



# SKAMANIA COUNTY PLANNING COMMISSION

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## AGENDA

**Tuesday, March 6, 2018 @ 6:00 PM**

SKAMANIA COUNTY COURTHOUSE ANNEX, LOWER MEETING ROOM  
170 NW VANCOUVER AVENUE, STEVENSON, WA 98648

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### **I. CALL TO ORDER**

### **II. ROLL CALL**

### **III. AGENDA ITEMS**

1. Approval of minutes from the February 6, 2018, Planning Commission Meeting.
2. PUBLIC HEARING, CONSIDERATION, AND RECOMMENDATION on proposed Zoning Code Amendments to Title 22 (Columbia River Gorge National Scenic Area Ordinance).
3. PUBLIC HEARING, CONSIDERATION, AND RECOMMENDATION on proposed amendments to the Comprehensive Plan, West End Comprehensive Subarea Plan, and Zoning Code to revise language concerning substantial change in circumstances necessary for quasi-judicial requests for zoning and comprehensive plan amendments.

### **IV. PLANNING COMMISSION BUSINESS**

### **V. ADJOURN**





## Skamania County Planning Commission

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### PLANNING COMMISSION MEETING MINUTES

**Tuesday, February 6, 2018**  
**Skamania County Annex**  
**170 N Vancouver Avenue**  
**Stevenson, WA 98648**

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**Planning Commission Members:**  
**Present:**

Dee Bajema, John Prescott, Tony Coates,  
Lesley Haskell, Cyndi Soliz, Cliff Nutting

**Community Development Department**  
**Staff Present:**

Alan Peters, Andrew Lembrick  
Teri Wyckoff

**Absent:** Paul Hendricks

#### **AUDIENCE**

See attached sign-in sheet.

#### **PROCEEDINGS**

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

#### **AGENDA ITEMS**

1. Approve Minutes from the December 5, 2017 meeting.
    - a. Motion was made by John Prescott and seconded by Lesley Haskell to approve the Minutes of the December 5, 2017. Motion passed 5-0. Cyndi Soliz arrived late and did not vote.
  2. Election of Officers
    - a. Dee Bajema moved to nominate Lesley Haskell as Planning Commission Chair. Motion seconded by Cliff Nutting. Motion was approved 5-0, electing Lesley Haskell as Planning Commission Chair. Cyndi Soliz arrived late and did not vote.
    - b. Dee Bajema moved to nominate John Prescott as Planning Commission Vice-Chair. Motion seconded by Tony Coates. Motion was approved 5-0, electing John Prescott as Planning Commission Vice-Chair. Cyndi Soliz arrived late and did not vote.
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3. PUBLIC HEARING, CONSIDERATION, AND RECOMMENDATION on proposed Zoning Code Amendments regarding religious facilities, cemeteries, and expansion of existing quarries in certain zones.
  - a. Alan Peters, Assistant Planning Director, presented the proposed text amendments regarding religious facilities and quarries.
  - b. The Chair opened the meeting to public testimony at 6:30 pm. Discussion regarding cemeteries, church camps, verbiage was given by:
    - i. Angela Morrel
    - ii. Ricky Walker
    - iii. Joe Kear
    - iv. Keith Brown
    - v. Sally Tucker
    - vi. Mary Castle

Public testimony concluded at 6:50 pm.

  - c. Cindy Soliz made a motion, seconded by John Prescott, to approve the proposed text amendments with a minor modification proposed by Joe Kear. Motion passed 6-0.
4. Workshop to discuss Planning Commission Member Soliz's recommendation to amend the Comprehensive Plan and Title 21 to revise language concerning substantial change in circumstances necessary for quasi-judicial requests for zoning and comprehensive plan amendments.
  - a. Alan Peters, Assistant Planning Director, presented a draft revision to language concerning substantial change in circumstances necessary for quasi-judicial requests for zoning and comprehensive plan amendments.
  - b. Cliff Nutting made a motion, seconded by Tony Coates, to schedule a public hearing on this item. Motion passed 5-1
5. Public workshop on review of zoning in the Stabler/Wind River area will take place Tuesday, February 20, 2018 at the Little Church in the Valley, Stabler, WA.
6. Alan Peters, Assistant Planning Director, outlined the 2018 proposed work program for the Planning Commission.

**MEETING ADJOURNED**

Meeting adjourned at 7:35 PM

**ATTEST**

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Planning Commission Chair

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Secretary

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# 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:** February 26, 2018

**HEARING DATE:** March 6, 2018

**PROPOSAL:** Zoning code amendments to Title 22 (Columbia River Gorge National Scenic Area Ordinance). The proposal includes mandatory amendments to bring Title 22 into consistency with recently adopted amendments to the Management Plan for the Columbia River Gorge National Scenic Area by the Columbia River Gorge Commission and US Forest Service. The amendments also include various minor corrections to scrivener's errors.

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### Background and Review Process

Skamania County implements the Management Plan for the Columbia River Gorge National Scenic Area (NSA) through its own adopted ordinance, Title 22 – Columbia River Gorge National Scenic Area Ordinance. Title 22 is the zoning code for approximately 78,000 acres of land in unincorporated Skamania County located within the General Management Area and Special Management Area of the NSA. Four other gorge counties (Clark in Washington; Multnomah, Hood River, and Wasco in Oregon) have also adopted their own NSA ordinances, allowing the counties to administer NSA land use regulations in their own counties.

The Management Plan was first adopted by the Gorge Commission in 1991, and Title 22 was subsequently first adopted on July 27, 1993. As the Management Plan is updated or amended, the County is required to its NSA ordinance as necessary to maintain consistency. The Gorge Commission notified the County of recently adopted amendments to the Management Plan on July 20, 2017 (Attachment B). These amendments were adopted by the Gorge Commission in response to an Oregon Court of Appeals decision in *Friends of the Columbia Gorge vs. Columbia River Gorge Commission*. The County has until April 16, 2018, to adopt these amendments into Title 22.

Staff has also proposed several minor corrections to Title 22 that include corrections to typos, numbering errors, or incorrect code references.

A public hearing on the proposed amendments is scheduled for March 6, 2018. Notice of this hearing was published in the Skamania County Pioneer on February 21, 2018, and on the County's website. A State Environmental Policy Act Determination of Nonsignificance was issued

for the proposal on February 14, 2018. After holding a public hearing, the Planning Commission may make a recommendation to the Board of County Commissioners who may then adopt the proposed amendments. After local adoption, the amendments will be submitted to the Gorge Commission and US Forest Service for a consistency determination. The amendments will be go into effect once both agencies have made this determination.

### **Proposed Text Amendments**

The proposed amendments are included in their entirety in Attachment A. A summary of the text amendments is provided in this section.

### **Mandated Changes from Gorge Commission**

Pg. 6 – Adds definition of “adversely affect or adversely affecting”.

Pg. 7 – Adds definition of “air”.

Pg. 143 – Adds language to ensure no adverse effect to water resources.

Pg. 150 – Adds language to ensure no adverse effect to sensitive wildlife areas or sites.

Pg. 153 – Adds language to ensure no adverse effect to sensitive plants.

Pg. 156 – Adds language codifying existing practice of requiring a reconnaissance survey if any element of any land use application requires one.

Pg. 158 – Adds new provision allowing that a reconnaissance survey be conducted even if the proposed use is exempt.

Pg. 182 – Adds language to ensure no adverse effect to water resources (SMA).

Pg. 186 – Adds language to ensure no adverse effect to sensitive wildlife areas or sites or sensitive plants (SMA).

### **Minor Related Changes**

Renumbering throughout text to accommodate new insertions.

### **Staff Findings:**

The Management Plan and Title 22 include protections for the scenic, cultural, recreational, and natural resources of the NSA. The proposed amendments deal specifically with two of these resources – cultural and natural.

With regard to cultural resources, the amendments codify an existing practice of requiring a cultural resource survey if any element of any land use application requires a survey. For example, a land division would not ordinarily require a cultural resource survey, but if the land division includes the subsequent construction of a house then a cultural resource survey may be required. The amendments also add a provision allowing the Gorge Commission to conduct a cultural resource survey even in cases where a project might be otherwise exempt from a survey requirement if in its judgement one may be necessary to protect cultural resources.

With regard to natural resources, the amendments clarify that cumulative effects to natural resources which are adverse are prohibited. If a development will impact a water resource or water resource buffer, sensitive wildlife area, or sensitive plant species, an analysis of the cumulative effects of these impacts will be required. The amendments also include definitions for “adversely affect or adversely affecting” and “air”.

### **Minor Corrections (unrelated to mandated changes)**

Pg. 7 – Corrects typo: “affects” to “effects” under definition of “best management practices”.

Pg. 15 – Corrects typo: “no” to “not” under definition of “livestock feedlot”.

Pg. 26 – Adds missing word “and” to definition of “winery”.

Pg. 102 – Corrects incorrect code reference.

Pg. 153 – Corrects field survey requirement for sensitive plants, not wildlife areas under “Sensitive Plant Protection” section.

Pg. 187 – Corrects numbering.

#### Staff Findings:

These are minor corrections to scrivener’s errors identified by staff.

### **Review Criteria and Findings**

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

#### *21.18.020 Textual amendments.*

*The board of county commissioners, upon recommendation of the planning commission, or upon its own motion and referral to and report from the planning commission and after a public hearing, may amend, delete, supplement, or change by ordinance the regulations herein established, provided such revision is in accordance with the procedures set forth in RCW 36.70. An amendment to the text of this title may only be initiated by the board of county commissioners or the planning commission and shall be consistent with the terms of the comprehensive plan.*

#### Staff Findings:

The proposed text amendments include mandatory changes required by the Columbia River Gorge Commission for Title 22 to be consistent with recently adopted amendments to the NSA Management Plan. Staff has also proposed minor amendments to scrivener’s errors. Staff requests that the Planning Commission initiate these amendments to Title 22. The Planning Commission will hold a public hearing and make a recommendation to the Board of County Commissioners. No amendments to the comprehensive plan are required for these changes.

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:

A public hearing on the proposed amendments is scheduled for March 6, 2018. Notice of this hearing was published in the Skamania County Pioneer on February 21, 2018, and on the County's website. After the public hearing, the Planning Commission may make a recommendation to the Board of County Commissioners on the proposed text amendments.

**Recommendation**

Based on the analysis in this report, Planning Staff recommends that the Planning Commission forward a positive recommendation to the Board of County Commissioners to approve the proposed amendments to Title 22. A model motion is included with this report.

**Attachments**

- A. Draft Text Amendments
- B. Gorge Commission Notice
- C. Model Motion



Attachment A.

**CHAPTER 22.04    DEFINITIONS**

22.04.010            DEFINITIONS A THROUGH Z.....6

**22.04.010    DEFINITIONS A THROUGH Z**

Wherever they appear in this chapter, the following terms shall have the following meanings:

-A-

1. **ACCEPTED AGRICULTURAL PRACTICE** means a mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.
2. **ACCESSORY STRUCTURE/BUILDING** means a structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term “detached” means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.
3. **ACTIVE WILDLIFE SITE** means a wildlife site that has been used within the past five years by a sensitive wildlife species.
4. **ADDITION** means an extension or increase in the area or height of an existing building.
5. **ADMINISTRATOR** means the Director of the Skamania County Department of Planning and Community Development or a designee who has authority over a proposed project review.
6. **ADVERSELY AFFECT OR ADVERSELY AFFECTING** means a reasonable likelihood of more than moderate adverse consequence for the scenic, cultural, recreation or natural resources of the scenic area, the determination of which is based on:
  - a. The context of a proposed action;
  - b. The intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;
  - c. The relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts;  
and
  - d. Proved mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant effects to an insignificant level.
- ~~6.7.~~ **AGRICULTURAL SPECIALIST (SMA)** means a person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.
- ~~7.8.~~ **AGRICULTURAL STRUCTURE/BUILDING** means a structure or building located on a farm or ranch and used in the operation for the storage, repair and

maintenance of farm equipment, and supplies or the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

- ~~8~~.9. **AGRICULTURAL USE** means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling of crops; or by the feeding, breeding, management and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment does not include livestock feed lots. Current employment of land for agricultural use includes:
- a. The operation or use of farmland subject to any agriculture-related government program;
  - b. Land lying fallow for one (1) year as a normal and regular requirement of good agricultural husbandry;
  - c. Land planted in orchards or other perennial prior to maturity; and
  - d. Land under buildings supporting accepted agricultural practices.

10. **AIR** means the mixture of gases comprising the Earth's atmosphere.

~~9~~.11. **ANADROMOUS FISH** means species of fish that migrate upstream to freshwater after spending part of their life in the ocean.

~~10~~.12. **ANAEROBIC** means a condition in which molecular oxygen is absent (or effectively so) from the environment.

~~11~~.13. **AQUACULTURE** means the cultivation, maintenance and harvesting of aquatic species.

~~12~~.14. **AQUATIC AREA** means the water area of a stream, pond or lake, measured at the ordinary high water mark.

~~13~~.15. **ARCHIVAL RESEARCH** means research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic and judicial records.

**-B-**

~~14~~.16. **BED AND BREAKFAST INN** means an establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodation, not as rooming or boarding houses.

~~15~~.17. **BEST MANAGEMENT PRACTICES** means conservation techniques and management measures that:

- a. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
- b. Minimize adverse ~~affects~~ effects to groundwater and surface-water flow and circulation patterns; and
- c. Maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams and riparian areas.

- ~~16.~~18. **BIODIVERSITY (SMA)** means a diversity of biological organisms at the genetic, species, ecosystem and landscape levels.
- ~~17.~~19. **BOAT LANDING** means a cleared area or developed structure used to facilitate launching or retrieving watercraft.
- ~~18.~~20. **BUFFER or BUFFER ZONE** means an area adjacent to a water resource or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream or pond, the buffer zone includes all or a portion of the riparian area.
- ~~19.~~21. **BUILDING** means any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.

-C-

- ~~20.~~22. **CAMPSITE** means a single camping unit that usually consists of a cleared, level area for a tent and may include a parking spur, fire ring, table and other amenities.
- ~~21.~~23. **CAPABILITY** means the ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure or other natural factors.
- ~~22.~~24. **CANOPY CLOSURE (SMA)** means for forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.
- ~~23.~~25. **CASCADIAN ARCHITECTURE (SMA)** means an architectural style using native rock work, large timber and steeply pitched roofs in a rustic manner.
- ~~24.~~26. **CATASTROPHIC SITUATIONS (SMA)** means forces such as fire, insect and disease infestations, and earth movements.
- ~~25.~~27. **CHILD CARE CENTER** means a facility providing day care to three or more children, but not including:
- a. The provision of care that is primarily educational unless provided to a preschool child for more than four hours a day;
  - b. The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion;
  - c. Provision of short term care primarily an incident of group athletic or social activities.
  - d. The provision of day care in the provider's home in the family living quarters for less than thirteen (13) children.
- ~~26.~~28. **COLUMBIA RIVER GORGE NATIONAL SCENIC AREA GRAPHIC SIGNING SYSTEM** means sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.
- ~~27.~~29. **COMMERCIAL DEVELOPMENT/USE** means any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.
- ~~28.~~30. **COMMERCIAL FOREST PRODUCTS** includes timber for lumber, pulp, and fire wood for commercial purposes.
- ~~29.~~31. **COMMERCIAL RECREATION** means any private (non-governmental) recreational activity or facility on privately owned land, excluding non-profit

facilities. This does not include operation of a public recreation facility by a private vendor.

