

ORDINANCE No. 2016-02

(AN ORDINANCE ADOPTING THE HEARING EXAMINER’S RECOMMENDATION FOR A QUASI-JUDICIAL REQUEST TO AMEND THE WEST END COMMUNITY SUBAREA ZONING MAP)

WHEREAS, Skamania County adopted a Hearing Examiner System under RCW 36.70.970, RCW 58.17.330, and RCW 43.21C.075; and

WHEREAS, on December 19, 2006, at 5:30 pm the Board of County Commissioners held a legislative public hearing on Ordinance 2006-16; and approved Ordinance 2006-16 establishing Skamania County Code (SCC) Chapter 2.80 Office of Hearing Examiner; and

WHEREAS, Ordinance 2014-03 gives the Hearing Examiner authority to hold hearings on petitions for “quasi-judicial” (individual) zoning map amendments under SCC Section 21.18.040 and submit a written recommendation the Board of County Commissioners; and

WHEREAS, on June 1, 2016, the Hearing Examiner held a public hearing for a quasi-judicial petition on a Zoning Map Amendment for the West End Community Subarea submitted Robert S. and Jundeen M. Bobosky, First Financial Assurance, LLC., and Rustic Research LLC.

WHEREAS, the Hearing Examiner issued a written recommendation to the Board of County Commissioners on June 29, 2016; and

WHEREAS, the Board of County Commissioners held a public meeting on September 13, 2016, at 5:30 p.m. and adopted the Hearing Examiner’s recommendations for both petitions; and

WHEREAS, No appeals were filed pursuant to RCW 36.70C.040; and

WHEREAS, the Board of County Commissioners directed the Community Development Department to amend the West End Community Subarea Zoning Map to reflect the adopted changes.

NOW THEREFORE BE IT HEREBY ORDAINED AND ESTABLISHED the following West End Community Zoning Map Amendments identified by Tax Parcel Numbers listed below, are adopted by the Board of County Commissioners.

Tax Parcel #	From Zoning Designation	To Zoning Designation
02-05-35-0-0-0100-00	West End Forest Lands 20 (WE-FL20)	Rural Lands 5 (RL5)
02-05-35-0-0-0102-00	West End Forest Lands 20 (WE-FL20)	Rural Lands 5 (RL5)
02-05-35-0-0-0104-00	West End Forest Lands 20 (WE-FL20)	Rural Lands 5 (RL5)



**SKAMANIA COUNTY
BOARD OF COUNTY COMMISSIONERS**

ATTEST:

