ORDINANCE No. 2018-05

AN ORDINANCE AMENDING SKAMANIA COUNTY CODE TITLE 21 – ZONING, TO REVISE LANGUAGE CONCERNING SUBSTANTIAL CHANGES IN CIRCUMSTANCES FOR QUASI-JUDICIAL REQUESTS FOR ZONING AMENDMENTS

WHEREAS, RCW 36.70 authorizes Skamania County (the County) to adopt or amend zoning regulations; and

WHEREAS, the County has adopted Title 21, Zoning Code; and

WHEREAS, Title 21 allows for petitions for zoning map amendments to change the zone classification shown on the official zoning map for a specific parcel or parcels by one or more landowners; and

WHEREAS, petitions for zoning map amendments by landowners are heard by the Hearing Examiner; and

WHEREAS, the Hearing Examiner may approve a proposed petition if circumstances have substantially changed in the area since the adoption of the existing zoning designation; and

WHEREAS, the Planning Commission, after holding a public hearing on March 6, 2018, recommended amendments to Title 21 to clarify language regarding the requirement for substantial change; and

WHEREAS, a SEPA Determination of Non-Significance (DNS) was issued on February 14, 2018, after environmental review of the draft text was completed; and

WHEREAS, the zoning text amendments protect the general health, safety, and welfare of the public; and

WHEREAS, at the recommendation of the Planning Commission, the Board of County Commissioners, having provided proper notice in the Skamania County Pioneer, held a public hearing on June 12, 2018, on Ordinance 2018-05; and

WHEREAS, at the recommendation of the Planning Commission, the Board of County Commissioners approved Ordinance 2018-05 on June 12, 2018.

NOW THEREFORE BE IT HEREBY ORDAINED AND ESTABLISHED at the recommendation of the Planning Commission, the Board of County Commissioners adopts Ordinance 2018-05, amending Title 21 as follows:

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 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.

ORDINANCE NO. 2018-05 PASSED INTO LAW THIS 12th DAY OF June 2018.

CLERK OF THE BOARD SKAMANIA COUNTY WASHINGTON BOARD OF COMMISSIONERS

ATTEST:

Debbie Stout 6/12/18
Clerk of the Board Date

SKAMANIA COUNTY
BOARD OF COUNTY COMMISSIONERS

J M Lamson 6-12-2018
Chair Date

Commissioner 6-12-2018
Commissioner Date

Commissioner 6-12-2018
Commissioner Date

APPROVED AS TO FORM ONLY:

6/12/18
Prosecuting Attorney Date

2 ayes
1 nay

RESOLUTION No. 2018-33

A RESOLUTION AMENDING THE SKAMANIA COUNTY COMPREHENSIVE PLAN AND WEST END COMMUNITY COMPREHENSIVE SUBAREA PLAN TO REVISE LANGUAGE CONCERNING SUBSTANTIAL CHANGES IN CIRCUMSTANCES FOR QUASI-JUDICIAL REQUESTS FOR COMPREHENSIVE PLAN AMENDMENTS

WHEREAS, RCW 36.70 authorizes Skamania County (the County) to adopt or amend Comprehensive Plans and Subarea Plans; and

WHEREAS, the Board of County Commissioners adopted the Comprehensive Plan on July 10, 2007; and

WHEREAS, the Board of County Commissioners adopted the West End Community Comprehensive Subarea Plan on February 27, 2007; and

WHEREAS, the West End Community Comprehensive Subarea Plan is a part of the Comprehensive Plan; and

WHEREAS, the Comprehensive Plan is a living document and is not written for all time; and

WHEREAS, only through continued use, evaluation, and when necessary, amendment to the Comprehensive Plan can the County move toward the County's vision; and

WHEREAS, the Comprehensive Plan contains procedures for accomplishing individual Comprehensive Plan Amendments; and

WHEREAS, individual Comprehensive Plan Amendments require a significant change in conditions since the adoption of the Comprehensive Plan or Official Controls; and

WHEREAS, the Planning Commission, after holding a public hearing on March 6, 2018, recommended amendments to the Comprehensive Plan to clarify language regarding the requirement for substantial change; and

WHEREAS, a SEPA Determination of Non-Significance (DNS) was issued on February 14, 2018, after environmental review of the draft text was completed; and

WHEREAS, the amendments protect the general health, safety, and welfare of the public; and

WHEREAS, at the recommendation of the Planning Commission, the Board of County Commissioners, having provided proper notice in the Skamania County Pioneer, held a public hearing on June 12, 2018, on Resolution 2018-33; and

WHEREAS, at the recommendation of the Planning Commission, the Board of County Commissioners approved Resolution 2018-33 on June 12, 2018.