~~30.~~32. **COMMUNITY FACILITY** means basic utilities and services necessary to support public service needs, including, but not limited to water and power utilities, sanitation facilities, public micro-wave stations and communication facilities, schools, road and highways. This does not include sanitary landfills.

~~31.~~33. **CONSULTING PARTIES (cultural resources)** means organizations or individuals who submit substantive written comments to the Planning Agency in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

~~32.~~34. **CONTIGUOUS LAND** means parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax not numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations or are separated by public or private roads. Contiguous land does not include parcels which meet only at a single point.

~~33.~~35. **COUNTY** means Skamania County, its officials, agents, representatives, commissions and boards, and whichever of them has made a determination or performed a governmental action affecting a proposed use or development regulated under this Title.

~~34.~~36. **CREATED OPENING (SMA)** means a created forest opening with less than forty percent (40 %) average canopy closure of overstory trees and less than sixty percent (60 %) average canopy closure of understory trees averaging less than five (5) inches diameter at breast height for coniferous forests and less than twenty-five percent (25 %) total canopy cover for oak woodlands. This definition does not include agricultural fields.

~~35.~~37. **CREATION OF WETLANDS** means a human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

~~36.~~38. **CULTIVATION** means any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

~~37.~~39. **CULTURAL RESOURCE** means evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

- i. **ARCHAEOLOGICAL RESOURCES.** Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least fifty (50) years old. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites and cave shelters, rock art such as petroglyphs and pictographs, artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains and associated artifacts.
- ii. **HISTORIC BUILDINGS AND STRUCTURES.** Standing or above-ground buildings and structures that are at least fifty (50) years old, including, but not limited to, log cabins, barns, canals, flumes, pipelines, highways and tunnels.

iii. **TRADITIONAL CULTURAL PROPERTIES.** Locations, buildings, structures and objects that are associated with cultural beliefs, customs or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community. Traditional cultural properties include, but are not limited to, sites associated with traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees and rock outcrops.

~~38.~~40. **CUMULATIVE EFFECTS** means the combined effects of two (2) or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

~~39.~~41. **CUT** means an area where soil or earth is excavated or removed in conjunction with development activities.

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~~40.~~42. **DEDICATED SITE** means an area actively devoted to the current use, as delineated on the site plan.

~~41.~~43. **DEER AND ELK WINTER RANGE** means areas normally used, or capable of being used, by deer and elk from December through April.

~~42.~~44. **DEPARTMENT** means the Skamania County Department of Planning and Community Development.

~~43.~~45. **DESTRUCTION OF WETLANDS** means a human activity which results in the loss of a wetland or any of its component parts, including filling, draining, or other activity having an adverse effect on the sustainable functioning of the wetland.

~~44.~~46. **DEVELOPED RECREATION** means recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

~~45.~~47. **DEVELOPED ROAD PRISM (SMA)** means the area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.

~~46.~~48. **DEVELOPMENT** means any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving and excavation.

~~47.~~49. **DIAMETER AT BREAST HEIGHT (dbh)** means the diameter of a tree as measured at breast height.

~~48.~~50. **DUPLEX** means a building containing two (2) dwelling units and designed for occupancy by two families.

~~49.~~51. **DWELLING, single-family** means a detached building containing one dwelling unit and designed for occupancy by one family only.

~~50.~~52. **DWELLING UNIT** means a single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

-E-

~~51.~~53. **EARTH MATERIALS** means any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

~~52.~~54. **EFFECT ON TREATY RIGHTS** means to bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the federal courts.

~~53.~~55. **EMERGENCY/DISASTER** means a sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

~~54.~~56. **EMERGENCY/DISASTER RESPONSE** means actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

~~55.~~57. **ENDEMIC** means plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

~~56.~~58. **ENHANCEMENT (natural resources)** means a human activity that increases one or more functions of an existing sensitive watercourse or other area. Enhancement is generally limited to a sensitive watercourse or area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

~~57.~~59. **EPHEMERAL STREAMS (SMA)** means stream that contain flowing water only during, and for a short duration after, precipitation events.

~~58.~~60. **ETHNOGRAPHY** means the descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing the group.

~~59.~~61. **EXISTING USE OR STRUCTURE** means any use or structure that was legally established.

~~60.~~62. **EXPLORATION, DEVELOPMENT (EXTRACTION AND EXCAVATION)** means all or any part of the process of surface, underground or submerged mining of mineral resources, including all exploration, regardless of area disturbed or volume mined.

-F-

- ~~61~~.~~63~~. **FILL** means the placement, deposition or stockpiling of sand, sediment or other earth materials to create new uplands or to create an elevation above the existing surface.
- ~~62~~.~~64~~. **FINISHED GRADE** means the final elevation of the ground level of a property after construction is completed.
- ~~63~~.~~65~~. **FIRE BREAK** means a break in ground cover fuels adjacent to and surrounding buildings.
- ~~64~~.~~66~~. **FOOTPRINT** means the area that falls directly beneath and shares the same perimeter as a structure.
- ~~65~~.~~67~~. **FORBS** means broad-leaved herbs, in contrast to ferns, fern allies and grasses and grasslike plants.
- ~~66~~.~~68~~. **FOREGROUND (SMA)** means one-half (1/2) mile on either side of a traveled road or trail.
- ~~67~~.~~69~~. **FOREST HEALTH (SMA)** means a measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.
- ~~68~~.~~70~~. **FOREST PRACTICE (SMA)** means any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of twelve (12) years or less are considered agricultural uses.
- ~~69~~.~~71~~. **FOREST PRACTICES (GMA)** means those activities related to the growing and harvesting of forest tree species as defined in the Washington State Forest Practices Act.
- ~~70~~.~~72~~. **FOREST PRODUCTS** means commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.
- ~~71~~.~~73~~. **FOREST SERVICE** means the United States Forest Service, Columbia River Gorge National Scenic Area Office.
- ~~72~~.~~74~~. **FOREST STAND STRUCTURE (SMA)** means the number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.
- ~~73~~.~~75~~. **FOREST USE** means growing, propagation and harvesting of forest tree species and other forest products.
- ~~74~~.~~76~~. **FULLY SCREENED** means a description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point, generally a key viewing area.

-G-

- ~~75~~.~~77~~. **GORGE COMMISSION** means the Columbia River Gorge Commission.

~~76.~~78. **GRADING** means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

**-H-**

~~77.~~79. **HAZARD TREE (SMA)** means a tree with a structural defect that will predictably result in whole or partial failure within one-and-a-half (1½) tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.

~~78.~~80. **HEIGHT OF BUILDING** means the greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.

~~79.~~81. **HEARING EXAMINER** is an appointed official vested with the duties established by Skamania County Ordinance Number 2006-16.

~~80.~~82. **HERBACEOUS** means a plant with no persistent woody stem above the ground, with characteristics of an herb.

~~81.~~83. **HERBS** means nonwoody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and nonwoody vines. Seedlings of woody plants that are less than three feet tall are considered part of the herbaceous layer.

~~82.~~84. **HISTORIC SURVEY** means actions that document the form, style, integrity and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings and photographs.

~~83.~~85. **HORSES, BOARDING OF (GMA)** means the stabling, feeding and grooming, or the use of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a nonprofit organization.

~~84.~~86. **HYDRIC SOIL** means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**-I-**

~~85.~~87. **IN-LIEU SITES** means sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.

~~86.~~88. **INDIAN TRIBAL GOVERNMENT** means the governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council) and the Confederated Tribes and Bands of the Yakama Indian Nation (Tribal Council).

~~87.~~89. **INDIAN TRIBES** means the Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs



Reservation of Oregon and the Confederated Tribes of the Umatilla Indian Reservation.

- ~~88~~.90. **INDUSTRIAL USES** means any use of land or water primarily involved in:
- a. Assembly or manufacture of goods or products;
  - b. Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit;
  - c. Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products or recyclable materials for purposes other than retail sale and service; or
  - d. Production of electric power for commercial purposes.
- ~~89~~.91. **INTERPRETATIVE DISPLAYS** means signs and structures that provide for the convenience, education and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

-K-

- ~~90~~.92. **KEY COMPONENTS** means the attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites and foraging habitat.
- ~~91~~.93. **KEY VIEWING AREAS** means those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These Key Viewing Areas (KVAs) are as follows:
- a. In General and Special Management Areas:
    - i. Historic Columbia River Highway
    - ii. Crown Point
    - iii. Interstate 84, including rest stops
    - iv. Multnomah Falls
    - v. Washington State Route 14
    - vi. Beacon Rock
    - vii. Panorama Point Park
    - viii. Cape Horn
    - ix. Dog Mountain Trail
    - x. Cook-Underwood Road
    - xi. Rowena Plateau and Nature Conservancy Viewpoint
    - xii. Portland's Women's Forum State Park
    - xiii. Bridal Veil State Park
    - xiv. Larch Mountain
    - xv. Rooster Rock State Park
    - xvi. Bonneville Dam Visitor Center
    - xvii. Columbia River
    - xviii. Washington State Route 141
    - xix. Washington State Route 142
    - xx. Oregon Highway 35
    - xxi. Sandy River
    - xxii. Pacific Crest Trail
  - b. In Special Management Areas only:

- i. Old Washington State Route 14 (County Road 1230)
- ii. Wyeth Bench Road
- iii. Larch Mountain Road
- iv. Sherrard Point on Larch Mountain

-L-

~~92.~~94. **LAND DIVISION** means the division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to short subdivision, and subdivisions and division by deed.

~~93.~~95. **LANDSCAPE SETTING** means the combination of land use, landforms and vegetation patterns which distinguish an area in appearance and character from other portions of the Scenic Area.

~~94.~~96. **LEGALLY ESTABLISHED** means:

- a. The landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure;
- b. The use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and
- c. Any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.

~~95.~~97. **LIVESTOCK FEEDLOT** means stockyards and commercial livestock finishing yards for cattle, sheep, swine and fur bearers. Feedlots do ~~not~~not include winter pasture or winter hay-feeding grounds.

~~96.~~98. **LOT LINE ADJUSTMENTS** means the relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels.

-M-

~~97.~~99. **MAINTENANCE** means the ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure. Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.

~~98.~~100. **MANAGEMENT PLAN** means the comprehensive management plan adopted by the Gorge Commission on October 15, 1991, and any adopted revisions.

~~99~~.101. **MINERALS** includes soil, coal, clay, stone, sand gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use.

~~100~~.102. **MITIGATION** means the use of any or all of the following actions:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;
- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- c. Rectifying the impact by repairing, rehabilitating or restoring the affected environment; or
- d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

~~101~~.103. **MOSAIC (SMA)** means the dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.

~~102~~.104. **MULTI-FAMILY DWELLING** means a dwelling constructed or modified into two (2) or more single-family dwelling units.

-N-

~~103~~.105. **NATIVE SPECIES** means species that naturally inhabit an area.

~~104~~.106. **NATIVE VEGETATION** means plant species which are indigenous to the area in question.

~~105~~.107. **NATURAL GRADE** means the undisturbed elevation of the ground level of a property before any excavation or construction operations.

~~106~~.108. **NATURAL RESOURCE-BASED RECREATION (SMA)** means recreation activities, uses or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; whereas golf courses, tennis courts, and rental cabins are not.

~~107~~.109. **NATURAL RESOURCE SPECIALIST** means a person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

~~108~~.110. **NATURAL RESOURCES** means naturally occurring features including land, water, air, plants, animals, fish, plant and animal habitat and scenery.

~~109~~.111. **NON-PROFIT ORGANIZATION** means an organization whose non-profit status has been approved by the U.S. Internal Revenue Service.

~~110~~.112. **NOT VISUALLY EVIDENT (SMA)** means a visual quality standard that provides for development or uses that are not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line, color, and texture that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be noticeable.

-O-

- ~~111.~~113. **OLD GROWTH (SMA)** means a forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.
- ~~112.~~114. **OPEN SPACE** means unimproved lands not designated as agricultural lands or forest lands and designated as open space under the Management Plan. Open spaces include:
- a. Scenic, cultural and historic areas;
  - b. Fish and wildlife habitat;
  - c. Lands which support plant species that are endemic to the Scenic Area or which are listed as rare, threatened or endangered species pursuant to state or federal Endangered Species Acts;
  - d. Ecologically and scientifically significant natural areas;
  - e. Outstanding scenic views and sites;
  - f. Water resource zones;
  - g. Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;
  - h. Potential and existing recreation resources; and
  - i. Federal and state wild, scenic and recreation waterways.
- ~~113.~~115. **OPERATIONAL (SMA)** means for a new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.
- ~~114.~~116. **ORDINARY HIGH WATER MARK** means the mark on all streams, ponds and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.
- ~~115.~~117. **OTHER RELATED MAJOR STRUCTURE (SMA)** means a structure related to a dwelling on a parcel in the SMA that is less than forty (40) acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of ACCESSORY BUILDING is not an OTHER RELATED MAJOR STRUCTURE or a MAJOR DEVELOPMENT ACTION.
- ~~116.~~118. **OVERSTORY (SMA)** means for forest practices, the tall or mature trees that rise above the shorter or immature understory trees.

-P-

- ~~117.~~119. **PARCEL** means:
- a. Any unit of land legally created by a short plat or subdivision, and that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.
  - b. Any unit of land legally created and separately described by deed, sales contract, record of survey prior to November 17, 1986, if the unit of land

complied with all planning, zoning and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

- c. A unit of land legally created and separately described by deed or sales contract, after November 17, 1986 if the unit created was approved under the Final Interim Provisions or a land use ordinance consistent with the Management Plan, or by the Forest Service Office prior to the Final Interim Provisions.
- d. A unit of land shall not be considered a separate parcel simply because the subject tract of land:
  - i. Is a unit of land created solely to establish a separate tax account;
  - ii. Lies in different counties;
  - iii. Lies in different sections or government lots;
  - iv. Lies in different land use zones or management area classes; or
  - v. Is bisected by a public or private road or a railroad.

~~118.~~120. **PARTY/PARTIES OF RECORD** means all persons, agencies or organizations who have submitted written comments in response to notice of application; within the time line set out in this Title, is the applicant, or is the property owner.

~~119.~~121. **PERSON** means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or any agency of a state, tribal, federal or local governmental unit, however designated.

~~120.~~122. **PRACTICABLE** means able to be done, considering technology and cost.

~~121.~~123. **PRACTICABLE ALTERNATIVE** means that an alternative to locating the activity or development within a water resource zone or other sensitive area exists, including that an alternative site for a proposed project is available, upon which the project may be developed, after taking into consideration cost, technology, logistics and overall project purposes. A practicable alternative does not exist if a project applicant satisfactorily demonstrates that:

- a. The basic purpose of the use reasonably cannot be accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on water resources or other sensitive area;
- b. The basic purpose of the use reasonably cannot be accomplished by reducing its size, scope, configuration or density as proposed, or by changing the design of the use in a way that would avoid or result in less adverse effects on water resources or other sensitive area; and
- c. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the use as proposed. Such constraints include inadequate infrastructure, parcel size and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a management plan amendment to demonstrate that practicable alternatives do not exist.