Debbie Glad 9/13/16
Clerk of the Board Date

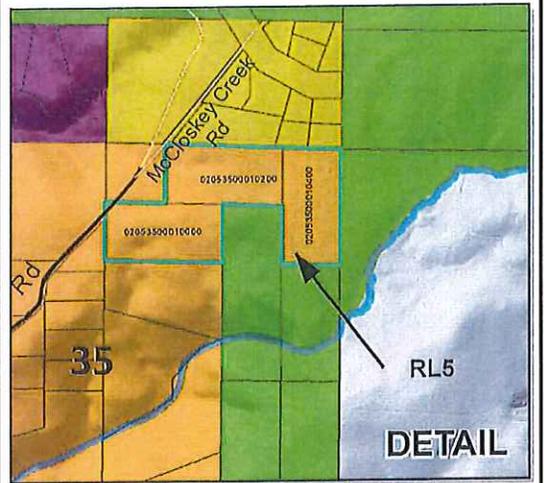
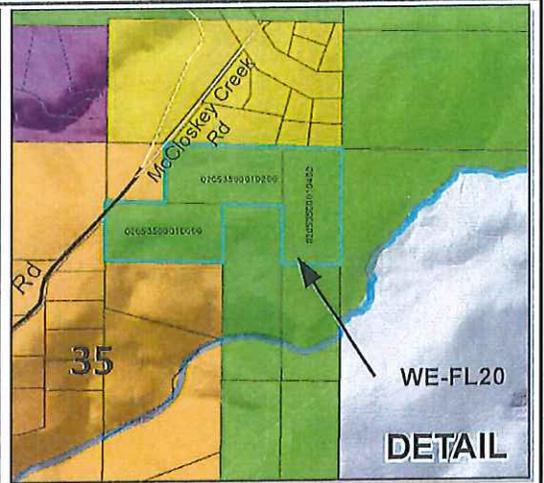
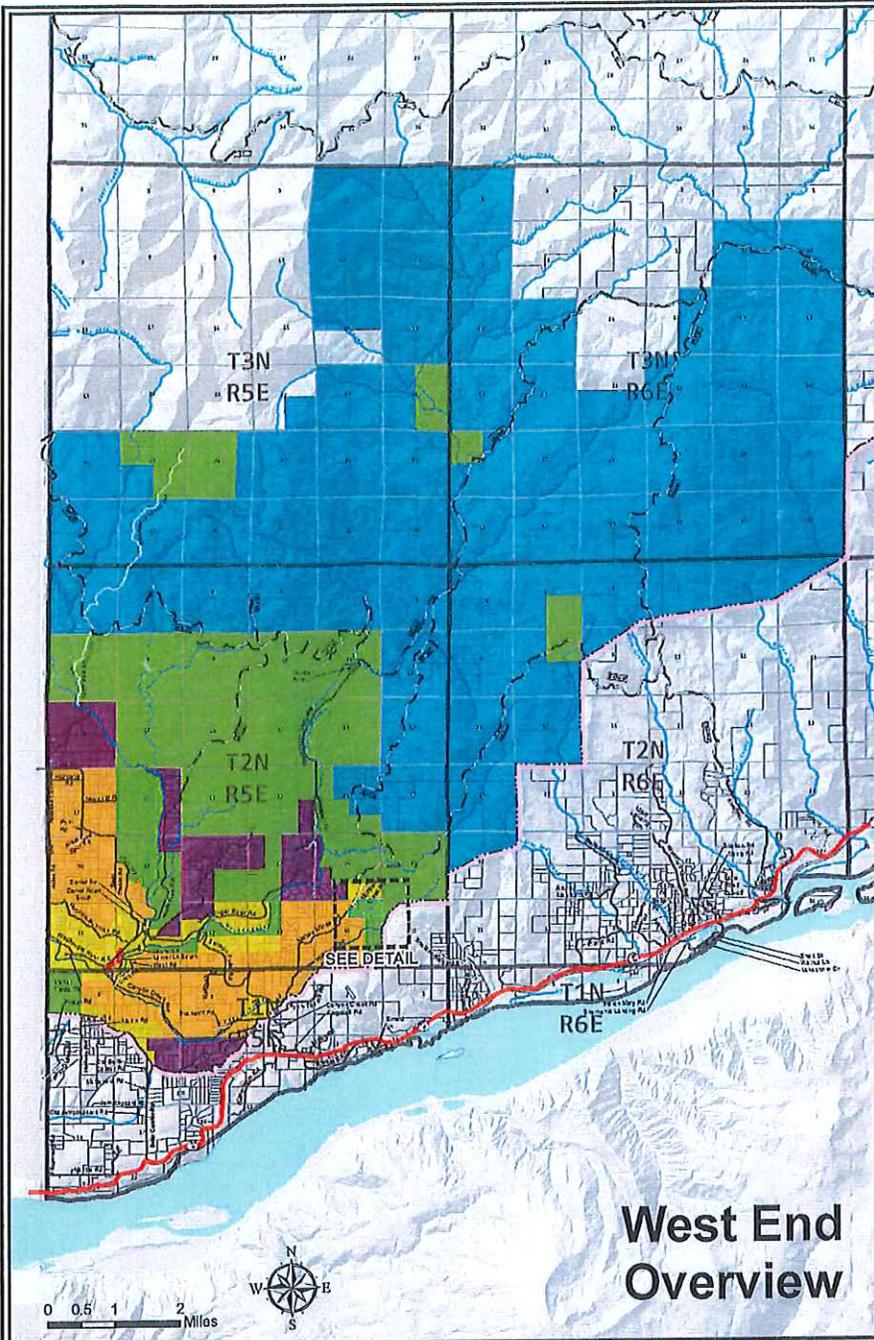
[Signature] 9/13/16
Chair Date