NOW THEREFORE BE IT HEREBY RESOLVED, at the recommendation of the Planning Commission, the Board of County Commissioners adopts Resolution 2018-33, amending the Comprehensive Plan as follows:

SECTION 1: The following section of the Comprehensive Plan: Chapter 1: Introduction: Amending the Comprehensive Plan: Procedures for accomplishing individual Comprehensive Plan Amendments (quasi-judicial), shall be amended as follows:

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 entire 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;

SECTION 2: The following section of the West End Subarea Plan: Chapter 1: Introduction: Procedures for accomplishing individual subarea plan amendments (quasi-judicial), shall be amended as follows:

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 entire 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;

PASSED THIS 12th DAY OF June 2018.

SKAMANIA COUNTY
BOARD OF COUNTY COMMISSIONERS

6-12-2018
Chair Date

6-12-2018
Commissioner Date

6-12-18
Commissioner Date

ATTEST:
Clerk of the Board Date

APPROVED AS TO FORM ONLY:
6/12/18
Prosecuting Attorney Date

2 ayes
1 nay

COMMISSIONER'S AGENDA ITEM COMMENTARY

SUBMITTED BY	Community Development Department — Signature
AGENDA DATE	June 12, 2018
SUBJECT	Zoning Code and Comprehensive Plan amendments to revise language concerning substantial changes in circumstances for quasi-judicial requests for Comprehensive Plan and Zoning amendments
ACTION REQUESTED	Consider the Planning Commission's recommendation and approve Resolution 2018-33, a resolution amending the Comprehensive Plan, and to approve Ordinance 2018-05, an ordinance amending Title 21 to revise language concerning substantial changes in circumstances for quasi-judicial requests for Comprehensive Plan and Zoning amendments

SUMMARY/BACKGROUND

Individual property owners may request Comprehensive Plan and Zoning Map amendments through a quasi-judicial process. Requests 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 in circumstances since the adoption of the existing zoning or comprehensive plan designations.

After holding a public hearing on March 6, 2018, the Planning Commission recommended to the Board of County Commissioners to adopt amendments to the Comprehensive Plan and Zoning code to clarify language regarding the requirement for substantial change. These changes would have Countywide applicability as they involve language in the Comprehensive Plan, West End Subarea Plan, and Zoning code. These documents do not apply to the Columbia River Gorge National Scenic Area.

A SEPA Determination of Non-significance for the proposed amendments was issued on February 14, 2018. The Board was first presented this recommendation at an April 17, 2018, workshop. After holding a public hearing, the Board should consider the Planning Commission's recommendation to adopt Resolution 2018-33 and Ordinance 2018-05.

FISCAL IMPACT

None.

RECOMMENDATION

It is recommended that the Board of County Commissioners consider the Planning Commission's recommendation to adopt Resolution 2018-33 and Ordinance 2018-05.

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~~ substanially 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.

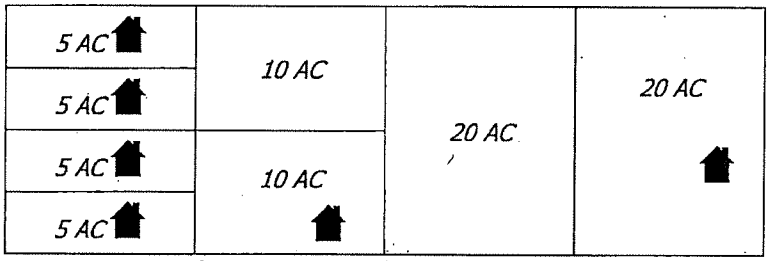
First, the proposal would replace the word "significant" with "substantial" in both the Comprehensive Plan and West End Subarea Plan. This change ensures consistent language throughout these plans and the Zoning Code. The Zoning Code already includes a definition for "substantial change".

