-family dwellings are prohibited in the CRL-40 zone. This prohibition ostensibly supports the zone's purpose of designating and protecting forest, agricultural, and mineral resource lands of long-term significance. However, this prohibition is not required, and is a matter of policy that can be changed by the Board of County Commissioners.

The following adjacent counties have allowed dwellings in their resource lands in the following ways:

Cowlitz County - One single-family dwelling for every 38-acre parcel.

Lewis County - One single-family dwelling per parcel is allowed outright when "directly connected with and in aid of a forestry activity".

Clark County - Single-family dwellings and accessory buildings are permitted.

Klickitat County - Single-family dwellings, mobile homes and seasonal homes.

Within Skamania County, dwellings are allowed in the following resource lands zones located within the National Scenic Area:

SMA – Forest – One single-family dwelling upon meeting agricultural income test; 40-acres minimum.

GMA – Commercial Forest – One single-family dwelling upon meeting agricultural income test.

GMA – Large Woodland – One single-family dwelling upon meeting agricultural income test or in conjunction with forest management.

SMA – Agriculture – One single-family dwelling upon meeting agricultural income test; 40-acres minimum.

GMA – Large-Scale Agriculture – One single-family dwelling upon meeting agricultural income test.

All lands in CRL-40 are located in the Conservancy designation which lists single-family units as an appropriate use. If the Planning Commission wishes to allow dwellings in the CRL-40 zone this should be done in a matter that will continue to "protect forest, agricultural, and mineral resource lands of long-term significance".

Recommendation

The Planning Commission should determine if it would like to allow dwellings in the CRL-40 zone in the High Lakes area. If so, Staff would recommend that the County adopt an overlay zone that would allow dwellings. An overlay zone creates a special zoning district, placed over an existing underlying zone, which identifies special provisions in addition to those in the underlying base zone. In High Lakes, the base zone would be CRL-40. The overlay zone could allow a dwelling with specific requirements. Here is some possible language:

"One single-family dwelling per legal lot of record"

- All lots would be allowed one dwelling only regardless of acreage.
- Same as Forest Lands 20 zone.

"Single-family dwellings"

- Each lot would be allowed one dwelling regardless of acreage. Additional dwellings may be allowed but could not exceed a density of one per 40 acres.
- Same as residential zones.

“One single-family per parcel at least 40 acres in size”

- Each lot would be allowed one dwelling only and only if the parcel is at least 40 acres in size.

“One single-family dwelling in conjunction with an allowable resource use. The dwelling must be occupied by a landowner or operator of an allowable resource use.”

- Each lot would be allowed one dwelling only if used in conjunction with an allowable resource use of the property. Allowable uses are listed in SCC 21.59.020 and include forest, agricultural, and mineral resource uses.
- Similar to Lewis County and agricultural zones in NSA.

Next Steps

If the Planning Commission declines to allow dwellings in CRL-40 then no action is required. The CRL-40 zone’s current prohibition on dwellings would remain.

If the Planning Commission wants to allow dwellings, the Planning Commission should move to schedule a public hearing at a future meeting. Staff will prepare specific zone language, review the proposal under the State Environmental Policy Act, and ensure proper notice.