[Signature] 9/13/16
Commissioner Date

[Signature] 9/13/16
Commissioner Date

APPROVED AS TO FORM ONLY:

[Signature] 9/12/16
Prosecuting Attorney Date



- Rural Lands 2 (RL2)
- Rural Lands 5 (RL5)
- Rural Lands 10 (RL10)
- West End Forest Lands 20 (WE-FL20)
- West End Commercial Resource Lands 40 (WE-CRL40)
- Neighborhood Commercial (NC)

- Area of Amendment
- Parcel
- National Scenic Area Bndry
- Stream

DISCLAIMER: This map product was prepared by Skamania County and is for information purposes only. It may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



SKAMANIA COUNTY
Community Development Department
Map date: 7/27/2016
Map by: R.Bohler
Assessment & GIS

West End Zoning Amendment

**BEFORE THE HEARING EXAMINER
FOR SKAMANIA COUNTY**

In the Matter of the Applications of)	NO. CMP-15-01/REZ-15-01
)	
Robert S. and Jundeen M. Bobosky,)	
First Financial Assurance, LLC and)	West End Comprehensive Plan Map
Rustic Research, LLC)	Amendment and Rezone
)	
For)	
Comprehensive Plan Map Amendment)	FINDINGS, CONCLUSIONS, AND
<u>and Zoning Map Amendment</u>)	RECOMMENDATIONS

SUMMARY OF RECOMMENDATIONS

The Skamania County Hearing Examiner recommends to the Board of County Commissioners that the request for approval of Comprehensive Plan land use and zoning map amendments for three tax parcels totaling approximately 60 acres in the West End Community Subarea from West End Forest Lands 20 to Rural Lands 5 **should be GRANTED.**

SUMMARY OF RECORD

Requests

Robert and Jundeen Bobosky, First Financial Assurance LLC, and Rustic Research LLC (Applicants) requested approval of Comprehensive Plan land use map and zoning map amendments for Tax Lots 02-05-35-0-0-0100-00, 02-05-35-0-0-0102-00, and 02-05-35-0-0-0104-00 in the West End Community Subarea from West End Forest Lands 20 to Rural Lands 5 in order to allow future creation of 12 five-acre single-family residential parcels.

Hearing Date

On June 1, 2016, the Skamania County Hearing Examiner held an open record hearing on the requests. At adjournment of the public hearing, the record was held open for additional information from County Staff, at the Applicants' request, addressing recommended conditions. The post-hearing schedule was memorialized in an order, issued June 6, 2016, that established a decision issuance date of June 29, 2016.

Testimony

The following individuals presented testimony under oath at the open record hearing:

Debbie Cazaré, Land Use Planner, Skamania County
Tim Homann, Skamania County Engineer
Lee Michaelis, RW Thorpe & Associates, Applicant Agent
Robert S. Bobosky, Applicant
Tim Bobosky, Applicant
Dan Huntington

Exhibits

The following exhibits were admitted into the record:

- Exhibit 1 Community Development Department Staff Report, received June 1, 2016 with the following attachments:
- A. Comprehensive Plan Change Application and Rezone Application, dated December 2, 2015
 - B. SEPA Threshold Determination, published May 11, 2016, and SEPA Checklist, submitted November 12, 2015
 - C. Notice of Public Hearing and Publication, dated May 12, 2016
 - D. West End Zoning Designations Map
- Exhibit 2 Joint Response to Post-Hearing Order, submitted June 13, 2016

Also included in the record of this matter is the June 6, 2016 post-hearing order.