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.

$$\textit{Full Buildout} = \textit{Total number of existing and potential future lots based on the minimum parcel size within the land use designation}$$

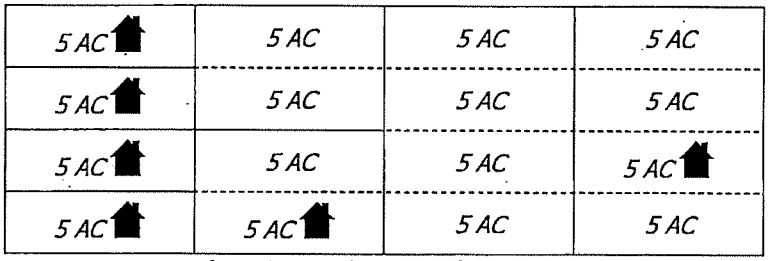
$$\textit{\% of Full Buildout} = \frac{\textit{Number of existing developed lots}}{\textit{Total number of existing and potential lots based on acreage within the land use designation}} \times 100$$

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)

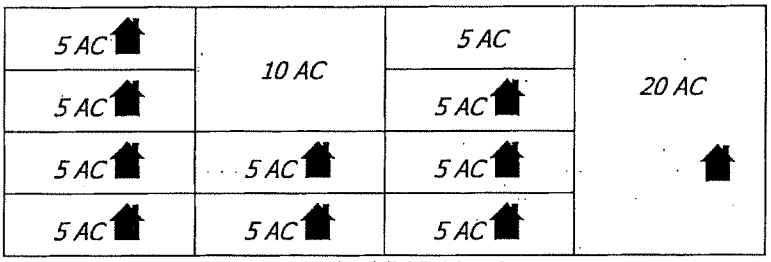
The overall area consists of 80 acres and eight parcels (four 5 AC parcels, two 10 AC parcels, and two 20 AC parcels). Six of the parcels are developed with homes, so **based on the number of existing lots, 80% of existing lots are developed**. However, the area is not fully "built out". That is, there 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%	**2%**	98
Destination Resort	3	6		50%		
Forest Agriculture 10	0	20	1143	0%	**0%**	698
Forest Agriculture 20	1	22	211	5%	**0%**	139
High Density Residential	582	683	865	85%	**38%**	347
Industrial	6	8		75%		
Mountain Recreational 10	20	108	84	19%	**10%**	95
Mountain Recreational 20	130	183	371	71%	**23%**	202
Mountain Recreational 5	14	55	25	25%	**18%**	34
Neighborhood Commercial	11	13	0	85%	**85%**	
Northwestern Lake Recreational 2	0	3	29	0%	**0%**	19
Northwestern Lake Recreational 5	47	64	17	73%	**58%**	2
Residential 1	187	306	292	61%	**31%**	172
Residential 10	1	8	27	13%	**3%**	20
Residential 2	436	667	2428	65%	**14%**	1421
Residential 5	49	94	185	52%	**18%**	118
Rural Estate	6	15	35	40%	**12%**	24
Rural Estate 20	2	5	2	40%	**29%**	2
Rural Lands 10	141	203	81	69%	**50%**	29
Rural Lands 2	294	383	440	77%	**36%**	200
Rural Lands 5	355	467	373	76%	**42%**	149
Rural Residential	189	263	643	72%	**21%**	355
Swift Commercial Resource Lands 40	0	141	1116	0%	**0%**	754
Swift Forest Lands 20	1	89	639	1%	**0%**	436
Swift Recreational	2	101		2%		
WE - Commercial Resource Lands 40	0	76	944	0%	**0%**	612
WE - Forest Lands 20	145	270	372	54%	**23%**	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

Skamania County Planning Commission

PLANNING COMMISSION MEETING MINUTES

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

Planning Commission Members: Present:	**Community Development Department Staff Present:**
Dee Bajema, John Prescott, Tony Coates, Lesley Haskell,Cyndi Soliz, Cliff Nutting	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, Lesley Haskell.
Quorum was met.