~~122.~~124. **PRE-EXISTING** means existing prior to October 15, 1991, the date of adoption of the Columbia River Gorge National Scenic Area Management Plan.

~~123.~~125. **PREVIOUSLY DISTURBED** means an area of land where the natural surface has been graded, excavated, paved and/or graveled.

~~124.~~126. **PRODUCTION OF MINERAL RESOURCES** means the use of portable crushing, onsite stockpiling, washing, milling, screening or sorting

equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing facilities and activities, such as concrete or asphalt batch plants are considered industrial uses.

~~125.~~127. **PROJECT AREA** means the geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

~~126.~~128. **PUBLIC USE FACILITY** means recreation development(s) which meet the definition of "recreation facility" and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

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~~127.~~129. **RARE PLANT SPECIES** is used in the generic sense to refer to various categories of sensitive plants cited in federal and state programs.

~~128.~~130. **RECONNAISSANCE SURVEY** means actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing and ethnographic research.

~~129.~~131. **RECREATION FACILITY** means a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and which are not separated in distance by more than one-quarter mile of land not containing any such developments or improvements, except for roads and/or pathways.

~~130.~~132. **RECREATION OPPORTUNITY SPECTRUM (ROS)** means a method of classifying areas in relation to the types of recreation opportunities and experiences they provide or for which they are appropriate. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

- a. **Primitive.** Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.
- b. **Semi-primitive.** Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.
- c. **Roaded Natural.** Roaded areas with moderately frequent human encounters and with resource modifications evident.
- d. **Rural.** Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.
- e. **Suburban.** Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.
- f. **Urban.** Highly accessible, roaded areas dominated by human encounters and human-related structures.

~~131.~~133. **RECREATION RESOURCES** means areas and facilities that provide recreation opportunities and experiences. Recreation resources include semiprimitive areas with few facilities and developed sites.

- ~~132.~~134. **RECREATIONAL OR CAMPING VEHICLE** means a vacation trailer, camper, self-propelled vehicle or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water and electrical lines or is occupied on the same parcel for more than sixty (60) days in any consecutive twelve (12) month period.
- ~~133.~~135. **REGULARLY MAINTAINED** means an area of land that has been previously disturbed and where periodic actions have been taken to:
- a. Keep the area clear of vegetation (e.g., shoulders, utility yards);
  - b. Limit the height and type of vegetation (e.g., utility rights-of-way); and/or
  - c. Establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).
- ~~134.~~136. **REHABILITATION** means a human activity that returns a wetland, stream, buffer or other sensitive area that was disturbed during construction of a permitted use to its natural or pre-construction condition.
- ~~135.~~137. **REMNANT OLD FOREST (SMA)** means large trees in the overstory that are well into the mature growth state (older than 180 years).
- ~~136.~~138. **REPAIR** means replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure. Repair includes, but is not limited to, re-roofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.
- ~~137.~~139. **RESOURCE-BASED RECREATION** means those recreation uses which are essentially dependent upon the natural, scenic or cultural resources of the Scenic Area and which do not adversely affect those resources upon which they depend.
- ~~138.~~140. **RESTORATION** means a human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.
- ~~139.~~141. **REVIEW USES** mean proposed uses and developments that must be reviewed by the County to determine if the uses comply with the regulations of this Title (ie. An application must be submitted for review).
- ~~140.~~142. **RIPARIAN AREA** means an area immediately adjacent to streams, ponds, lakes and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover or debris or that directly enhance water quality within the water body.

- ~~141.~~143. **ROAD** means the entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:
- a. Ways described as streets, highways, throughways, or alleys;
  - b. Road-related structures that are in the right-of-way such as tunnels, culverts, or similar structures; and
  - c. Structures that provide for continuity of the right-of-way such as bridges.

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~~142.~~144. **SCENIC AREA** means the Columbia River Gorge National Scenic Area.

~~143.~~145. **SCENIC TRAVEL CORRIDOR** means those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141 and 142, located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

~~144.~~146. **SENSITIVE PLANT SPECIES**

- a. In General and Special Management Areas, means plant species that are:
  - i. Endemic to the Columbia River Gorge and vicinity;
  - ii. Listed as endangered or threatened pursuant to federal or state endangered species acts; or
  - iii. Listed as endangered, threatened or sensitive by the Washington Natural Heritage Program.
- b. In Special Management Areas only, also includes plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

~~145.~~147. **SENSITIVE WILDLIFE AREAS** means the following areas:

- a. Bald eagle habitat;
- b. Deer and elk winter range;
- c. Elk habitat;
- d. Mountain goat habitat;
- e. Peregrine falcon habitat;
- f. Pika colony area;
- g. Pileated woodpecker habitat;
- h. Pine marten habitat
- i. Shallow water fish habitat (Columbia River)
- j. Special streams
- k. Special habitat area
- l. Spotted owl habitat
- m. Sturgeon spawning area
- n. Tributary fish habitat
- o. Turkey habitat
- p. Waterfowl area
- q. Western pond turtle habitat

~~146.~~148. **SENSITIVE WILDLIFE SITES** means sites that are used by sensitive wildlife species.

~~147.~~149. **SENSITIVE WILDLIFE SPECIES** means animal species that are:



- a. Listed as endangered or threatened pursuant to federal or state endangered species acts;
  - b. Listed as endangered, threatened, sensitive or candidate by the Washington Wildlife Commission; or
  - c. Considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle and prairie falcon.
  - d. In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.
- ~~148.~~150. **SERVICE STATION** means a business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.
- ~~149.~~151. **SERVICEABLE** means presently useable.
- ~~150.~~152. **SHALL** means action is mandatory.
- ~~151.~~153. **SHOULD** means action is encouraged.
- ~~152.~~154. **SHRUB** means a woody plant usually greater than three feet but less than twenty (20) feet tall that generally exhibits several erect, spreading or prostrate stems and has a bushy appearance. For this Title, seedlings of woody plants that are less than three (3) feet tall shall be considered part of the herbaceous layer.
- ~~153.~~155. **SIGN** means any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise to call the public's attention to any public, business, commercial, industrial, recreational or other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype or advertising matter is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.
- ~~154.~~156. **SIGNIFICANT CULTURAL RESOURCE (SMA)** means a cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].
- ~~155.~~157. **SKYLINE** means the line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point, only a key viewing area. In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.
- ~~156.~~158. **SOIL CAPABILITY CLASS** means a classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.
- ~~157.~~159. **SPECIAL HABITAT AREA** means wetlands, mudflats, shallow water and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game and reptiles.

- ~~158.~~160. **SPECIAL STREAM** means streams that are primary water supplies for fish hatcheries and rearing ponds.
- ~~159.~~161. **STAND** means a group of trees possessing uniformity in regard to type, age, vigor or size.
- ~~160.~~162. **STORY** means a single floor level of a structure as defined by the local building code and is typically no more than ten (10) feet in height.
- ~~161.~~163. **STREAM** means an area where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs, and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface-water runoff structures or other artificial watercourses, unless they are used to convey streams naturally occurring prior to construction in such water-courses.
- a. **PERENNIAL STREAM** means a stream that flows year-round during years of normal precipitation.
  - b. **INTERMITTENT STREAM** means a stream that flows only part of the year, or seasonally, during years of normal precipitation.
  - c. **EPHEMERAL STREAMS (SMA)** means any streams that contain flowing water only during, and for a short duration after, precipitation events.
- ~~162.~~164. **STRUCTURE** means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to buildings, walls, fences, roads, parking lots, signs and additions/alterations to structures.
- ~~163.~~165. **SUBMIT** means to deliver a document (e.g., land use application, written comment) to the Administrator's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the Administrator's office by the close of business on the last day of the specified period.
- ~~164.~~166. **SUBSURFACE TESTING** means any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, post-hole digger tests and auger borings.
- ~~165.~~167. **SUITABILITY** means the appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production, surrounding uses and features associated with development, compatibility with scenic, cultural, natural and recreation resources, compatibility among uses, and other factors, such as roads, powerlines, dwellings and size of ownership.

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- ~~166.~~168. **THINNING (SMA)** means a forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than forty percent (40%) and the understory layer is less than sixty percent (60%) average canopy closure of trees averaging less than five (5) inches diameter at breast height. A thinning becomes a

forest opening in oak woodlands when the total average canopy closure is less than twenty-five percent (25%).

- ~~167.~~169. **TOTAL CANOPY CLOSURE (SMA)** means for forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.
- ~~168.~~170. **TRAVELERS ACCOMMODATIONS** means any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.
- ~~169.~~171. **TREATMENT (SMA)** means for forest practices, a site-specific operation that carries out the forest management objectives for an area.
- ~~170.~~172. **TREATY RIGHTS** means rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.
- ~~171.~~173. **TRIBUTARY FISH HABITAT** means streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

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- ~~172.~~174. **UNDERSTORY (SMA)** means for forest practices, the shorter or immature trees below the tall or mature overstory trees.
- ~~173.~~175. **UNDERTAKING** means any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities or programs and any of their elements [36 CFR 800.16(y)].
- ~~174.~~176. **UNIMPROVED LANDS** means lands that generally do not have developments such as buildings or structures.
- ~~175.~~177. **UPLAND** means any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils and/or hydrologic characteristics associated with wetlands.
- ~~176.~~178. **USES ALLOWED OUTRIGHT** means new uses and developments that may occur without being reviewed by the County to determine if the use is consistent with this Title.
- ~~177.~~179. **UTILITY FACILITY** means any structure which provides for the transmission or distribution of water, sewer, stormwater, fuel, electricity or communications.

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- ~~178.~~180. **VESTED RIGHTS** mean the right to develop or continue to develop a use, development, or structure that was reviewed and approved pursuant to this Title.
- ~~179.~~181. **VIEWSHED** means a landscape unit seen from a key viewing area.

- ~~180.~~182. **VISUAL QUALITY OBJECTIVE (VQO)** means a set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.
- ~~181.~~183. **VISUALLY SUBORDINATE** means a description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point, generally a key viewing area. As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

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- ~~182.~~184. **WATER-DEPENDENT USES** means uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts and motels are not water-dependent.
- ~~183.~~185. **WATER-RELATED USES** means uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses are limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.
- ~~184.~~186. **WATER RESOURCE** means a stream, pond, lake, riparian area or wetland.
- ~~185.~~187. **WATER RESOURCE SPECIALIST** means a person with professional qualifications, including an academic degree or sufficient professional experience in the subject matter the specialist is being asked to analyze or evaluate.
- ~~186.~~188. **WATER RESOURCE ZONE** means a stream, pond, lake, riparian area or wetland and its buffer.
- ~~187.~~189. **WETLANDS** means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include riparian areas, rivers, streams or lakes.
- ~~188.~~190. **WETLANDS FUNCTIONS** means the beneficial roles that wetlands serve, including storage, conveyance and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals and other living resources; protection of habitat for endangered, threatened and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical and archaeological value protection; and scenic, aesthetic and recreational amenities.

- ~~189.~~191. **WINERY** means an agricultural facility used for processing grapes into wine, including laboratories, processing area, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.
- ~~190.~~192. **WINE SALES/TASTING ROOM** means a facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g. wine bar, sitting room) and exterior space (e.g. patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions, or other commercial events, unless allowed, reviewed, and approved under Section 22.12.030 of this Title. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.
- ~~191.~~193. **WOODY PLANT** means a seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

- iii. The housing will be located to minimize the conversion of lands capable of production of farm crops or livestock and will not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.
  - y. A second single-family dwelling for a farm operator's relative, subject to Section 22.14.050(A) and Section 22.14.050(B), provided that all of the following conditions exist:
    - i. The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister.
    - ii. The dwelling would be located on the same parcel as the dwelling of the principal operator.
    - iii. The operation is a commercial enterprise, as determined by an evaluation of the factors described in ~~provisions Section 22.14.050(E)(1)(x)(iii)(1)~~~~Section 22.14.050(E)(1)(x)(iii)(4)~~[Section 22.14.010\(C\)\(1\)\(s\)\(iii\)](#).
  - z. One (1) single-family dwelling on a legally created parcel upon the parcel's enrollment in the Forest Tax Classification Program. Upon showing that a parcel cannot qualify, a parcel is entitled to one (1) single-family dwelling. In either case, the location of a dwelling shall comply with Section 22.14.050(A) and Section 22.14.050(B). A declaration shall be signed by the landowner and recorded in the Auditor's Records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm and forest practices on lands classified as F-1, F-2, F-3, Ag-1 and Ag-2.
  - aa. Special uses in historic buildings, subject to the provisions in Section 22.12.120 "Special Uses in Historic Buildings (GMA only)."
- 2. The following uses are subject to review by the Administrator for compliance with all applicable provisions protecting scenic, cultural, natural, and recreational resources, and may be allowed if:
  - a. The use will not interfere seriously with accepted forest or agricultural practices on nearby lands devoted to resource use;
  - b. The use will be sited in such a way as to minimize the loss of forest or agricultural land and to minimize the chance of interference with accepted forest or agricultural practices on nearby lands;
  - c. The owners of land that is classified as F-1, F-2, F-3, Ag-1 or Ag-2 that lies within 500 feet of the perimeter of the subject parcel have been notified of the land use application and have been given at least ten (10) days to comment prior to a final decision; and
  - d. The use will not significantly increase fire hazard, fire suppression costs or risks to fire suppression personnel and complies with the standards set out in Section 22.14.050(A):
    - i. Utility facilities and railroads necessary for public service upon a showing that:

- ii. Water quality, natural drainage, and fish and wildlife habitat, if within a stream, pond, lake, riparian area or its buffer.
    - c. The structure will be constructed using best management practices;
    - d. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable; and
    - e. The structure complies with all other applicable laws.
  - 2. The modification, expansion, replacement or reconstruction of serviceable structures, if such actions would not:
    - a. Increase the size of an existing structure by more than 100 percent,
    - b. Result in a loss of wetlands acreage or functions, or cause a loss of water quality, natural drainage, and fish and wildlife habitat in streams, ponds, lakes and riparian areas, and
    - c. Intrude further into a water resource zone. Structures shall be considered intruding further into a water resource zone if any portion of the modified, expanded, replaced, or reconstructed structure is located closer to the water resource than the existing structure.
  - 3. The construction of minor water-related recreation structures that will be available for public use. Structures in this category shall be limited to:
    - a. Boardwalks;
    - b. Trails and paths, provided their surface is not constructed of impervious materials;
    - c. Observation decks; and
    - d. Interpretative aids, such as kiosks and signs.
  - 4. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so closed together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to:
    - a. Public and private docks and boat houses; and
    - b. Fish and wildlife management structures that are constructed by federal, state, local or tribal agencies.
  - 5. Enhancement of wetlands, streams, ponds, lakes and riparian areas not associated with any other project proposal if such efforts comply with all the applicable provisions protecting either wetlands or streams, ponds, lakes and riparian areas under this Chapter.
    - a. Enhancement efforts shall be conducted pursuant to a wetlands compensation plan or rehabilitation and enhancement plan for streams, ponds, lakes and riparian areas. (See Section 22.20.020(H)).
    - b. All enhancement plans shall be approved by the Administrator, after consultation with federal and state agencies with jurisdiction over either wetlands or streams, ponds, lakes and riparian areas.
- B. Other uses may be allowed in a water resource zone, subject to review by the Administrator for compliance with the provisions for the protection of scenic, natural, cultural, and recreational resources, and if:
- 1. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as established in Section 22.20.010.
  - 2. The proposed use is in the public interest. The following factors shall be considered when determining if a proposed use is in the public interest:

- a. The extent of public need for the proposed use;
- b. The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited;
- c. The functions and size of the water resource that will be affected;
- d. The economic value of the proposed use to the general area; and
- e. The ecological value of the water resource and probable effect on public health and safety, fish, plants and wildlife.
- f. Groundwater and surface-water quality will not be degraded by the proposed use.
- g. Those portions of a proposed use that are not water-dependent or have a practicable alternative will be located outside of water resource zones.
- h. The proposed use complies with all applicable provisions of this Title and other laws.