Upon consideration of the testimony and exhibits admitted in the record, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. The Applicants requested approval of Comprehensive Plan land use map and zoning map amendments for three tax parcels totaling 60 acres in the West End Community Subarea from West End Forest Lands 20 (WE-FL20) to Rural Lands 5 (RL5). No proposed change to the West End Community Subarea Comprehensive Plan text was requested. The map amendments are requested in conjunction with a proposal to subdivide the subject property into 12 five-acre single-family residential lots. The subject property is located in the north half of the northeast quarter of Section 35, abutting the Section line.¹ *Exhibits 1 and 1.A.*
2. The West End Community Comprehensive Subarea Plan was adopted on February 27, 2007. The subject property's current WE-FL20 zoning was adopted on March 8, 2012. *Exhibit 1.*
3. Surrounding development within 1,000 feet of the subject parcels includes 30 legal lots. Of these, 18 parcels are zoned Rural Lands 2 (RL2), three are zoned Rural Lands 10 (RL10), 17 are zoned Rural Lands 5 (RL5), and six parcels are zoned West End Forest Lands 20 (WE-FL20). There are approximately 11 developed parcels within 1,000 feet of the subject property, developed with single-family residential uses on lots averaging four acres in area with RL2 and RL5 zoning designations: RL2 zoning is directly north, while RL5 zoning is primarily south and west of the subject parcels and along a small portion of the northern boundary. Land to the east and northeast is comprised primarily of undeveloped forest land located within the Columbia River Gorge National Scenic Area

¹ The subject property is a portion of the North ½ of the Northeast ¼ of Section 35, T2N, R5E, W.M., also known as Tax Lots 02-05-35-0-0-0100-00, 02-05-35-0-0-0102-00, and 02-05-35-0-0-0104-00. *Exhibit 1.*

Special Management Area Forest and other open space owned by the State, the US Forest Service National Scenic Area, and a large timber operator. *Exhibits 1 and 1.D.*

4. The West End Community Comprehensive Subarea Plan Rural Lands designation is intended to provide for low residential density in order to preserve the rural character of the area and to accommodate the demands for rural living. The purpose of the WE-FL20 Comprehensive Plan land use designation is to provide for present and future non-industrial forestry operations and to provide buffers between Commercial Resource Lands and Rural Lands. Single-family residential development is an allowed use in this land use map designation on RL5-zoned parcels subject to a five-acre minimum lot size. The nearest parcel with a Commercial Resource Lands Comprehensive Plan land use designation is approximately one mile away (see Exhibit 1, Figure 4). As a result, the parcels subject to the instant map amendment requests is not capable of acting as a buffer to West End Commercial Resource Lands as intended. Additionally, while the subject parcels are forested, the Applicants asserted that the timber on-site is not at a scale that would support forestry operations. The subject parcels are isolated from other properties with the West End Commercial Resource Lands designation. The Applicants asserted that re-designating the subject parcels to RL5 would not negatively impact the ability of larger surrounding parcels to be used for timber and forest products production. *Exhibit 1.*
5. The RL5 zoning designation allows single-family residential development on lots a minimum of five acres in area; it also allows cottage occupations and light home industry provided they meet specific criteria prohibiting disturbing influences (e.g. objectionable noise, smoke, odor, glare, or traffic) greater than those generated by residential uses alone. *Exhibit 1.*
6. The total combined contiguous boundary of the subject parcels adjacent to the Rural Lands 5 land use designation is approximately 3,300 feet. While the exact figures are not in Staff's analysis, this contiguous boundary is greater than 50% of the parcels' western boundaries and between 25% and 50% of the parcels' southern boundaries. *Exhibits 1, 1.D, and 2.*
7. Pursuant to Revised Code of Washington (RCW) 36.70A, Washington State's 1990 Growth Management Act, fast growing cities and counties are required to address a variety of development issues in their planning policies and development regulations. Due to historically slower growth, Skamania County had the choice to opt in to all requirements of the Growth Management Act but did not do so; it is considered a "partially planning county" under the Growth Management Act. As such, Skamania County is obligated to plan and regulate development in a manner that is consistent with the Growth Management Act's provisions relating to critical areas (e.g. water resources, wildlife habitat, and geological hazards) and natural resource lands of long-term significance. Overall, the 60 subject acres are relatively flat; however, they do contain areas of slopes between 20 and 30 percent and some slopes greater than 30 percent in grade. The subject parcels are also located within a Class I Erosion Hazard Area as defined in the County's critical area ordinance (CAO). These areas are generally depicted in Exhibit 1, Figure 1. Skamania County regulates slopes over 20 percent as critical areas. Prior to any future development,

geotechnical evaluation and approved erosion control plans would be required. *Exhibit 1; Cazaré Testimony.*