AGENDA ITEMS
1. Approve Minutes from the February 6, 2018 meeting.

    a. Motion was made by John Prescott and seconded by Dee Bajema to approve the Minutes of the February 6, 2018. Motion passed 6-0.

2. PUBLIC HEARING, CONSIDERATION, AND RECOMMENDATION on proposed Zoning Code Amendments to Title 22 (Columbia River Gorge national Scenic Area Ordinance).
    a. Alan Peters, Assistant Planning Director, presented proposed text amendments to bring Skamania County in compliance with the Columbia River Gorge Management Plan mandatory amendments.
    b. The Planning Commission accepted public comment. Paul Palm, during public hearing, requested background information regarding the history of the National Scenic Area Act.

c. Tony Coates and Cliff Nutting expressed concern regarding the word "reconnaissance" used throughout the recommendation. Tony Coates made a motion, seconded by Cliff Nutting, to accept the text as presented by county staff with the removal of the word "reconnaissance" and replaced with "archeological surveys". Motion passed 6-0.

The item concluded at 6:25 pm.

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 cirumstances 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. The Commission members would like county staff to include definitions for "infill and build out".
b. Public testimony was given by:
    i. Joe Kear
    ii. Sallie Tucker Jones
    iii. Teresa Robbins
    iv. Keith Brown
    v. Tim Bobosky
c. Cyndi Soliz made a motion, seconded by Cliff Nutting, to accept the changes presented by staff with the following changes: Motion passed 6-0.
    i. "proposed zoning designation" will replace "current or proposed zoning designation" for the Zoning Code text; and
    ii. "entire proposed land use designation" will replace "current or proposed land use designation" for the Comprehensive Plan text.

The item concluded at 7:50 pm.

4. Public workshop on review of zoning in the Stabler/Wind River area will take place Tuesday, March 20, 2018, at the Hegewald Center.

MEETING ADJOURNED
Meeting adjourned at 7:50 PM

ATTEST

Planning Commission Chair

Secretary

Document #2018000369

Written Comments
Public hearing

Debbie Slack

From: Debbie Slack
Sent: Tuesday, June 12, 2018 12:28 PM
To: Alan Peters
Subject: FW: West end language change

From: Rick [mailto:windsurf@gorge.net]
Sent: Tuesday, June 12, 2018 11:21 AM
To: Commissioners <commiss@co.skamania.wa.us>
Subject: West end language change

We support the language change as proposed for the West end zoning. Thanks - Rick & Erica Jessel

LIST ATTACHMENTS

Resolution 2018-33
Ordinance 2018-05
Staff Report to the Planning Commission
Planning Commission Meeting Minutes – March 6, 2018

Skamania Board of County Commissioners
Re: June 12, 2018 Public Hearing – Resolution 2018-33, Ordinance 2018-05
West End Community Comprehensive Subarea Plan
Clarifying Text and Zoning Amendment (language)

Dear Commissioners:

We applaud and support the Planning Commission's efforts and recommendation, and urge that the BOCC adopt the text amendments **clarifying the language concerning substantial change in circumstances necessary for quasi-judicial requests for zoning and comprehensive plan amendment.** Further, we appreciate the thoroughness of the planning staff in illustrating how this text revision would result in calculations, which more accurately reflect the intent within the original West End Community Comprehensive Subarea Plan.

The necessity for this revision in language was brought to the forefront during the BOCC hearing on the West End Subarea Comprehensive Plan quasi-judicial amendment *(NO. CMP-16-02/REZ-16-03)* in June of last year.

The adoption of these text amendments would affirm the forethought, vision and community effort that resulted in the West End Community Comprehensive Subarea Plan (WECCSP). As articulated in our comments to the Hearing Examiner, Ms. Sharon Rice regarding NO. CMP-16-02/REZ-16-03, and in the individual meetings with each of you, more than 250 individuals actively participated during the initial three-year process. Over the last 16 years, it has taken considerable commitment by community members to thwart numerous attempts designed to undermine the forethought, vision, and purposeful structure integral to the WECCSP.