C. Proposed uses in water resources and water resource buffers shall be evaluated for adverse effects, including cumulate effects, and adverse effects shall be prohibited.

~~C.~~D. In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include: a site plan map prepared at a scale of one (1) inch equals 100 feet (1:1,200), or a scale providing greater detail; the exact boundary of the wetland and the wetlands buffer zone; and a description of actions that would alter or destroy the wetland.

~~D.~~E. In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes and their buffer zones shall include: a site plan map prepared at a scale of one (1) inch equals 100 feet (1:1,200), or a scale providing greater detail; the exact boundary of the ordinary high watermark or normal pool elevation and the prescribed buffer zone; and a description of actions that would alter or destroy the stream, pond, lake or riparian area.

~~E.~~F. Except uses allowed under Section 22.20.020(A), uses may be allowed in wetlands and wetland buffers, subject to review by the Administrator for compliance with the provisions for the protection of scenic, natural, cultural, and recreational resources, if:

1. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources and hydrology.
2. Groundwater and surface water quality will not be degraded by the proposed use.
3. Those portions of a proposed use that are not water-dependent or have a practicable alternative will not be located in wetlands or wetlands buffer zones.
4. The proposed use complies with all applicable federal, state, and county laws.
5. Areas that are disturbed during construction of the proposed use will be rehabilitated to the maximum extent practicable.
6. Unavoidable impacts to the wetland will be offset through the deliberate restoration, creation or enhancement of the wetland. Wetland restoration, creation, and enhancement are not alternatives to the regulations listed above; they shall be used only as a last resort to offset unavoidable wetland impacts. The following wetlands restoration, creation and enhancement provisions shall apply:
  - a. Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.



- b. Wetlands restoration, creation and enhancement projects shall be conducted in accordance with a wetlands compensation plan.
- c. Wetlands restoration, creation and enhancement projects shall use native vegetation.
- d. The size of replacement wetlands shall equal or exceed the following ratios. The first number specifies the acreage of wetlands requiring replacement and the second number specifies the acreage of wetlands altered or destroyed.
  - i. **Restoration.** 2:1
  - ii. **Creation.** 3:1
  - iii. **Enhancement.** 4:1
- e. Replacement wetlands shall replicate the functions of the wetland that will be altered or destroyed such that no net loss of wetlands functions occurs.
- f. Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this standard is not feasible or practical due to technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.
- g. Wetlands restoration, creation or enhancement should occur within 1,000 feet of the affected wetland. If this provision is not practicable due to physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.
- h. Wetlands restoration, creation and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.
- i. Within five (5) years after a wetland is restored, created or enhanced, at least seventy-five percent (75 %) of the replacement vegetation must survive. The project applicant shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan (Section 22.20.020(HI)) and the provisions of Section 22.20.020(EF).

**FG.** Uses may be permitted in streams, ponds, lakes and riparian areas, and their buffer zones subject to review by the Administrator for compliance with the provisions for the protection of scenic, natural, cultural, and recreational resources, if:

- 1. Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage and fish and wildlife habitat of the affected stream, pond, lake, riparian area and/or buffer zone, including but not limited to the following mitigation measures:
  - a. Construction shall occur during periods when fish and wildlife are least sensitive to disturbance, as determined and specified by the Department of Fish & Wildlife, who shall specify periods for in water work after evaluation of the applicant's specific proposal.
  - b. All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.
  - c. Nonstructural controls and natural processes shall be used to the greatest extent practicable.

- d. Bridges, roads, pipeline and utility corridors and other water crossings shall be minimized and should serve multiple purposes and properties.
  - e. Stream channels should not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and natural grade should be used.
  - f. Temporary and permanent control measures shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems and culverts.
2. Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement efforts which shall achieve no net loss of water quality, natural drainage and fish and wildlife habitat to the affected stream, pond, lake, riparian area and/or buffer zone. If a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. If the project area cannot be completely rehabilitated, enhancement shall also be required. Rehabilitation and enhancement shall be accomplished according to a rehabilitation and/or enhancement plan which shall be subject to the following provisions:
- a. Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume and normal water fluctuation.
  - b. Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile and gradient.
  - c. The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.
  - d. Riparian areas shall be rehabilitated to their original configuration, including slope and contour.
  - e. Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata and structures, including large woody debris and boulders.
  - f. Stream channels and banks, shorelines and riparian areas shall be replanted with native plant species that replicate the original vegetation community.
  - g. Rehabilitation and enhancement efforts shall be completed no later than ninety (90) days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.
  - h. Within three (3) years after an aquatic area or buffer zone is rehabilitated or enhanced, at least seventy-five percent (75 %) of the replacement vegetation must survive. The project applicant shall monitor the replacement vegetation and take corrective measures to meet Sections 22.20.020(FG)(2)(a) through 22.20.020(FG)(2)(g).

**GH. DELINEATING WATER RESOURCE BOUNDARIES AND BUFFER ZONES.**

- 1. **NATURAL CONDITION.** Except as otherwise specified, water resource buffers shall be retained in their natural condition. Where buffer disturbance occurs during project development, revegetation with native vegetation shall be required and shall provide and maintain habitat diversity beneficial to the fish, wildlife and native plants.

pond buffers shall be based on the dominant vegetation community that exists in a buffer zone.

- a. The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland, lake or pond. Vegetation communities are classified as forest, shrub or herbaceous.
  - b. A forest vegetation community is characterized by trees with an average height equal to or greater than twenty (20) feet, accompanied by a shrub layer. Trees must form a canopy cover of at least forty percent (40 %) and shrubs must form a canopy cover of at least forty percent (40 %). A forest community without a shrub component that forms a canopy cover of at least forty percent (40 %) shall be considered a shrub vegetation community.
  - c. A shrub vegetation community is characterized by shrubs and trees that are greater than three (3) feet tall and form a canopy cover of at least forty percent (40 %).
  - d. A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and nonwoody vines.
  - e. Buffer zones shall be measured outward from a wetlands, lake or pond boundary on a horizontal scale that is perpendicular to the wetland, lake or pond boundary. The following buffer zone widths shall be required:
    - i. **Forest Communities.** 75 feet
    - ii. **Shrub Communities.** 100 feet
    - iii. **Herbaceous Communities.** 150 feet
4. **STREAM BUFFER WIDTHS.** The following buffer widths shall be required in the GMA:
- a. Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet.
  - b. Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet.

#### **HI. WATER RESOURCE COMPENSATION, ENHANCEMENT, REHABILITATION AND MITIGATION PLANS**

1. **WETLAND COMPENSATION PLANS.** A wetland compensation plan shall be prepared by the applicant whenever an applicant is required to restore, create or enhance wetlands. Wetlands compensation plans shall:
  - a. Be prepared by a qualified professional hired by a project applicant;
  - b. Provide for land acquisition (if applicable), construction, maintenance and monitoring of replacement wetlands;
  - c. Include an ecological assessment of the wetland that will be altered or destroyed and of the wetland that will be restored, created or enhanced, including information on flora, fauna, hydrology and wetlands functions;
  - d. Assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities and value of the area to be converted;
  - e. Include a plan view and cross-sectional, scaled drawings, topographic survey data, including elevations at contour intervals no greater than 1 foot, slope

- verify the wildlife inventory and assess the potential effects of a proposed use.
- b. The following factors may be considered when site plans are reviewed:
    - i. Biology of the affected wildlife species.
    - ii. Published provisions regarding the protection and management of the affected wildlife species.
    - iii. Physical characteristics of the subject parcel and vicinity, including topography and vegetation.
    - iv. Historic, current and proposed uses in the vicinity of the sensitive wildlife area or site.
    - v. Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.
  - c. The proposed use shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.
  - ~~e.~~d. Review by the Administrator under this Section may terminate if, after consultation with the WDFW, the Administrator determines that:
    - i. The sensitive wildlife area or site is not active; or
    - ii. The proposed use would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.
  - ~~e.~~e. If the Administrator, after consultation with WDFW determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated through mitigation measures recommended by the state wildlife biologist, or by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the project applicant that describes the effects and recommends measures needed to eliminate them.
  - ~~e.~~f. If the project applicant accepts the recommendations of the Administrator, the Administrator will incorporate them into the staff report and if applicable, the administrative decision, and then the wildlife protection process may conclude.
  - ~~f.~~g. The Administrator shall keep on record and address any written comments submitted by WDFW in its staff report and if applicable, the administrative decision.
  - ~~g.~~h. The Administrator shall make a final decision on whether the proposed use would be consistent with this Section. If the Administrator's decision contradicts the comments submitted by the WDFW, then the Administrator shall justify how the contrary conclusion was determined.
3. **WILDLIFE MANAGEMENT PLANS.** If the Administrator, after consultation with WDFW determines that a proposed use is likely to adversely affect a sensitive wildlife area or site, then a wildlife management plan shall be required. The primary purpose of the plan is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. The information in the plan shall provide a basis for the applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his or her development options, and mitigates temporary impacts to the wildlife area, site and/or buffer zone. Wildlife management plans shall meet the following criteria:
- a. Wildlife management plans shall be prepared by professional wildlife biologist hired by the project applicant.

1. In addition to the information otherwise required in site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of one (1) inch equals 100 feet (1:1,200) or a scale providing greater detail.
  2. A field survey to identify sensitive ~~wildlife areas or sites~~ plants shall be required for:
    - a. Land divisions that create four (4) or more parcels;
    - b. Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities;
    - c. Public transportation facilities that are outside improved rights-of-way;
    - d. Electric facilities, lines, equipment and appurtenances that are thirty-three (33) kilovolts or greater; and
    - e. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.
  3. Field surveys shall cover all areas affected by the proposed use or recreation facility.
  4. Field surveys shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant.
  5. Field surveys shall identify the precise location of the sensitive plants and delineate a 200-foot buffer zone.
  6. The results of a field survey shall be shown on the site plan map.
- B. REVIEW BY THE WASHINGTON NATURAL HERITAGE PROGRAM (WNHP).**
1. Site plans and field surveys for uses proposed within 1,000 feet of a sensitive plant species shall be submitted by the Administrator to WNHP and shall be reviewed by WNHP to determine if a proposed use could affect sensitive plants or buffer zones of sensitive plants.
  2. Within twenty (20) days, WNHP staff shall review the site plan and their field survey records to:
    - a. Identify/verify the precise location of the affected plants; and
    - b. Delineate a 200-foot buffer zone on the project applicant's site plan.
  3. Proposed uses within 1,000 feet of a sensitive plant species shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited.
  - ~~3.4.~~ If the field survey records of the WNHP are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.
  - ~~4.5.~~ The Administrator shall submit a copy of all field surveys to the WNHP. The latter shall have twenty (20) days from the date that a field survey is mailed within which to submit written comments to the Administrator. WNHP should respond within the twenty (20) days, even if the reply is as simple as “the agency needs an additional number of days (WNHP to specify the number of days) to review this field survey”.

~~5.6.~~ The Administrator shall keep on record and address any written comments submitted by the WNHP in its staff report and if applicable, the administrative decision.

~~6.7.~~ The Administrator shall make a final decision on whether the proposed use would be consistent with this Section. If the Administrator's decision contradicts the comments submitted by the WNHP, the Administrator shall justify how the contrary conclusion was determined.

**C. BUFFER ZONES - REDUCTION OF BUFFER ZONES.**

1. A 200-foot buffer zone shall be maintained around sensitive plants. Buffer zones shall remain in an undisturbed natural condition.
2. New uses shall be prohibited within sensitive plant species buffer zones, unless it is in accordance with the variance provisions of Section 22.06.040 and the project applicant prepares a protection and rehabilitation plan that complies with Section 22.06.040(D).
3. Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, manmade features, or natural plant habitat boundaries negate the need for a 200-foot radius. Under no circumstances shall the buffer zone be less than twenty-five (25) feet
4. Requests to reduce buffer zones shall be considered if a professional botanist or plant ecologist hired by the project applicant:
  - a. Identifies the precise location of the sensitive plants,
  - b. Describes the biology of the sensitive plants, and
  - c. Demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.
  - d. All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.
5. The Administrator shall submit all requests to reduce sensitive plant species buffer zones to the WNHP. The latter shall have twenty (20) days from the date that such a request is mailed within which to submit written comments to the Administrator.
6. The Administrator shall keep on record and address any written comments submitted by the WNHP in its staff report and if applicable, the administrative decision.
7. The Administrator shall make a final decision on whether the reduced buffer zone is justified. If the administrative decision contradicts the comments submitted by the WNHP, the Administrator shall justify how the contrary conclusion was determined.

**D. PROTECTION AND REHABILITATION PLANS.**

1. If a proposed use must be allowed within a sensitive plant buffer zone in accordance with the variance provisions allowed under Section 22.06.040, then the project applicant shall prepare a protection and rehabilitation plan. Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance. All plans shall be the responsibility of the applicant and shall meet the following provisions:

**CHAPTER 22.22 CULTURAL RESOURCE PROTECTION – GENERAL MANAGEMENT AREAS**

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22.22.020 CULTURAL RESOURCE RECONNAISSANCE AND HISTORIC SURVEYS .....~~160~~<sup>159</sup>  
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**22.22.010 GENERAL PROVISIONS FOR IMPLEMENTING THE CULTURAL RESOURCE PROTECTION PROCESS**

- A. All cultural resource information shall remain confidential and exempt from public records requests, according to Section 6(a)(1)(A) of the National Scenic Area Act and RCW 42.17.310(k). Federal agency cultural resource information is also confidential and exempt by statute from the Freedom of Information Act under 16 USC 470 hh and 36 CFR 296.18.
- B. All cultural resource surveys, evaluations, assessments and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards set out in 36 Code of Federal Regulations (CFR), Part 61 and in Guidelines for Evaluating and Documenting Traditional Cultural Properties (Parker and King, no date).
- C. Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and if appropriate, any party of record. Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as a historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.
- D. The responsibility and cost of preparing an evaluation of significance, assessment or effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.
- E. **RECONNAISSANCE AND HISTORIC SURVEYS AND SURVEY REPORTS.**
  - 1. Reconnaissance Survey requirements and exceptions.
    - a. Each proposed use or element of a proposed use within an application shall be evaluated independently to determine whether a reconnaissance survey is required; for example, an application that proposes a land division and a new dwelling would require a reconnaissance survey if a survey would be required for the dwelling.
    - b. A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed as exempt in Section 22.22.010(E)(1)(~~bc~~).