8. The Washington State Department of Natural Resources (DNR) GIS hydrology mapping tool indicates a possible Type N (non-fish habitat) stream located on one of the subject parcels. The presence of the stream on the DNR hydrology layer does not indicate if the stream is perennial or seasonal (Class IV or V), or even whether it is actually present on-site. Skamania County's critical areas ordinance requires a 50-foot undisturbed buffer for perennial streams and a 25-foot buffer for seasonal streams, as measured horizontally from the ordinary high water mark on either side of the stream. Prior to any ground disturbing activities, the stream's presence and type would be required to be verified through qualified field observations. *Exhibit 1; Cazaré Testimony.*
9. The application materials indicated that hawk, deer, elk, and bear have been observed on or near the subject parcels. The Washington State Department of Fish and Wildlife's Priority Habitats and Species (PHS) database shows no known endangered, threatened, sensitive, or priority species habitats on or within 250 feet of the subject parcels. The subject parcels are approximately 350 feet from the nearest stream that supports fish habitat. General mapping from the Washington Natural Heritage Program's (WNHP) GIS overlay indicates two types of sensitive species may exist on or near the site. The Community Development Department notified WNHP of the proposed Comprehensive Plan map and zoning map amendments and the associated proposal to create 12 residential lots; however WNHP did not comment. The agencies would receive notice at the time of future development proposals and would have additional opportunities to comment prior to development. *Exhibit 1.*
10. Because no subdivision or land development is proposed at this time, the County has not reviewed the subject parcels for wastewater disposal or adequate potable water. Such review would be required prior to any residential development of the subject parcels. Similarly, although the County has not adopted a stormwater ordinance, it is the standard policy of the County to require applicants for development approvals to submit stormwater management plans consistent with Washington State's Stormwater Manual for Western Washington prepared by professional engineers licensed in Washington State, prior to construction approval. *Exhibit 1.*
11. Based on data from the County Assessor's office, there are approximately 1,514 parcels within the West End Community Subarea. Approximately 481 of these are zoned RL5, of which 344 are developed. This leaves only 30% of RL5-zoned parcels in the West End available for development. In support of their requested map amendments, the Applicants asserted that this reduction in available RL5-zoned lands, which they contend are desirable in the current market, constitutes a change of circumstances sufficient to satisfy zoning amendment criteria. *Exhibits 1 and 2; Michaelis Testimony; Huntington Testimony.*
12. The Applicants submitted a rezone application, a Comprehensive Plan land use map amendment application, and a State Environmental Policy Act checklist with the appropriate fees on December 9, 2015. The applications were determined to be complete

on December 28, 2015. All property owners listed on the complete application signed the petition for a rezone. *Exhibits 1 and 2.*