In determining whether a significant change in circumstances has occurred (60% infill) the county staff, in the past few years, had simply looked at current conditions and then only considered the current number of parcels, sub-divided or not. The problem with this former methodology was articulated in Ms. Rice's conclusions.

Conclusion 1

- "...percentage of infill should be calculated in light of the **full capacity of the land**, consistent with the intent of the planning process"
- "The strongest evidence that the County Staff's calculation methodology is contrary to the intent of the WECCSP results from doing the math."
- "To a adopt Planning Staff's calculation methodology is to render the provision establishing the 60% infill as a threshold for a significant change in circumstances meaningless"

This clarifying amendment of the WECCSP and zoning texts will minimize and prevent future misunderstandings and will facilitate the intent of the plan being more accurately implemented.

Respectfully submitted,

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

Joe Kear
501 Bishop Rd
Washougal, WA 98671
503-957-9663 / 360-837-8907
kearjoe@aol.com

June 11, 2018

Skamania County Board of County Commissioners
Attn: Clerk of Board
P.O Box 790
Stevenson, WA 98648

Re: Public Hearing on Resolution 2018-33 amending the Comprehensive Plan and Ordinance 2018-05 amending Title 21.

Dear Commissioners:

My name is Joe Kear and I reside on 50 acres zoned WE FL20 at 501 Bishop Rd., Washougal, WA 98671. I am writing to support the proposed Resolution 2018-33 and Ordinance 2018-05. The proposals clarify the "substantial change in circumstances" language in the Comprehensive Plan and the West End Comprehensive Subarea Plan as well as the zoning text.

Your decision last year to accept Hearing Examiner Rice's recommendation in the case of CMP-16-02 and REZ-16-03, and reject the application for a rezone from 10 acres to 5 acres in the West End was combined with a directive to the Community Development Department Staff for a review of the area of the subject parcels. In particular, Commissioners cited confusion around the manner of calculating infill as a means to meet one of the criteria for a substantial change in circumstances.

I was among the 250 participants in the community planning process of developing the West End Comprehensive Subarea Plan, during the years 2001 through 2004 and in the subsequent hearings at the Planning Commission and with the County Commissioners in later years. I know that Hearing Examiner Rice's decision was in keeping with the intent of the community in the interpretation of the infill calculation, as this was the method we used in calculating the existing and proposed planning designations in creating the West End Subarea Comprehensive Plan. I remember sitting in groups with calculators and figuring the numbers of parcels for various proposed land use designations, and the Planning Department helping to figure what the infill looked like. The drafts of the Comprehensive Plan had current numbers of parcels, potential numbers of parcels, existing homes in each designation and total new residences possible in each designation. These were very straight-forward calculations, based on the total number of potential parcels in each designation.

Joe Kear

Correct Methodology for Calculating Infill or Buildout

Hearings Examiner Rice noted that the percentage of infill had to be calculated in light of the full capacity of the land, consistent with the intent of the planning process. That means that instead of using a calculation of infill as percentage of the development of existing lots within the proposed zone or land use designation, it was a calculation of the infill as the ratio of the current developed parcels to the total number of potential lots within the entire land use designation. Thus in WE Rural Land 5, the correct infill or buildout calculation is number of developed properties divided by the total number of potential lots within the entire WE RL5 mapping designation.

This year the Community Development Department Staff offered the Planning Commission new language that was consistent with this interpretation by Examiner Rice and consistent with the intent and language of the West End Subarea Plan. As Examiner Rice noted, when the County Staff had previously used the calculation of infill as a percentage of the development of existing lots regardless of size, it was doing so in a manner that couldn't have possibly been the manner used when creating the West End Subarea Comprehensive Plan.