- b.c. A reconnaissance survey shall be required for all proposed uses, except the following, unless located within 500 feet of a known cultural resource:
- i. The modification, expansion, replacement, or reconstruction of existing buildings and structures.
  - ii. Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments, storage shed that do not require a foundation; low-intensity recreation uses, such as fishing, hunting and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.
  - iii. Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved. The Gorge Commission shall review all land use applications and determine if the proposed uses would have a minor ground disturbance.
  - iv. Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.
  - v. Proposed uses that would occur on sites that have been adequately surveyed in the past. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented. The project applicant must demonstrate that the project area has been adequately surveyed.
  - vi. Proposed uses occurring in areas that have a low probability of containing cultural resources. Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Columbia River Gorge Commission, the United States Forest Service, public agencies and private archaeologists. The Gorge Commission, after consultation with the Indian tribes and Washington State Department of Archaeology and Historical Preservation (hereinafter DAHP), shall prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. The maps referred to above shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission. **The following proposed uses do not qualify for this exemption:**



- (1) Residential development that involves two (2) or more new dwellings for the same project applicant.
- (2) Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities, boat ramps and visitor information and environmental education facilities.
- (3) Public transportation facilities that are outside improved rights-of-way.
- (4) Electric facilities, lines, equipment and appurtenances that are thirty-three (33) kilovolts or greater.
- (5) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment and appurtenances.

d. The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses exempted under Section 22.22.010(E)(1)(c) if, in its professional judgment, a reconnaissance survey may be necessary to ensure protection of cultural resources.

ee. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are fifty (50) years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are fifty (50) years old or older.

ef. The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the General Management Area.

- i. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone.
- ii. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

eg. Large-scale uses, for the purposes of this Chapter, include:

- i. Residential development involving two (2) or more new dwellings;
- ii. All recreation facilities;
- iii. Commercial and industrial development; public transportation facilities;
- iv. Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater; and
- v. Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

fh. Reconnaissance Surveys for small-scale uses shall generally include a subsurface survey and subsurface testing. They shall meet the following standards:

- i. A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.
- ii. Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

gi. Reconnaissance Survey Reports for small-scale uses shall be documented in a confidential report that includes:

- i. A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.
  - ii. A description of any cultural resources that were discovered in the project area, including a written description and photographs.
  - iii. A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.
  - iv. All written comments and consultation meeting minutes, if applicable, shall be incorporated into the reconnaissance survey report.
- h-j. Reconnaissance Surveys for large-scale uses shall be designed by a qualified professional. They shall meet the following requirements:
- i. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.
  - ii. Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use.
  - iii. Archival research shall be performed before any field work. Archival research shall include a thorough examination of tax records; historic maps, photographs and drawings; previous archaeological, historic and ethnographic research; cultural resource inventories and records maintained by federal, state and local agencies; and primary historic accounts, such as diaries, journals, letters and newspapers.
  - iv. Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.
  - v. Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.
  - vi. Archaeological site inventory forms shall be submitted to the Washington State Department of Archeology and Historic Preservation (hereinafter "DAHP") whenever cultural resources are discovered.
- ik. Reconnaissance Survey Reports for large-scale uses shall be documented in a confidential report that includes:
- i. A description of the proposed use, including drawings and maps.
  - ii. A description of the project area, including soils, vegetation, topography, drainage, past alterations and existing land use.
  - iii. A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.
  - iv. A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of one (1) inch equals 100 feet (1:1200) or a scale providing greater detail.
  - v. Copies of all written comments submitted by Indian tribal governments and other interested persons.
  - vi. An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings and a map. The

**CHAPTER 22.28 NATURAL RESOURCE PROTECTION – SPECIAL MANAGEMENT AREAS**

22.28.010 WATER RESOURCE PROTECTION..... ~~180~~<sup>179</sup>  
22.28.020 WILDLIFE AND PLANT HABITAT PROTECTION..... ~~182~~<sup>181</sup>  
22.28.030 PRACTICABLE ALTERNATIVE TEST ..... ~~186~~<sup>185</sup>  
22.28.040 NATURAL RESOURCE MITIGATION PLANS..... ~~186~~<sup>185</sup>

**22.28.010 WATER RESOURCE PROTECTION**

- A. EXEMPTIONS.** Maintenance, repair, reconstruction and realignment of roads and railroads within their rights of way shall be exempted from application of this chapter upon demonstration of the following:
1. The wetland within the right of way is a drainage ditch and not part of a larger wetland outside of the right of way;
  2. The wetland is not critical habitat; and
  3. Proposed activities within the right of way would not adversely affect a wetland adjacent to the right of way.
- B. BUFFER REQUIREMENTS.** All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following provisions to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered.
1. All water resources shall, in part, be protected by establishing undisturbed buffer zones as specified in 22.28.010(B)(4). These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.
  2. The applicant shall be responsible for identifying all water resources and their appropriate buffers. However, delineations shall be as required in Section 22.28.010(~~E~~F).
  3. All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a natural resource mitigation plan, Section 22.28.040.
  4. Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:
    - a. A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish-bearing stream, some of which can be intermittent.
    - b. A fifty (50) foot buffer zone along each bank of intermittent (including ephemeral, non-fish bearing streams).
    - c. The buffer width shall be increased for the following:
      - i. When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.

3. Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.
4. When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

E. Proposed uses and development within wetlands, streams, ponds, lakes, riparian areas and their buffer zones shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

**E.F. DELINEATING WATER RESOURCE BOUNDARIES AND BUFFER**

**ZONES.** Wetlands Boundaries shall be delineated using the following:

1. The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.
2. Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the Administrator during an inspection of a potential project site shall be delineated and protected.
3. The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the '1987 Corps of Engineers Wetland Delineation Manual (on-line Edition).
4. All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.
5. Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.
6. The Administrator may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the Administrator shall obtain professional services, at the project applicant's expense, or the Administrator will ask for technical assistance from the Forest Service to render a final delineation.

**22.28.020 WILDLIFE AND PLANT HABITAT PROTECTION**

**A. REVIEW OF SITE PLANS.**

1. Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1,000 ft of a sensitive wildlife/plant site and/or area. Sensitive Wildlife Areas and endemic plants are those areas listed in Chapter 22.04, the "Types of Wildlife Areas and Sites Inventoried in the Columbia River Gorge" and "Columbia Gorge Vicinity Endemic Plant Species" tables, including all Priority Habitats listed in Table 5 in Section 22.28.020. (USFS) The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Administrator shall justify how the contrary conclusion was determined.

9. The Administrator shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

~~9.10.~~ Proposed uses and developments within 1,000 feet of sensitive wildlife areas and sites or within 1,000 feet of rare plants shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

B. **NATURAL RESOURCE PROTECTION STANDARDS.** Soil productivity shall be protected using the following provisions:

1. A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.
2. New developments and land uses shall control all soil movement within the area shown on the site plan.
3. The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed fifteen percent (15 %) of the project area.
4. Within one (1) year of project completion, eighty percent (80 %) of the project area with surface disturbances shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has eighty percent (80 %) vegetative cover.

#### 22.28.030 PRACTICABLE ALTERNATIVE TEST

An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes. A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

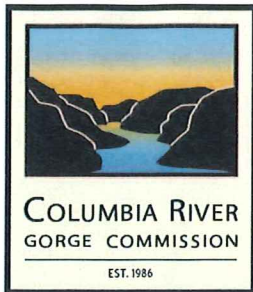
- A. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites;
- B. The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites; and
- C. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

#### 22.28.040 NATURAL RESOURCE MITIGATION PLANS

- A. A Mitigation Plan shall be prepared when:
  1. The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, wildlife or plant areas and/or sites); and

2. There is no practicable alternative (see the “practicable alternative” test set out in Section 22.28.030).
- B. In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).
  - C. The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects sensitive water resources, and wildlife/plant areas and sites, that maximizes his/her development options, and that mitigates, through restoration, enhancement, and replacement measures, impacts to the water resources and/or wildlife/plant area or site and/or buffer zones.
  - D. The applicant shall submit the mitigation plan to the Administrator. The Administrator shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Administrator shall justify how they reached an opposing conclusion.
  - E. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.
  - F. Mitigation plans shall include maps, photographs, and text. The text shall:
    - ~~4.1.~~ Describe the biology and/or function of the sensitive resources (eg. wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the sensitive resource to be altered or destroyed and the condition of the resource that will result after restoration will be required. Reference published protection and management provisions;
    - ~~5.2.~~ Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone;
    - ~~6.3.~~ Explain the techniques that will be used to protect the sensitive resources and their surrounding habitat that will not be altered or destroyed (for example, delineation of core habitat of the sensitive wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site);
    - ~~7.4.~~ Show how restoration, enhancement, and replacement (creation) measures will be applied to ensure that the proposed use results in minimum feasible impacts to sensitive resources, their buffer zones, and associated habitats; and,
    - ~~8.5.~~ Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the Administrator, appropriate state agencies, and the Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.
  - G. At a minimum, a project applicant shall provide to the Administrator a progress report every three (3) years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

Attachment B.



RECEIVED  
AUG 10 2017  
SKAMANIA COUNTY  
PUBLIC WORKS

July 20, 2017

Marc Boldt, Clark County Council Chair  
Jim Rumpeltes, Interim County Manager  
Martin Snell, Community Development Director  
1300 Franklin Street  
P.O. Box 9810  
Vancouver, WA 98666-9810

Michael Cerbone, Director  
Land Use Planning Division  
1600 SE 190th Avenue  
Portland, OR 97233

✓ Debbie Slack, Skamania County Clerk of the Board  
Alan Peters, Planner  
P.O. Box 1009  
Stevenson, WA 98648

Jeff Hecksel, Hood River County Administrator  
John Roberts, Planning & Comm. Dev. Director  
601 State Street  
Hood River, OR 97031

Rod Runyan, Wasco County Chair  
Angie Brewer, Planning Director  
2705 E. 2nd Street  
The Dalles, OR 97058

Dear County Officials and Planning Directors,

On February 9, 2016, the Columbia River Gorge Commission adopted revisions to the *Management Plan for the Columbia River Gorge National Scenic Area* to respond to the Oregon Court of Appeals' decision in *Friends of the Columbia Gorge v. Columbia River Gorge Commission*. These revisions included changes to general management area guidelines and changes to Special Management Area guidelines that the U.S. Forest Service previously adopted. On August 4, 2016, the U.S. Secretary of Agriculture, through his designee, concurred with the revisions.

In accordance with Sections 7(b) and 8(h) of the National Scenic Area Act, I am transmitting these revisions to you to adopt into your land use ordinances for the National Scenic Area. Sections 7(b) and 8(h) require that you notify the Commission within 60 days of the date of this transmittal of your intent to adopt these revisions and that you adopt the revisions within 270 days of the date of this transmittal. These revisions are mandatory; however, the Management Plan allows you to enact variations on these revisions so long as the variations provide greater protection for Gorge resources.

After you adopt your ordinance amendments, you must submit the amendments to the Gorge Commission to determine that the amendments are consistent with the Management Plan and for the U.S. Secretary of Agriculture's concurrence. Your ordinance amendments for the general management area revisions may go into effect after the Commission determines they are consistent with the Management Plan and the amendments for the Special Management Area revisions may go into effect after the Secretary's concurrence.

In our experience, most counties elect for both GMA and SMA revisions to go into effect after the Secretary's concurrence.

The Gorge Commission staff is committed to assisting you to understand these revisions, discussing possible variations, and providing guidance on their implementation. We also welcome the opportunity to review your draft ordinance amendments so we can advise on consistency with the revisions.

I have enclosed a copy of the Secretary's concurrence and the Commission's staff report to the Gorge Commission summarizing the revisions. The text of the revisions is attached to the staff report. The Commission staff's lead for these revisions was its Counsel, Jeff Litwak. Please don't hesitate to call Jeff (509-493-3323, ext. 222) if you have any questions.

Sincerely,



Krystyna U. Wolniakowski  
Executive Director

cc: Robin Shoal, Staff Officer, Natural Resources and Planning, USFS, National Scenic Area Office

Enclosures





United States  
Department of  
Agriculture

Forest  
Service

Pacific  
Northwest  
Region

1220 SW Third Avenue (97204)  
PO Box 3623  
Portland, OR 97208-3623  
503-808-2468

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File Code: 1900  
Date: August 4, 2016

Ms. Krystyna U. Wolniakowski  
Executive Director  
Columbia River Gorge Commission  
PO Box 730  
White Salmon, WA 98672

Dear Ms. Wolniakowski,

The Columbia River Gorge Commission submitted proposed revisions to the *Management Plan for the Columbia River Gorge National Scenic Area* for concurrence review by the Secretary of Agriculture. The Secretary, through the Chief of the Forest Service, has delegated this authority to me as Regional Forester. The proposed revisions were received in the US Forest Service-National Scenic Area office on May 24, 2016. Per sections 6(f)(g) and (h) of the Columbia River Gorge National Scenic Area Act, the Regional Forester has 90 days to make a decision regarding concurrence for revisions or amendments to the Management Plan. This 90-day period expires on August 22, 2016.

The proposed revisions pertain to the General Management Area (GMA) land designation within the Scenic Area. They are in response to an Oregon Court of Appeals decision in *Friends of the Columbia Gorge v. Columbia River Gorge Commission* issued in February of 2012.

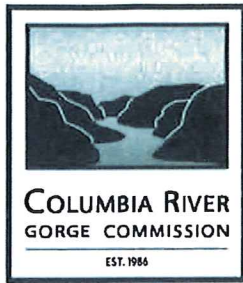
I have reviewed the Forest Service staff report, the Gorge Commission staff report, and the text of the proposed revisions. I concur that the proposed revisions are consistent with the standards established in section 6(d) of the Columbia River Gorge National Scenic Area Act and with the purposes of the Act.

Sincerely,

for JAMES M. PEÑA  
Regional Forester

cc: Julia Riber, Jessica Rubado, Lynn Burditt, Robin Shoal





May 24, 2016

Lynn Burditt – Area Manager  
U.S. Forest Service  
Columbia River Gorge National Scenic Area  
902 Wasco Avenue, Suite 200  
Hood River, OR 97031

Dear Ms. Burditt,

On February 9, 2016, the Columbia River Gorge Commission adopted revisions to the *Management Plan for the Columbia River Gorge National Scenic Area* to respond to the Oregon Court of Appeals' decision in *Friends of the Columbia Gorge v. Columbia River Gorge Commission*. The Commission's action concerned only the General Management Area.

In accordance with Section 6(f) of the National Scenic Area Act, I am submitting these revisions for concurrence by the Secretary of Agriculture that the revisions are consistent with the standards for the Management in the Act (sec. 6(d) and the purposes of the Act (sec. 2). I understand from Robin Shoal in your office that your office will forward this request for concurrence to the Regional Forester as the delegated representative of the Secretary of Agriculture. The National Scenic Area Act allows the Secretary 90 days to concur with these revisions; if the Secretary does not act within 90 days, the National Scenic Area Act specifies, "the Secretary shall be deemed to have concurred on the management plan."