13. The application materials indicated that the contemplated future subdivision would involve retaining approximately 80% of the existing vegetation on each proposed five-acre lot, providing an approximately one-acre development envelope and leaving the rest of each lot available for ongoing timber management. Community Development Department Staff determined that this plan would allow for the creation and permanent retention of habitat corridors throughout the proposed development for the passive use and benefit of wildlife. Planning Staff recommended a condition of approval requiring such corridors. At hearing, an Applicant representative requested changes to that condition. Staff and the Applicants did arrive at mutually agreeable language that would allow for the creation of wildlife corridors during future site development. *Exhibits 1 and 2; Michaelis Testimony.*
14. Consistent with the requirements of SEPA, Skamania County Community Development Department was designated lead agency for review of significant adverse environmental impacts that could result from the proposal. Concluding that the requested map amendments would not result in probable, significant, adverse environmental impacts, the County's responsible official published a notice of intent mitigated determination of non-significance (MDNS) on May 11, 2016. The MDNS contains 14 mitigation measures that would necessarily apply to all future development of the contemplated 12 five-acre parcels. One of the mitigation measures would require the developer to replant all disturbed undeveloped areas in the building envelopes with native vegetation. Compliance with all of the mitigation measures would be reviewed at the time of future development. No comments were filed opposing the MDNS. *Exhibit 1; Exhibit 1.B. Cazaré Testimony.*
15. Notice of the amendment applications was sent to the following tribes and public agencies: Nez Perce Tribe, Confederated Tribes of the Warm Spring Reservation, Cowlitz Indian Tribe, Yakima Indian Nation, Confederate Tribes of the Umatilla Indian Reservation, Washington State Department of Commerce, Washington State Department of Ecology, Washington State Department of Fish and Wildlife, Skamania County Fire Marshall, Skamania County Building Division, Skamania County Engineer, Skamania County Road Department, Skamania County Commissioners, Skamania County Environmental Health Division, and Skamania County Assessor. *Exhibit 1; Exhibit 1.C.*
16. Notice of public hearing was published in The Skamania County Pioneer on February 24, 2016 and again on May 18, 2016. Notice of hearing was mailed to owners of adjacent property within 1,000 feet of the subject parcel and posted on the Community Development Department website on the same date. *Exhibit 1; Exhibit 1.C; Cazaré Testimony.*
17. One neighboring property owner who lives about 1.5 miles from the property subject to the instant application testified that there is a very limited supply of land developable with smaller residential lots in the West End. Due to the site's distance from commercial timber lands, the area proposed for rezone is ideal for rural residential development. He supported the request. *Dan Huntington Testimony.*

18. Planning Staff determined that the following objectives, goals, and policies of the County's Comprehensive Plans are applicable to the proposed map amendments:

West End Community Comprehensive Subarea Plan

General Goals

Goals are often considered to be the cornerstone of the planning process. A goal is an expression of an ideal and a desirable end. Over a period of time the goal remains constant and may never be completely attained. The following County-Wide Goals continue to apply to the West End Subarea and are listed below:

- A. To provide for the orderly future physical development of Skamania County.
- B. To coordinate public and private interests in land development.
- C. To promote effective planning and scheduling of improvements so as to avoid conflicts, duplication, and waste.
- D. To promote improvements which make our communities more livable, healthy, safe, and efficient.
- E. To create opportunities for citizens to take part in planning activities.
- F. To provide opportunities for citizen participation in making governmental decisions regarding land development.
- G. To integrate long-range considerations (comprehensive planning) into the determinations of short-term action (individual development applications).

The following additional general goals, which are specific to the West End Community, should be considered as the basis of the West End Comprehensive Subarea Plan.

General Goal 1. Primary Land Use:

Land developments within the West End Community shall be of a nature that promotes and enhances the rural and natural character of the community. This goal is premised upon the idea that certain qualities or values, which are viewed as "rural" by members of the West End community, should be preserved and enhanced. Those values include privacy; mixed residential, agricultural, and forestry land uses; peace and quiet; lack of heavy traffic; clean air; clean water; wildlife and fish habitat; open spaces; recreational opportunities; and the least amount of governmental regulation consistent with preserving those and other values protected in the community subarea plan.

General Goal 2. Secondary Land Use:

The Community recognizes that limited rural employment opportunities are essential to maintaining its quality of life. New community commercial and neighborhood commercial land uses, as well as cottage occupations, light home industries and professional services, may be consistent with the rural residential character of the West End Community if only allowed subject to conditions that will alleviate adverse impacts to environmental, public safety, and aesthetic

values. Aesthetic values address issues such as privacy, noise levels, and visual issues.

General Goal 3. Forestry

In the areas designated Commercial Resource Lands and Forest Lands, encourage and promote the current and continuing use of area land for the production of timber and miscellaneous forest products consistent with the utilization of Best Management Practices as provided in Revised Code of Washington (RCW) and Washington Administrative Code (WAC).