"The strongest evidence that the County Staff's calculation methodology is contrary to the intent of the WECCSP results from doing the math. County Planning Staff argued that the correct methodology is to divide the number of parcels with any improvements (349) by the total number of existing parcels in the RL5 zone, regardless of size (472). Using this methodology, the development percentage of the existing lots is 74%. If this same calculation methodology is applied to the 2004 data that formed the basis for the 2007 WECCSP, the development percentage is 65% (277 residences divided by 423 parcels). To adopt Planning Staff's calculation methodology is the render the provision establishing 60% infill as a threshold for a significant change in circumstance meaningless."

Proposed Language from Planning Commission Helps Clarify 60% Calculation

The Staff's language as approved in final form by the Planning Commission, on calculating the 60% threshold, helps to make the correct method for this calculation explicit. It is in the spirit of the West End Comprehensive Subarea Plan as well as the decision in this regard by Examiner Rice. It clarifies that the ratio or percentage for this calculation is the number of developed parcels divided by the total number of potential parcels in the zone or mapping designation, and spells out how to make that calculation. It also substitutes the phrase "sixty percent (60%) of full buildout" for the phrase "sixty percent (60%) of infill" which further alleviates a point of confusion.

The Planning Commission unanimously approved the text changes in the County Comprehensive Plan, The West End Subarea Plan, and County Code Title 21 - Zoning Code that you have before you.

The use of the term "percent of full build-out" in place of "percent of infill" addresses any confusion regarding a term that is more associated with urban lots rather than rural zoning. The precise language in explaining the 60% threshold should eliminate any confusion in making that calculation.

Conclusion

I would like to thank the Community Development Department Staff and the Planning Commissioners for their work in drafting these changes. The proposed language is clear and is consistent with the intent of the County Comprehensive Plan and the West End Subarea Plan and should remove confusion on this particular issue.

Sincerely,

Joe Kear

Document #2018000369

Sallie Tucker Jones
882 Thuja Narrow
Washougal, WA 98671

Skamania County Board of County Commissioners
P. O. Box 790
Stevenson, WA 98648

Subject: Public Hearing on June 12, 2018, addressing Resolution 2018-33 and 2018-05

I support the proposed clarifications to several issues brought forward by the Hearing Examiners comments when she reviewed and made her recommendations regarding CMP-16-02 and REZ-16-03 in July of 2017. Changes in County staff since the completion of the West End Subarea Comprehensive Plan (WESCP) left those currently administering the Plan also in some doubt about the intent and meaning of portions of the Plan dealing with several definitions as well as the calculation of infill. After numerous meetings, discussions and testimony during the last year, the Community Development Department staff drafted a detailed and explicit language revision. This final revision was approved by the Planning Commission and appears here today for consideration.

As one of the 250 West End residents who participated in the long and detailed process of creating the West End Subarea Comprehensive Plan, sponsored by the Skamania County Planning Department, I feel that this clarification/revision is an accurate representation of the precise intent of the creators of the WESCP and as such, should not be considered, nor referred to as a change, as such, but as an expansion of the original language. The reason I wish to make this point again, is that I do not feel that any substantive changes to the Plan should rightfully be made until the time for a full review of the WESCP occurs and the renewed opportunity for all residents to air their opinions in the larger format of community participation, as occurred during its creation.

I especially thank County Staff and Planning Commissioners, all of whom have spent a good deal of time to make this clarification reflect the clearly stated intent of the entire WESACP, and I feel that, if accepted, it should adequately resolve any future questions that may arise within the area of the Plan that it addresses, as well as satisfy those who participated in the original process who are not aware of the current circumstances. I sincerely trust that the Board of County Commissioners will agree and will approve the submission.

Respectfully,

Sallie Tucker Jones

Document #2018000369

Joe Kear
501 Bishop Rd
Washougal, WA 98671
503-957-9663 / 360-837-8907
kearjoe@aol.com

June 11, 2018

Skamania County Board of County Commissioners
Attn: Clerk of Board
P.O Box 790
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"The strongest evidence that the County Staff's calculation methodology is contrary to the intent of the WECCSP results from doing the math. County Planning Staff argued that the correct methodology is to divide the number of parcels with any improvements (349) by the total number of existing parcels in the RL5 zone, regardless of size (472). Using this methodology, the development percentage of the existing lots is 74%. If this same calculation methodology is applied to the 2004 data that formed the basis for the 2007 WECCSP, the development percentage is 65% (277 residences divided by 423 parcels). To adopt Planning Staff's calculation methodology is the render the provision establishing 60% infill as a threshold for a significant change in circumstance meaningless."