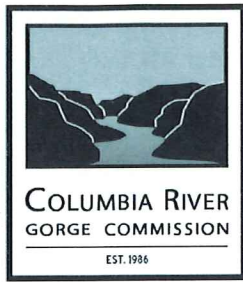
I have enclosed a copy of the staff report to the Gorge Commission summarizing the revisions (dated Feb. 9, 2016). The text of the revisions is attached to the staff report. Please don't hesitate to call the Commission's Counsel, Jeff Litwak (509-493-3323, ext. 222) if you have any questions.

Sincerely,

Krystyna Wolniakowski  
Executive Director

cc: Robin Shoal, Staff Officer, Natural Resources and Planning, USFS, National Scenic Area Office

Enclosure



February 9, 2016

**TO:** Columbia River Gorge Commission

**FROM:** Krystyna Wolniakowski and Jeff Litwak

**SUBJECT:** Final Recommended Plan Text Responding to Oregon Court of Appeals Decision

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At the December 2015 Commission meeting, the Commission directed staff to develop new Management Plan language to respond to the Oregon Court of Appeals' decision in *Friends of the Columbia Gorge v. Columbia River Gorge Commission*. The language would include (1) adding the definition of adversely affect from the Act into the Management Plan; (2) crafting language that addresses the Court's question that land division applications that also request approval for ground disturbing development ensure protection of cultural resources; and (3) crafting language similar to SMA language for ensuring no adverse cumulative effect to natural resources.

Attached to this memo is staff's recommended text. The text includes the language for the SMAs that the Forest Service has already given the Commission to incorporate without change (as required sec. 6 of the Act). The SMA language is shown in yellow highlight; the GMA recommended language is shown in green highlight. New language is shown in underline, and language to be deleted is shown in strikeout.

### **Cultural Resources**

Staff recommends text that is a bit broader than just addressing the Court of Appeals' concern whether an application for a land division would be exempt from the requirement for a cultural resources reconnaissance survey if the application also requested approval of residences that would require a reconnaissance survey. Rather than answer only that question, staff is recommending language that codifies the existing practice of requiring a reconnaissance survey if any element of any land use application requires a reconnaissance survey. The recommended language includes an example, specifically addressing the situation the Court identified. Staff also recommends a new provision allowing that a reconnaissance survey may still be conducted even if a proposed use falls within an exemption.

### **Natural Resources**

Staff again recommends text that is slightly broader than just addressing the Court's focus on cumulative effect. Staff's recommended language requires evaluation of applications for "adverse effect, including cumulative effect" and prohibits adverse effect. The Act prohibits "adverse effect" and cumulative effect is one of four elements of adverse effect. Thus this recommended language tracks the terms that the Act uses, whereas the SMA language focuses on "cumulative effects" and prohibits "cumulative effects that are adverse." The new Glossary definition of adverse effect is identical to the definition of adverse effect in the Act, so you can turn back to that definition to see the relationship between the two terms.

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# Glossary

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The definitions listed below apply to both General Management Area and Special Management Area, unless otherwise noted.

**Accepted agricultural practice:** A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

**Accessory structure/building:** A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term “detached” means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.

**Active wildlife site:** A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

**Addition:** An extension or increase in the area or height of an existing building.

**Adversely affect or Adversely affecting (SMA):** A reasonable likelihood of more than moderate adverse consequence for the scenic, cultural, recreation or natural resources of the scenic area, the determination of which is based on—

- (1) the context of a proposed action;
- (2) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;
- (3) the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts;
- (4) and proved mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant effects to an insignificant level.

**Agency official:** The federal, state, or local agency head or designee who has authority over a proposed project.

## GLOSSARY

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**Agricultural specialist (SMA):** A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.

**Agricultural structure/building:** A structure or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

**Agricultural use:** The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

1. The operation or use of farmland subject to any agriculture-related government program.
2. Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.
3. Land planted in orchards or other perennials prior to maturity.
4. Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

**Air:** The mixture of gases comprising the Earth's atmosphere.

**Anadromous fish:** Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).

**Anaerobic:** A condition in which molecular oxygen is absent (or effectively so) from the environment.

**Aquaculture:** The cultivation, maintenance, and harvesting of aquatic species.

**Aquatic area:** The water area of a stream, pond, or lake measured at the ordinary high water mark.

**Archaeological resources:** See cultural resource.

**PART I-Resource Protection & Enhancement**

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2. Information regarding the nature and location of archaeological resources and cultural resources associated with Native Americans shall be kept confidential to avoid unlawful, malicious, or negligent disturbance.
3. A four-step process shall be used to protect cultural resources: performing cultural resource reconnaissance or historic surveys before proposed uses are authorized; evaluating the significance of cultural resources discovered during surveys; assessing the effects of proposed uses on significant cultural resources; and preparing mitigation plans to avoid or minimize impacts to significant cultural resources.
4. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).
5. Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any person who submits written comments on a proposed use (interested person). Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans.
6. The reconnaissance survey guidelines below shall apply until a cultural resource survey of the GMA is complete.

**A. Each proposed use or element of a proposed use within an application shall be evaluated independently to determine whether a reconnaissance survey is required; for example, an application that proposes a land division and a new dwelling would require a reconnaissance survey if a survey would be required for the dwelling.** (Added: CRGC adoption \_\_\_\_\_; U.S. Sec. Ag. concurrence \_\_\_\_\_)

**B. A reconnaissance survey shall be required for all proposed uses, except:**  
(Renumbered: CRGC adoption \_\_\_\_\_; U.S. Sec. Ag. concurrence \_\_\_\_\_)

- (1) The modification, expansion, replacement, or reconstruction of existing buildings and structures.
- (2) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

- (3) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved.

The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

- (4) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.
- (5) Proposed uses that would occur on sites that have been adequately surveyed in the past.

The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

- (6) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:
  - (a) Residential development that involves two or more new dwellings for the same project applicant.
  - (b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.
  - (c) Public transportation facilities that are outside improved rights-of-way.
  - (d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.

**PART I-Resource Protection & Enhancement**

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- (e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall prepare and adopt a map showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

- BC.** A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed above in 6.A(1) through (6). The locations of known cultural resources are shown in the cultural resource inventory prepared by Heritage Research Associates and maintained by the USDA Forest Service for the Columbia River Gorge Commission. *(Renumbered: CRGC adoption \_\_\_\_\_; U.S. Sec. Ag. concurrence \_\_\_\_\_)*

- D.** The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in the exceptions if, in its professional judgment, a reconnaissance survey may be necessary to ensure protection of cultural resources. *(Added: CRGC adoption \_\_\_\_\_; U.S. Sec. Ag. concurrence \_\_\_\_\_)*

- 7. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.
- 8. The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the GMA. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.



## GMA PROVISIONS

~~Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: 1) wetlands and their buffer zones; 2) streams, ponds, lakes, riparian areas and their buffer zones; 3) sites within 1,000 feet of sensitive wildlife areas and sites; and 4) sites within 1,000 feet of rare plants. (Added: CRGC adoption 7/13/10; U.S. Sec. Ag. concurrence 11/1/10)~~

### WETLANDS

#### GMA Goals

1. Achieve no overall net loss of wetlands acreage and functions.
2. Increase the quantity and quality of wetlands.

#### GMA Objective

Promote public programs that offer incentives to landowners who protect and enhance wetlands. The Gorge Commission shall notify landowners whose property has been designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland and contains wetlands. It shall inform landowners about the values of wetlands and the rationale for regulating new uses in wetlands and wetlands buffer zones, including cultivation.

#### GMA Policies

1. The wetlands goals, policies, and guidelines in the Management Plan shall not apply to the main stem of the Columbia River. The Gorge Commission will rely on the applicable federal and state laws to protect wetlands in the Columbia River, including the U.S. Clean Water Act, Washington State Environmental Policy Act, Washington Hydraulic Code, and Oregon Removal-Fill Act.

The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001, and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For the Management Plan, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

2. All wetlands, regardless of their size or functions, warrant protection from new uses that may alter or destroy wetlands functions.

All enhancement plans must be approved by the local government, after consultation with federal and state agencies with jurisdiction over wetlands.

### **GMA Guidelines**

#### **Review Uses**

1. The following uses may be allowed in wetlands and wetland buffer zones, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Wetlands" in this section.
  - A. The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not (1) increase the size of an existing structure by more than 100 percent, (2) result in a loss of wetlands acreage or functions, and (3) intrude further into a wetland or wetlands buffer zone.

New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located closer to the wetland or wetlands buffer zone than the existing structure.
  - B. The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.
  - C. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.
2. Except uses allowed outright and review uses in Guidelines 1A through 1C, above, proposed uses may be allowed in wetlands and wetlands buffer zones subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Other Review Uses in Wetlands" in this section.
3. Proposed uses in wetlands and wetland buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited. (Added: CRGC adoption \_\_\_\_\_; U.S. Sec. Ag. concurrence \_\_\_\_\_)

#### **Site Plans for Review Uses in Wetlands**

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**GMA Guidelines**

**Review Uses**

1. The following uses may be allowed in streams, ponds, lakes, and riparian areas, and their buffer zones, subject to compliance with guidelines for the protection of scenic, natural, cultural and recreation resources and "Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Aquatic and Riparian Areas" in this section. *(Revised: CRGC adoption \_\_\_\_\_; U.S. Sec. Ag. concurrence \_\_\_\_\_)*
  - A. The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not (1) increase the size of an existing structure by more than 100 percent, (2) result in a loss of water quality, natural drainage, and fish and wildlife habitat, or (3) intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.
  - B. The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.
  - C. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.
2. Except uses allowed outright and review uses in Guidelines 1.A through 1.C, above, proposed uses may be allowed in streams, ponds, lakes, and riparian areas, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Other Review Uses in Aquatic and Riparian Areas" in this section.
3. Proposed uses in streams, ponds, lakes, and riparian areas and their buffer zones shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited. *(Added: CRGC adoption \_\_\_\_\_; U.S. Sec. Ag. concurrence \_\_\_\_\_)*

**Site Plans for Review Uses in Aquatic and Riparian Areas**

## **PART I-Resource Protection & Enhancement**

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8. Adequate buffer zones shall be maintained to protect sensitive wildlife areas or sites from new uses. The width of wildlife buffer zones shall be determined on a case-by-case basis and shall reflect the biology of the affected species and the characteristics of the project site and the proposed use.
9. The size, scope, configuration, density, and timing of new uses within wildlife buffer zones shall be regulated to protect sensitive wildlife species.
10. Site-specific management plans shall be required before most new uses will be allowed within wildlife buffer zones.
11. Rehabilitation and/or enhancement shall be required to offset unavoidable impacts to wildlife habitat that result from new uses.

### **GMA Guidelines**

#### **Review Uses**

1. Except uses allowed outright, proposed uses may be allowed within 1,000 feet of a sensitive wildlife area or site, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Review Uses Near Sensitive Wildlife Areas and Sites" in this section. Updated lists of species included in sensitive wildlife sites can be found on the websites for the Washington Department of Fish and Wildlife (Species of Concern list) and the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service – Scenic Area Office and available at the Gorge Commission office and on its website.
2. Proposed uses within 1,000 feet of a sensitive wildlife area or site shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited. (Added: CRGC adoption \_\_\_\_\_; U.S. Sec. Ag. concurrence \_\_\_\_\_)

#### **Site Plans and Field Surveys for Review Uses Near Sensitive Wildlife Areas and Sites**

1. In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.
2. A field survey to identify sensitive wildlife areas or sites shall be required for (1) land divisions that create four or more parcels, (2) recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, or visitor information and environmental education facilities, (3) public transportation facilities that are outside improved rights-of-way, (4) electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater, and

## **PART I-Resource Protection & Enhancement**

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Forest Land, or Large or Small Woodland and contains sensitive plant species. It shall inform landowners about the values of sensitive plants and the rationale for regulating new uses near sensitive plant sites, including cultivation.

### **GMA Policies**

1. Newly discovered rare plant sites and plant species that are added to federal or state rare plant lists shall be protected. Species that are deleted from federal or state rare plant lists will not require further protection.
2. The rare plant species inventory shall be used to identify possible conflicts between proposed uses and rare plant sites. Project applicants should consult the local government early in the planning process to help determine if rare plants exist in the project area.
3. When new uses are proposed near a sensitive plant site that appears in the rare plant species inventory, the field survey records shall be used to determine the precise location of the plant population in relation to the proposed use. If the field survey records are inadequate, a field survey shall be conducted to delineate the boundaries of the sensitive plant population.
4. Buffer zones shall be used to ensure that new uses do not adversely affect sensitive plant species.
5. Except for uses allowed outright, new uses shall be prohibited within sensitive plant species buffer zones.
6. Landowners and agency officials shall be encouraged to avoid siting new uses on lands containing plant species listed as "Review," "Watch," or "Monitor" by the Oregon or Washington Natural Heritage Program.

### **GMA Guidelines**

#### **Review Uses**

1. Except uses allowed outright, proposed uses may be allowed within 1,000 feet of a sensitive plant, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Review Uses Near Sensitive Plants" in this section. Updated lists of sensitive plant species can be found on the websites for the Oregon or Washington Natural Heritage Program. A list also is maintained by the USDA Forest Service – Scenic Area Office and available at the Gorge Commission office and on its website.
2. Proposed uses within 1,000 feet of a sensitive plant shall be evaluated for adverse effects, including cumulative effects, and adverse effects shall be prohibited. (Added: CRGC adoption \_\_\_\_\_; U.S. Sec. Ag. concurrence \_\_\_\_\_)

## **PART I-Resource Protection & Enhancement**

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Management Plan. Enhancement efforts shall be conducted pursuant to a mitigation plan, as described in this section.

10. All mitigation plans must be approved by the local government, after consultation with federal and state agencies with jurisdiction over wetlands.
11. Partnerships with public agencies, conservation groups, and individuals are encouraged to increase public awareness, understanding, and stewardship of natural resources.
12. The Special Management Area water resource buffer widths shall be applied to National Forest System lands in the General Management Area.
13. Proposed uses that would adversely affect water resources (wetlands, streams, ponds, lakes, and riparian areas) shall be prohibited. (Added: U.S. Sec. Ag. concurrence  
\_\_\_\_\_)

## **WILDLIFE AND PLANTS**

### **SMA Goals**

1. Protect (ensure that new uses do not adversely affect, including cumulative effects) and enhance the wildlife and plant diversity of the Gorge.
2. Encourage the protection of plant species that are classified as "List 3 (Review)" or "List 4 (Watch)" by the Oregon Natural Heritage Program or "Monitor" by the Washington Natural Heritage Program.
3. Ensure that new uses do not adversely affect natural areas that are potentially eligible for the Oregon Register of Natural Heritage Resources or the Washington Register of Natural Areas Program.

### **SMA Policies**

1. Natural resources existing on a site proposed for a new development or land use, and/or natural resources in danger of degradation or destruction from individual or cumulative off-site impacts, shall be protected from adverse effects.
2. Significant ecosystems such as natural areas, wetlands, ponds, lakes, riparian areas, old growth forests, islands, and areas of special importance such as botanical areas, sensitive wildlife and fishery habitats, or oak woodlands shall be protected from adverse effects.
3. Existing habitat quality, viable populations, and long-term productivity of natural resources and ecosystem diversity shall be maintained.