General Goal 4. Water

Maintain and protect existing quality and quantity of ground and surface waters for domestic use, for area fish and wildlife and to ensure maintenance of existing wetlands.

General Goal 5. Wildlife

Protect and encourage area indigenous wildlife, including game and non-game animals, aquatic species, residential and migratory birds, invertebrates, and native plants through maintenance of natural habitats.

General Goal 6. Fish

Protect waterways and aquatic life by maintaining or re-establishing natural habitat through careful and appropriate land and water use practices.

General Goal 7. Community Services

Support only that development which can be sustained within the limits of existing county and community services.

General Goal 8. Transportation (Circulation)

Maintain existing county roads and assure that new development does not compromise the safety and welfare of residents.

General Goal 9. Evacuation

Evaluate the capacity of existing infrastructure to handle safe emergency evacuation procedures for current residents before planning for increases in population.

General Goal 10. Geology

Prohibit development in geologically unstable areas. In addition to the geologically hazardous areas protected in the 1996 amendment to Comprehensive Plan A (Critical Areas), the following areas have shown the potential to be geologically unstable and warrant closer inspection during site specific development review:

- West side of the West Fork of the Washougal River near the steelhead hatchery's water intake
- Mile Post 13.6 on the Washougal River Road near the Fanning property and Camp Melacoma
- Mile Post 0.75 on Skye Road
- Upper Wild Boy Creek headwaters
- Cliffs and roadsides adjacent to Canyon Creek

- Mile Post 3.6 on Canyon Creek Road
- Salmon Falls Road

Skamania County 2007 Comprehensive Plan
Environmental Element Goals and Policies

The following goals and policies reflect the county's interest in protecting the environmental quality of life in the county. Many, if not most, of the goals and policies stem from and are intended to complement federal and state mandates. The updated critical areas development regulations will be derived from the goals and policies listed below:

Goal E.1: To ensure the proper management of the natural environment to protect critical areas and conserve land, air, water, and energy resources.

Policy E.1.7: Maintain clear development review standards for the control of the quantity and quality of stormwater discharge from development projects.

Policy E.1.8: Regulate development activities to avoid clearing of vegetation that maintains slope stability, reduces erosion, shades shorelines, buffers wetlands and stream corridors, and provides wildlife and aquatic habitat.

Policy E.1.9: Encourage the use of northwest native plants in landscaping, particularly adjacent to critical areas.

Policy E.1.10: Ensure prompt restoration of land after grading and vegetation removal through phased clearing and grading, replanting requirements, and other appropriate revegetation and engineering techniques.

Goal E.2: To enhance water quality; protect environmentally sensitive areas including wetlands, streams, rivers, lakes, riparian areas, and aquifer recharge areas; and manage floodplains.

Policy E.2.2: Review the effects of development proposals on all fish species, which include anadromous fish and other species protected under the federal Endangered Species Act and require mitigation such as riparian habitat enhancement and water quality treatment.

Goal E.3: To minimize the loss of life and property from landslides, seismic, volcanic, or other naturally occurring events, and minimize or eliminate land use impacts on geologically hazardous areas.

Policy E.3.4: Require geotechnical studies to determine construction methods and technologies necessary to further public safety in geologically hazardous areas. The development design and construction technology used shall be appropriate to the soil limitations of the particular site.

Exhibit 1.

19. Community Development Department Staff noted there is no County objection to the proposed zoning and land use designation amendments. The subject property is more than 450 feet away from any commercial resources lands and thus could not provide the

contemplated buffer to commercial activities if retained. Staff also noted that of all Rural Lands 5 zoning in the County, only 30% is undeveloped. Planning Staff recommended approval with conditions. *Exhibits 1 and 2; Cazaré Testimony*. The Applicants requested modifications to recommended conditions 3 and 5. Planning Staff agreed to the requested change to condition 3 on the record. The parties jointly agreed to new language for condition 5 after the close of the hearing in accordance with the post-hearing order. *Exhibit 2; Michaelis Testimony*.