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Conclusion

I would like to thank the Community Development Department Staff and the Planning Commissioners for their work in drafting these changes. The proposed language is clear and is consistent with the intent of the County Comprehensive Plan and the West End Subarea Plan and should remove confusion on this particular issue.

Sincerely,

Joe Kear

Debbie Slack

From: Richard Mahar
Sent: Tuesday, June 12, 2018 6:35 PM
To: Debbie Slack
Subject: West End Language Thoughts

6-12-18

West End Language Thoughts

On Nov 21 of last year, I motioned for the Planning Commission to initiate a legislative review of the area near and around the parcels that were the subject of the petition that we were denying at that Hearing – which I will call the McNealy Hearing. I was told it would be about 2 years out because of the backlog the Commission is working on.

- It was the fact that a trained land use Hearing Examiner approved a petition in 2016 and disapproved a similar petition the following year based on two conflicting interpretations of "60% infill" that indicated to me that this whole nature of infill and rural growth and how to determine the full capacity of the land needs a fresh look.

In this context it is important to understand that the Planning Commission may also initiate amendments to the comprehensive plans. One of the PC members initiated language change to help clear up the ambiguity of the ***60% infill***. While the new language does clear up the ambiguity, I believe it goes too far and missed what I was trying to address. I would like to take a few minutes to articulate my thinking on this.

First, I do appreciate the PC attempt to address a real problem.

Second, I agree this proposed wording does provide an explicit way to calculate infill or buildout and would remove the existing ambiguity. This proposal is based not on ***"existing lots"*** like the current plan states but is based on ***existing and potential future lots*** determined by acreage alone – minimum parcel size within the land use designation. It is also being argued that this was the "intent" of the 250 people who worked on the WECP.

I can agree this new explicit calculation may have been the "intent" of some of those who were involved in the process, I am not convinced it was the intent of ***all*** those who were involved for two key reasons:

1) The language used and, 2) the people involved.

- **1) The language used**: The current language states explicitly: ***"60% infill of existing lots"*** it does not say "potential future lots" And this interpretation had been used and accepted in prior cases for the past 10 years until recently challenged.
- **2) The people involved.** I have not queried all 250 people who were involved, but by the language itself and the fact that it was not noticed as a problem for 10 years tells me *maybe* some of those who were involved may not be on board with this new clarification.
- **But secondly** – If 250 people were involved - and I am told that is about 10% - if 10% of the people of the West End were involved, that means 90% were not involved. I am part of those 90%. I was living in the county at the time this current WECP was being hammered out. I did not know about it and I was not involved. While I clearly understand this is my fault, I do not want the false assumption to arise that the 10% who were involved are representing the other 90% as though they were elected to some representative position. The 250 were people who got involved for various reasons, and the 90% who were not involved have their reasons.
- Being involved now, and as the elected representative of the West Side I have spoken to several people who are not happy with some of the land use and planning issues in the county – of which this is one issue.
- I do recognize that the Comp Plan and West End Subarea Plan have become county policy and we should abide by them until they are modified or amended. But the Plans themselves clearly articulate that ***"Comprehensive Plans and subarea plans are not written for all time. They are living documents..... during which monitoring, data gathering and analysis for the purpose of "fine tuning" and improving the plan by amendment should be an ongoing process."***
- In the providence of God, a "fine tuning" opportunity has fallen to us. But I do not think the current proposal is the best option.

I could be wrong, but I get the feel there is a desire in some that this 60% infill calculation example should be absolutized and used as a litmus test. I want to address this briefly.

The plan itself says, ***"Examples of significantly changed circumstances include, but are not limited to:"***

And while the Hearing Examiner was bombarded with one-sided testimony in the McNealy Hearing it is important that when offered other evidence in other Hearings she very much understands this.