## **PART I-Resource Protection & Enhancement**

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15. Air quality shall be protected and enhanced, consistent with the purposes of the Scenic Area Act. The States of Oregon and Washington and the U.S. Forest Service shall:
  - (1) Continue to monitor air pollution and visibility levels in the Gorge;
  - (2) Conduct an analysis of monitoring and emissions data to identify all sources, both inside and outside the Scenic Area, that significantly contribute to air pollution. Based on this analysis, the States shall develop and implement a regional air quality strategy to carry out the purposes of the Scenic Area Act, with the U.S. Forest Service, the Southwest Air Pollution Control Authority and in consultation with affected stakeholders.

The States and the Forest Service shall together provide annual reports to the Commission on progress made regarding implementation of this policy. The first report shall include a workplan and timeline for gathering/analyzing data and developing and implementing the strategy. The workplan and strategy shall be submitted to the Commission for approval.

### **SMA Natural Resources Guidelines**

1. All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Cumulative effects analysis is not required for expedited review uses or developments. Comments from state and federal agencies shall be carefully considered. (Site plans are described under "Review Uses" in Part II, Chapter 7: General Policies and Guidelines.) (*Revised: U.S. Sec. Ag. concurrence \_\_\_\_\_*)
2. Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas)
  - A. All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in 2.A.(2)(a) and 2(b) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.
    - (1) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.
    - (2) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones

- E. Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.
- F. The local government may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the local government shall obtain professional services, at the project applicant's expense, or the local government will ask for technical assistance from the Forest Service to render a final delineation.
- G. Buffer zones shall be undisturbed unless the following criteria have been satisfied:
- (1) The proposed use must have no practicable alternative as determined by the practicable alternative test.

Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.

- (2) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:
    - (a) A documented public safety hazard exists or a restoration/enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question, and
    - (b) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project, and
    - (c) The proposed project minimizes the impacts to the wetland.
  - (3) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.
- H. ~~Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas:~~ Proposed uses and development within wetlands, streams, ponds, lakes, riparian areas and their buffer zones shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited.

*(Added: U.S. Sec. Ag. concurrence 7/1/11, revised . . .)*



Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.

- E. The wildlife/plant protection process may terminate if the local government, in consultation with the Forest Service and state wildlife agency or Heritage program, determines (1) the sensitive wildlife area or site is not active, or (2) the proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and (3) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the local government shall incorporate them into its development review order and the wildlife/plant protection process may conclude.
- F. If the above measures fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.
- G. The local government shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The local government shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in its development review order.

Based on the comments from the state and federal wildlife agency/heritage program, the local government shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the local government shall justify how it reached an opposing conclusion.

- H. The local government shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.
- I. ~~Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: 1) sites~~ Proposed uses and developments within 1,000 feet

of sensitive wildlife areas and sites; and 2) sites or within 1,000 feet of rare plants shall be evaluated for cumulative effects to natural resources and cumulative effects that are adverse shall be prohibited. (Added: U.S. Sec. Ag. concurrence 7/1/11, revised . . .)

4. Soil Productivity

A. Soil productivity shall be protected using the following guidelines:

- (1) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.
- (2) New developments and land uses shall control all soil movement within the area shown on the site plan.
- (3) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.
- (4) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

**Practicable Alternative Test**

1. An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

- A. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites.
- B. The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites.
- C. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a



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**SKAMANIA COUNTY PLANNING COMMISSION**  
**MOTION TO RECOMMEND APPROVAL OF**  
**AMENDMENTS TO TITLE 22, NATIONAL SCENIC AREA ORDINANCE.**

The Skamania County Planning Commission conducted a public hearing to consider proposed zoning code amendments to Title 22 on March 6, 2018.

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

**FINDINGS OF FACT**

- A. RCW 36.70 authorizes counties to adopt or amend zoning regulations.
- B. SCC 21.18.020 allows the Board of County Commissioners to amend the zoning code after receiving a recommendation from the Planning Commission.
- C. The Planning Commission, having provided proper notice in the Skamania County Pioneer, and with a quorum present, conducted a public hearing at its March 6, 2018, meeting.

**CONCLUSIONS**

Based on public comment and staff analysis, the proposed text 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 further move that the Planning Commission recommend to the Board of County Commissioners that they adopt the proposed text amendments.

Motion seconded by \_\_\_\_\_.

AYE

NAY

Lesley Apple Haskell \_\_\_\_\_

John Prescott \_\_\_\_\_

Dee Bajema \_\_\_\_\_

Tony Coates \_\_\_\_\_

Paul Hendricks \_\_\_\_\_

Cliff Nutting \_\_\_\_\_

Cyndi Soliz \_\_\_\_\_



# Skamania County

## Community Development Department

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### STAFF REPORT

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

**REPORT DATE:** February 26, 2018

**HEARING DATE:** March 6, 2018

**PROPOSAL:** Amendments to the Comprehensive Plan, West End Comprehensive Subarea Plan, and Zoning Code to revise language concerning substantial change in circumstances necessary for quasi-judicial requests for zoning and comprehensive plan amendments.

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#### **Background and Review Process**

Individual property owners may request Comprehensive Plan and Zoning Map amendments through a quasi-judicial process before the Hearing Examiner. In order to be approved, applications must demonstrate compliance with applicable criteria in the Comprehensive Plan and/or Zoning Code. Among other requirements, these criteria require that there be a "substantial change" or "significant change" in circumstances since the adoption of the existing zoning or comprehensive plan designations.

The text in the Comprehensive Plan and Zoning Code provides examples, though the examples are not all-inclusive. There are potentially many ways that an applicant could demonstrate that a substantial or significant change has occurred. However, because in-fill can be shown objectively, many applicants use this metric to demonstrate substantial change.

For a Zoning Map amendment, the example of in-fill is found under the definition for "substantial change" in SCC 21.08.010:

- *substantial in-fill affecting the rural character of a community;*
- *sixty percent in-fill in any zone*

For a Comprehensive Plan amendment (per Comprehensive Plan and West End Subarea Plan procedures for accomplishing individual amendments):

- *sixty percent (60%) infill of existing lots within the entire mapping designation being proposed for change*

"Infill" is not defined in the Zoning Code or Comprehensive Plan. Merriam-Webster defines "infill" simply as "to fill in". According to the Municipal Research and Services Center (MRSC), "Infill development is the process of developing vacant or under-used parcels within existing urban areas that are already largely developed."

Applicants and the County have previously interpreted “infill of existing lots” to equate to development of existing lots, or the percentage of existing lots that have been developed. So, if there existed 100 lots in an area and 60 of these lots were developed then infill would be 60% according to this interpretation. This is not necessarily equivalent to 60% of full build-out, if the 100 lots included potential for additional land divisions. If the 100 lots included sufficient acreage to support 20 additional lots, then full build-out would be 120 lots. In this scenario 60 developed lots is only 50% of full build-out. If “infill” is equivalent to “buildout” then the 60% threshold would not be met. In recent years, applications have been approved for showing that 60% of existing lots being developed and denied for not showing 60% build-out which supports clarifying the intent of the ordinance and comprehensive plan.

Because of this ambiguity, at the December 5, 2017, Planning Commission Meeting, Member Cyndi Soliz recommended that the Planning Commission initiate changes to the language of the Comprehensive Plan and Zoning Code to clarify the language regarding the requirement for substantial change. The Planning Commission agreed to hold a workshop on this item on February 6, 2018. At that workshop Staff presented draft text amendments that would clarify the language of the text to be clearly consistent with a recent recommendation of the Skamania County Hearing Examiner. Member Cyndi Soliz recommended a minor change to the draft and the Planning Commission directed Staff to schedule a public hearing on the draft language.

The Planning Commission or Board of County Commissioners may initiate amendments to the County’s comprehensive plan and development regulations. These amendments – often called “legislative” amendments – are subject to Section 21.18.020 of the County Code and RCW 36.70. The following report includes staff analysis of compliance with the statutory requirements and of the proposed text amendments.

A public hearing on the proposed amendments is scheduled for March 6, 2018. Notice of this hearing was published in the Skamania County Pioneer on February 21, 2018, and on the County’s website. A State Environmental Policy Act Determination of Nonsignificance was issued for the proposal on February 14, 2018. After holding a public hearing, the Planning Commission may make a recommendation to the Board of County Commissioners on the proposed text amendments or may propose changes to these text amendments.

### **Proposed Text Amendments**

*Comprehensive Plan: Chapter 1: Introduction: Amending the Comprehensive Plan:*

*Procedures for accomplishing individual Comprehensive Plan Amendments (quasi-judicial):*

4. Criteria against which the proposed amendment must be evaluated and found to be in substantial compliance for approval:

. . .

b. ~~Conditions-Circumstances~~ have ~~significantly-substantially~~ changed since the adoption of the Comprehensive Plan or Official Controls to the extent that the existing adopted plan provision or map designation is inappropriate. Examples of ~~significantly~~ ~~substantially~~ changed ~~conditions-circumstances~~ include, but are not limited to: 1) ~~sixty percent (60%) infill of existing lots within the entire mapping designation being proposed for change~~ sixty percent (60%) of full buildout has been achieved within the current or proposed land use designation. “Full buildout” means the total number of existing and potential future lots based on the minimum parcel size within the land use

designation. Percent of full buildout is equal to (number of existing developed lots) ÷ (total number of existing and potential lots based on acreage within the land use designation) x 100; or 2) new technology and uses not originally considered in the text have been developed;

*West End Subarea Plan: Chapter 1: Introduction:*

*Procedures for accomplishing individual subarea plan amendments (quasi-judicial):*

4. Criteria against which the proposed amendment must be evaluated and found to be in substantial compliance for approval:

...

b. ~~Conditions-Circumstances~~ have ~~significantly-substantially~~ changed since the adoption of the West End Comprehensive Subarea Plan or Official Controls to the extent that the existing adopted plan provision or map designation is inappropriate. Examples of ~~significantly-substantially~~ changed ~~conditions-circumstances~~ include, but are not limited to: 1) ~~sixty percent (60%) infill of existing lots within the entire mapping designation being proposed for change~~ sixty percent (60%) of full buildout has been achieved within the current or proposed land use designation. "Full buildout" means the total number of existing and potential future lots based on the minimum parcel size within the land use designation. Percent of full buildout is equal to (number of existing developed lots) ÷ (total number of existing and potential lots based on acreage within the land use designation) x 100; or 2) new technology and uses not originally considered in the text have been developed;

*Title 21 – Zoning Code: Chapter 21.08: DEFINITIONS*

*21.08.010 Definitions – Interpretation.*

"Substantial change in circumstances" means a significant change in conditions affecting the planning area as a whole or a substantial portion thereof. Examples include, but are not limited to, substantial ~~in-fill~~ development affecting the rural character of a community, ~~sixty percent in-fill in any zone~~ sixty percent (60%) of full buildout has been achieved within the current or proposed zoning designation. "Full buildout" means the total number of existing and potential future lots based on the minimum parcel size within the zoning designation. Percent of full buildout is equal to (number of existing developed lots) ÷ (total number of existing and potential lots based on acreage within the land use designation) x 100, or legal circumstances sufficient to defeat the purposes of a policy established in the comprehensive plan or subarea plan. However, the creation of the ~~national-National scenic-Scenic area-Area~~ and any zone changes or existing zone districts within adjacent counties will not be considered to be a substantial change in circumstance. Additionally, due to the existing residences in the Northwestern Lake R-2 zone, the ~~complete in-fill~~ full buildout of this R-2 zone would not be a substantial change in circumstance.

*Staff Findings:*

The proposed text amendments are intended to create consistency and clarity.

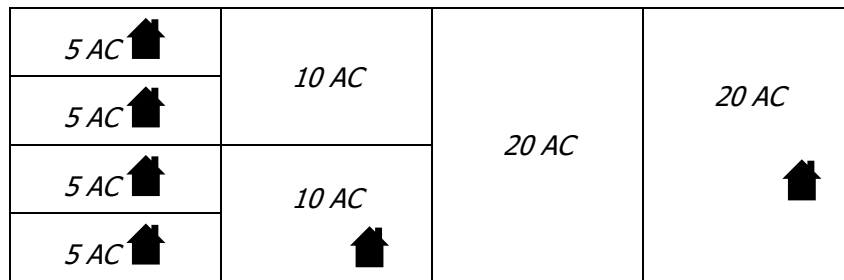
First, the proposal would replace the word "significant" with "substantial" in both the Comprehensive Plan and West End Subarea Plan. This change ensures consistent language throughout these plans and the Zoning Code. The Zoning Code already includes a definition for "substantial change".

Second, the proposal clarifies what is meant by "sixty percent infill" to be consistent with a recent recommendation of the Skamania County Hearing Examiner. That decision found that this calculation should be based upon the number of existing developed lots divided by the total number of both existing and potential future lots. The proposal removes language referring to "infill" and replaces it with a formula to calculate percent of full buildout.

$$\text{Full Buildout} = \frac{\text{Total number of existing and potential future lots based on the minimum parcel size within the land use designation}}{\text{Number of existing developed lots}} \times 100$$

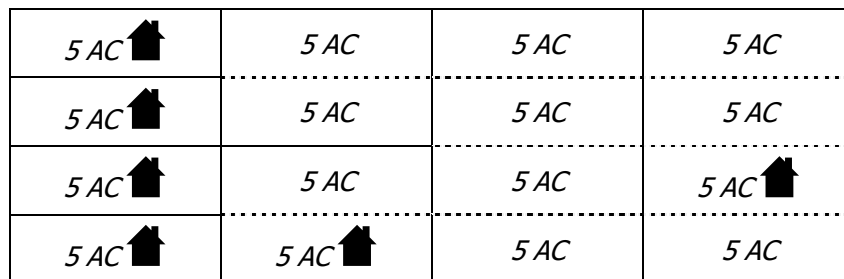
$$\% \text{ of Full Buildout} = \frac{\text{Number of existing developed lots}}{\text{Total number of existing and potential lots based on acreage within the land use designation}} \times 100$$

The figure below demonstrates how buildout would be calculated in a hypothetical zone with a minimum parcel size of five acres. The parcels marked with a house are considered developed.



(minimum parcel size of 5 acres)

The overall area consists of 80 acres and eight parcels (four 5 AC parcels, two 10 AC parcels, and two 20 AC parcels). Six of the parcels are developed with homes, so **based on the number of existing lots, 80% of existing lots are developed**. However, the area is not fully "built out". That is, there is yet additional potential for development based on the minimum parcel size.

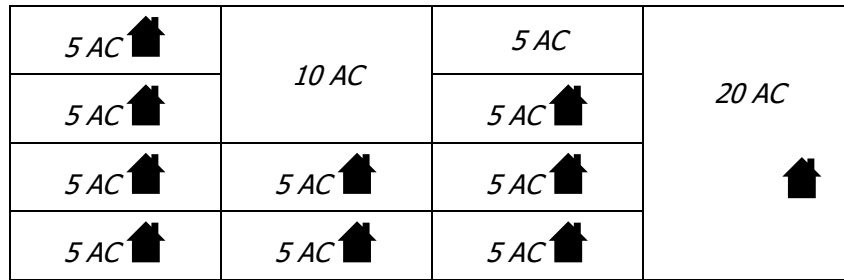


(existing and potential parcels)

The two 10 AC parcels could each be divided into two 5 AC parcels, creating two additional parcels. Each of the 20 AC parcels could be divided into four 5 AC parcels, creating six additional parcels. So, in this scenario full buildout is achieved when the number of parcels in



the area reaches 16 parcels (8 existing parcels plus 8 potential parcels). **Based on the number of existing and potential parcels, only 37.5% of full buildout has been achieved because only 6 of 16 potential parcels have been developed.**



(60% of full buildout)

**60% of full buildout will be achieved when 60% (10) of the 16 potential parcels are developed.**

With the help of the County’s GIS Coordinator, Staff calculated the percent of full buildout in each of the County’s zones. Lots with any improvement value were counted as developed. Given the amount and complexity of the data, these numbers may not be exact as it includes many parcels that have split zoning. However, this information does provide a general idea of the existing conditions within the County.

Zone	Developed Parcels	Existing Parcels	Potential Additional Parcels	% Parcels Developed	% of Full Buildout	Developed Parcels to meet 60%
Carson Industrial	2	2		100%		
Commercial	88	105		84%		
Commercial Recreation	1	7	365	14%		222
Community Commercial	3	6	162	50%	<b>2%</b>	98
Destination Resort	3	6		50%		
Forest Agriculture 10	0	20	1143	0%	<b>0%</b>	698
Forest Agriculture 20	1	22	211	5%	<b>0%</b>	139
High Density Residential	582	683	865	85%	<b>38%</b>	347
Industrial	6	8		75%		
Mountain Recreational 10	20	108	84	19%	<b>10%</b>	95
Mountain Recreational 20	130	183	371	71%	<b>23%</b>	202
Mountain Recreational 5	14	55	25	25%	<b>18%</b>	34
Neighborhood Commercial	11	13	0	85%	<b>85%</b>	
Northwestern Lake Recreational 2	0	3	29	0%	<b>0%</b>	19
Northwestern Lake Recreational 5	47	64	17	73%	<b>58%</b>	2
Residential 1	187	306	292	61%	<b>31%</b>	172
Residential 10	1	8	27	13%	<b>3%</b>	20
Residential 2	436	667	2428	65%	<b>14%</b>	1421
Residential 5	49	94	185	52%	<b>18%</b>	118
Rural Estate	6	15	35	40%	<b>12%</b>	24
Rural Estate 20	2	5	2	40%	<b>29%</b>	2
Rural Lands 10	141	203	81	69%	<b>50%</b>	29
Rural Lands 2	294	383	440	77%	<b>36%</b>	200
Rural Lands 5	355	467	373	76%	<b>42%</b>	149
Rural Residential	189	263	643	72%	<b>21%</b>	355
Swift Commercial Resource Lands 40	0	141	1116	0%	<b>0%</b>	754
Swift Forest Lands 20	1	89	639	1%	<b>0%</b>	436
Swift Recreational	2	101		2%		
WE - Commercial Resource Lands 40	0	76	944	0%	<b>0%</b>	612
WE - Forest Lands 20	145	270	372	54%	<b>23%</b>	240

Based on these figures, none of the residential zones have achieved 60% of full buildout, which means that no zone changes would be approved if applicants chose to demonstrate substantial change solely using this metric. While this is a clear objective metric, the Planning Commission should be aware that for the foreseeable future, this metric is not achievable. On the other hand, once this metric is met, the Planning Commission should consider if this would entitle every property owner to a zone change if they own property within an area that has achieved 60% of full buildout.

However, as stated at the beginning of this report, 60% of full buildout is only an example of a substantial change. It is not the only way to demonstrate substantial change. "Substantial change in circumstances" means a significant change in conditions affecting the planning area as a whole or a substantial portion thereof. Given the existing level of buildout throughout the various zones the effect of the amendments may be to direct applicants to demonstrate substantial change through other changes in conditions not related to buildout.

### **Review Criteria and Findings**

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

#### *21.18.020 Textual amendments.*

*The board of county commissioners, upon recommendation of the planning commission, or upon its own motion and referral to and report from the planning commission and after a public hearing, may amend, delete, supplement, or change by ordinance the regulations herein established, provided such revision is in accordance with the procedures set forth in RCW 36.70. An amendment to the text of this title may only be initiated by the board of county commissioners or the planning commission and shall be consistent with the terms of the comprehensive plan.*

#### Staff Findings:

The proposed text amendments have been initiated by the Planning Commission. The Planning Commission will hold a public hearing and make a recommendation to the Board of County Commissioners.

#### Comprehensive Plan

##### *Amending the Comprehensive Plan -*

*Long-range planning in Skamania County does not end with the adoption of this update. The Comprehensive Plan is a living document. In order to respond to changing conditions between Comprehensive Plan updates, the County allows periodic Comprehensive Plan Amendments. Property owners may apply for site-specific requests to amend the plan (quasi-judicial) or the Board of County Commissioners may initiate a plan amendment process (legislative). All amendments require public notice, a public hearing, and an evaluation of the environmental impacts in accordance with the State Environmental Policy Act (SEPA). Because the County is required to make its regulations consistent with the Comprehensive Plan, some Comprehensive Plan Amendments will require corresponding applications for zoning map amendments or zoning text amendments. Comprehensive Plan policies are intended to assist the County in determining whether to approve a Comprehensive Plan map and zoning map amendments consistent with the County Vision.*

*Only through continuing use, evaluation, and when necessary, amendment to the Comprehensive Plan can the County move toward the Vision.*

*Legislative Amendments to this Comprehensive Plan (reassessment or update) - Comprehensive Plans and subarea plans are not written for all time. They are living documents designed to be at once rigid enough to hold a chosen course over an extended period of new growth and development, yet flexible enough to accommodate a wide variety of anticipated and unforeseen conditions. A fundamentally good plan can do this for a relatively short period of time (20 years), during which monitoring, data gathering and analysis for the purposes of "fine tuning" and improving the plan by amendment should be an ongoing process. At the end of this period Skamania County should conduct a major reassessment of the plan. Typically, at least every seven years the county is required to review the Critical Areas portion of the Comprehensive Plan to determine the need for a legislative update.*

*Staff Findings:*

The proposed comprehensive plan amendments have been initiated by the Planning Commission. The County's Comprehensive Plan does not provide a process for the Planning Commission to initiate amendments, but the Planning Enabling Act (RCW 36.70) does allow for the Planning Commission to propose amendments to a comprehensive plan in accordance with requirements reviewed below. The Planning Commission will hold a public hearing and make a recommendation to the Board of County Commissioners.

Revised Code of Washington (RCW) 36.70 Planning Enabling Act

*36.70.380 Comprehensive plan—Public hearing required.*

*Before approving all or any part of the comprehensive plan or any amendment, extension or addition thereto, the commission shall hold at least one public hearing and may hold additional hearings at the discretion of the commission.*

*36.70.390 Comprehensive plan—Notice of hearing.*

*Notice of the time, place and purpose of any public 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.*

*36.70.400 Comprehensive plan—Approval—Required vote—Record.*

*The approval of the comprehensive plan, or of any amendment, extension or addition thereto, 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.*

*36.70.410 Comprehensive plan—Amendment.*

*When changed conditions or further studies by the planning agency indicate a need, the commission may amend, extend or add to all or part of the comprehensive plan in the manner provided herein for approval in the first instance.*

*36.70.420 Comprehensive plan—Referral to board.*

*A copy of a comprehensive plan or any part, amendment, extension of or addition thereto, together with the motion of the planning agency approving the same, shall be transmitted to the board for the purpose of being approved by motion and certified as provided in this chapter.*

**Staff Findings:**

The proposed Comprehensive Plan amendments have been initiated by the Planning Commission. A public hearing on the proposed amendments is scheduled for March 6, 2018. Notice of this hearing was published in the Skamania County Pioneer on February 21, 2018, and on the County's website. After the public hearing, the Planning Commission may make a recommendation to the Board of County Commissioners on the proposed text amendments.

*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:**

The proposed Zoning Code amendments have been initiated by the Planning Commission. A public hearing on the proposed amendments is scheduled for March 6, 2018. Notice of this hearing was published in the Skamania County Pioneer on February 21, 2018, and on the County's website. After the public hearing, the Planning Commission may make a recommendation to the Board of County Commissioners on the proposed text amendments.

**Recommendation**

Staff recommends that the Planning Commission hold a public hearing on the proposed text amendments and forward a recommendation to the Board of County Commissioners.

**Attachments**

1. Cyndi Soliz notes to Planning Commission
2. Proposed Text Amendments
3. Model Motion

Title 21 21.18.020 Textual amendments. "An amendment to the text of the West End Plan and Title 21 may only be initiated by the board of county commissioners or the planning commission."

**I encourage the PC to initiate a change in the text of 02-27-07-BCC Adopted West End Comprehensive Plan, and also Title 21 in order to render a consistent description and thereby method to determine what constitutes a significant change in circumstance, and provide consistency of language within the West End Comprehensive Plan and the Title 21 zoning definitions.**

**02-27-07-BCC Adopted West End Comprehensive Plan, pg 4 #4 item b.**

- b. Conditions have significantly changed since the adoption of the West End Comprehensive Subarea Plan or Official Controls to the extent that the existing adopted plan provision or map designation is inappropriate. Examples of significantly changed conditions include, but are not limited to: 1) sixty percent (60%) infill of existing lots within the entire mapping designation being proposed for change; or 2) new technology and uses not originally considered in the text have been developed;

and,

**Title 21 Chapter 21.08.010**

"Substantial change in circumstances" means a significant change in conditions affecting the planning area as a whole or a substantial portion thereof. Examples include, but are not limited to, substantial in-fill affecting the rural character of a community, sixty percent in-fill in any zone, or legal circumstances sufficient to defeat the purposes of a policy established in the comprehensive plan or subarea plan. However, the creation of the national scenic area and any zone changes or existing zone districts within adjacent counties will not be considered to be a substantial change in circumstance. Additionally, due to the existing residences in the Northwestern Lake R-2 zone, the complete in-fill of this R-2 zone would not be a substantial change in circumstance.

**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. (Ord. 2005-02 (part))

## PROPOSED TEXT AMENDMENTS

### **Comprehensive Plan: Chapter 1: Introduction: Amending the Comprehensive Plan: Procedures for accomplishing individual Comprehensive Plan Amendments (quasi-judicial):**

...

4. Criteria against which the proposed amendment must be evaluated and found to be in substantial compliance for approval:

...

b. ~~Conditions-Circumstances~~ have ~~significantly-substantially~~ changed since the adoption of the Comprehensive Plan or Official Controls to the extent that the existing adopted plan provision or map designation is inappropriate. Examples of ~~significantly-substantially~~ changed ~~conditions-circumstances~~ include, but are not limited to: 1) ~~sixty percent (60%) infill of existing lots within the entire mapping designation being proposed for change~~ sixty percent (60%) of full buildout has been achieved within the current or proposed land use designation. "Full buildout" means the total number of existing and potential future lots based on the minimum parcel size within the land use designation. Percent of full buildout is equal to (number of existing developed lots) ÷ (total number of existing and potential lots based on acreage within the land use designation) x 100; or 2) new technology and uses not originally considered in the text have been developed;

### **West End Subarea Plan: Chapter 1: Introduction: Procedures for accomplishing individual subarea plan amendments (quasi-judicial):**

...

4. Criteria against which the proposed amendment must be evaluated and found to be in substantial compliance for approval:

...

b. ~~Conditions-Circumstances~~ have ~~significantly-substantially~~ changed since the adoption of the West End Comprehensive Subarea Plan or Official Controls to the extent that the existing adopted plan provision or map designation is inappropriate. Examples of ~~significantly-substantially~~ changed ~~conditions-circumstances~~ include, but are not limited to: 1) ~~sixty percent (60%) infill of existing lots within the entire mapping designation being proposed for change~~ sixty percent (60%) of full buildout has been achieved within the current or proposed land use designation. "Full buildout" means the total number of existing and potential future lots based on the minimum parcel size within the land use designation. Percent of full buildout is equal to (number of existing developed lots) ÷ (total number of existing and potential lots based on acreage within the land use designation) x 100; or 2) new technology and uses not originally considered in the text have been developed;

### **Title 21 – Zoning Code: Chapter 21.08: DEFINITIONS 21.08.010 Definitions – Interpretation.**

...

“Substantial change in circumstances” means a significant change in conditions affecting the planning area as a whole or a substantial portion thereof. Examples include, but are not limited to, substantial ~~in-fill~~ development affecting the rural character of a community, ~~sixty percent in fill in any zone~~ sixty percent (60%) of full buildout has been achieved within the current or proposed zoning designation. "Full buildout" means the total number of existing and potential future lots based on the minimum parcel size within the zoning designation. Percent of full buildout is equal to (number of existing developed lots) ÷ (total number of existing and potential lots based on acreage within the land use designation) x 100, or legal circumstances sufficient to defeat the purposes of a policy established in the comprehensive plan or subarea plan. However, the creation of the ~~national-National scenic-Scenic area-Area~~ and any zone changes or existing zone districts within adjacent counties will not be considered to be a substantial change in circumstance. Additionally, due to the existing residences in the Northwestern Lake R-2 zone, the ~~complete in-fill~~ full buildout of this R-2 zone would not be a substantial change in circumstance.



**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

**SKAMANIA COUNTY PLANNING COMMISSION  
MOTION TO RECOMMEND APPROVAL OF  
AMENDMENTS TO THE COMPREHENSIVE PLAN, WEST END COMPREHENSIVE  
SUBAREA PLAN, AND ZONING CODE TO REVISE LANGUAGE CONCERNING  
SUBSTANTIAL CHANGE IN CIRCUMSTANCES NECESSARY FOR QUASI-  
JUDICIAL REQUESTS FOR ZONING AND COMPREHENSIVE PLAN  
AMENDMENTS.**

The Skamania County Planning Commission conducted a public hearing to consider proposed comprehensive plan and zoning code amendments to revise language concerning substantial change in circumstances necessary for quasi-judicial requests for zoning and comprehensive plan amendments on March 6, 2018.

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

**FINDINGS OF FACT**

- A. RCW 36.70 authorizes counties to adopt or amend zoning regulations and comprehensive plans.
- B. SCC 21.18.020 allows the Board of County Commissioners to amend the zoning code after receiving a recommendation from the Planning Commission.
- C. The Planning Commission, having provided proper notice in the Skamania County Pioneer, and with a quorum present, conducted a public hearing at its March 6, 2018, meeting.

**CONCLUSIONS**

Based on public comment and staff analysis, the proposed text 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 further move that the Planning Commission recommend to the Board of County Commissioners that they adopt the proposed text amendments.

Motion seconded by \_\_\_\_\_.

AYE

NAY

Lesley Apple Haskell \_\_\_\_\_

John Prescott \_\_\_\_\_

Dee Bajema \_\_\_\_\_

Tony Coates \_\_\_\_\_

Paul Hendricks \_\_\_\_\_

Cliff Nutting \_\_\_\_\_

Cyndi Soliz \_\_\_\_\_