Document #2018000369

ATTENDANCE ROSTER
Skamania County Commissioners
Public Hearing
June 12, 2018
5:30 p.m.

Public hearing to take public comment, and consider the Planning Commission's recommendation and approve Resolution 2018-33, a resolution amending the Comprehensive Plan, and to approve Ordinance 2018-05, an ordinance amending Title 21 to revise language concerning substantial changes in circumstances for quasi-judicial requests for Comprehensive Plan and Zoning amendments

COMMENTS WILL BE LIMITED - TIME LIMITS WILL BE SET BY THE CHAIR.
EACH PERSON WHO INTENDS TO TESTIFY WILL BE LIMITED TO ONE TIME TO SPEAK.

	Please Print Clearly		**Please Check**		
	Name	City of Residence or Job Title	**Intend to Testify**	**For**	**Against**
11.	JOE KEHR	WASHOUGAL, WA	☒	☒	☐
12.	SALLIE TICKEL JONES	" "	☒	☒	☐
13.	MARY REPAR	ST	☒	☐	☐
14.	Tom Aspland	Washougal WA	☒	☒	☐
15.	SHERRI IRISH	WASHOUGAL, WA	☐	☒	☐
16.	LARRY KEISTER	WASHOUGAL, WA	☐	☒	☐
17.	Teresa Robbins	" " West End	☒	☒	☐
18.	Keith Brown	" " West End	☒	☒	☐
19.	Dennis J Jogodzki	" " West End	☒	☒	☐
20.	Katina Jogodzki	" " West End	☒	☒	☐
	MAGNUS HOMESTEAD	"	☒	☒	

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: 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.

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

In the BOCC's most recent approval two weeks ago of the Hearing Examiner's recommendation of granting amendments in the Mike and Julie Engel request the Hearing Examiner explicitly stated in her conclusions:

> "Although by one measure of land capacity it is only 55% build out, it is important to note that the 60% threshold contained in the criterion is only an ***example*** of "significant change". The record presented by the Applicants and Planning Staff includes persuasive evidence that there has been sufficient change of circumstances to support the amendment even without the subject property reaching 60% capacity."

So, if this passes tonight, I want to be clear, this is only one example among many that can be used to show substantial change.

I would like to quickly address the weakness of the new wording

The Hearing Examiner in her conclusions in the McNealy Hearing wrote: ***"percentage of infill should be calculated in light of the full capacity of the land."***

I believe the new wording goes too far. It reads, ***"Full buildout means the total number of existing and potential future lots based on the minimum parcel size within the land use."*** If you have potential future lots based on the minimum parcel of pure mathematical acreage – you get a number – easy to calculate but having little or nothing to do with ***the full capacity of the land***. Many of these mathematically calculated parcels will not be buildable lots – ***the full capacity of the land*** will be filled up long before the mathematical acreage is used.

Using a pure mathematical calculation of property acreage within a land use designation to determine "potential lots" is an arbitrary abstraction that does not address the issue of ***full capacity of the land*** because it does not recognize nor take into consideration numerous other factors such as:

- Topography, critical areas, shorelines and creeks,
- road access, water, septic
- and the currently zoned land use of properties that will never be subdivided according to their current zone, e.g., the 72 acres of Cape Horn Skye Elementary Schools which owns 72 acres zoned R-2 creating 36 ***potential*** lots into the math that will never be 36 ***actual*** lots.

The proposed language defines "full buildout" as: **"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) divided by (total number of existing lots and potential**

lots based on acreage within the land use designation) x 100." Pure math with no account of the actual characteristics of the land itself. Sure, it is easy, but it does not address the circumstances of the people or the lay of the land and gives a false view of **full capacity of the land.**

In light of these reasons, and in light of the fact no other county as far as I know even uses this 60% infill as an example of substantial change, and representing people on the west end who have a desire for more flexibility not less with land use, and having witnessed this one ***example of 60% infill*** used to keep good people from doing good things with their land, I recommend we do not approve these amendments but work to remove this wording from our comprehensive plans; it is not necessary. Or at least put this off until we can come up with a better more realistic way to assess the ***full capacity of the land.***