CONCLUSIONS

Jurisdiction

Pursuant to SCC 2.80.060.A, the Skamania County Hearing Examiner is authorized to receive and examine available, relevant information including environmental documents, conduct public hearings, cause preparation of a record thereof, and prepare and enter findings and conclusions on those facts for the following:

- (5) Petitions for zoning map amendments under Section 21.18.040; (and)
- (6) Petitions for comprehensive plan or subarea plan amendments under Section 21.18.070(C); ...

Pursuant to SCC 2.80.060.B, the decision of the hearing examiner on matters 5 and 6 in paragraph A of this Section shall be in the form of a recommendation to the Board of County Commissioners pursuant to Section 21.18.070.

Procedure

Comprehensive Plan Map Amendment, Skamania County Comprehensive Plan, July 2007, pages 15 - 17

Process

The Comprehensive Plan Amendment Cycle and Review process is as follows:

1. All comprehensive plan amendment applications must be completed by the applicant (signed by the applicant and property owners) and submitted to the Planning Division of the Community Development Department on or before December 31st of each calendar year.
2. The comprehensive plan amendments will then be placed on the Hearing Examiner's schedule for public hearing at either the following April (east county), May (mid county), or June (west county) meeting.
3. The Planning Division will provide written analysis of each plan amendment to the Hearing Examiner for review.
4. The Hearing Examiner will then hold at least one public hearing to consider and act upon the original application.

A complete application for quasi-judicial comprehensive plan amendment must be submitted in writing and include the following:

1. A completed State Environmental Policy Act (SEPA) checklist and application fee (as set by the Board of County Commissioners);

2. Comprehensive Plan Amendment Fee (as set by the Board of County Commissioners);
3. Responses to the following:
 - a. Description of the requested Plan Amendment;
 - b. An explanation of why the amendment is being proposed including specific areas of the comprehensive plan needing changes;
 - c. Draft text language , if appropriate;
 - d. An explanation of how the criteria in 4 (below) are met by the proposal;
4. Criteria against which the proposed amendment must be evaluated and found to be in substantial compliance for approval:
 - a. A text and/or map amendment is necessary to resolve inconsistencies within the County Comprehensive Plan with which the county has no objection;
 - b. Conditions have significantly 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 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;
 - c. The proposed text and/or map amendment is consistent with the overall intent of the goals, maps, and land use element of the Comprehensive Plan;
 - d. The proposed text and/or map amendment is consistent with RCW 36.70, those sections of RCW 36.70A to which Skamania County is required to plan under and Comprehensive Plan policies;
 - e. Additionally for an amendment to the Comprehensive Plan or any Subarea Plan Map, the proposed designation must be contiguous along a shared boundary by at least 100 feet or 25% of the width of the property proposed to change, whichever is greater;
 - f. Environmental impacts have been disclosed and measures imposed to avoid or, if not possible to avoid, then mitigate said impacts; and,
 - g. The applicant should examine potential ramifications of the proposed text and/or map amendment to other Comprehensive Plan Elements and official controls and show how the potential ramifications have been considered and addressed.

Zoning Map Amendment

SCC Section 21.18.040, Petitions for Zoning Map Amendments

Petitions for zoning map amendments are requests to change the zoning classification shown on the official zoning map for a specific parcel or parcels by one or more landowners. Requests for such amendments may be initiated by filing with the Planning Department a completed application on forms supplied by the Planning Department, a completed environmental checklist, and a non-refundable fee as established by the resolution of the Board of County Commissioners. Petitions for a zoning map amendment may be initiated by the person or persons that own all the property for which the amendment is sought or for a larger area that the applicant owns. Where an amendment is requested for an area larger than the parcels owned by the applicants, the signatures on the application must represent 100 percent of the owners of the total number of parcels within the entire area proposed for amendment. If a parcel has multiple owners, then all of the owners'

Findings, Conclusions, and Recommendation

Skamania County Hearing Examiner

West End Comp Plan and Zoning Map Amendments, CMP-15-01/REZ-15-01

signatures must be obtained and are counted as single signature when calculating the percentage of owners' signatures obtained.

SCC Section 21.18.050, Frequency of Petitions for Zoning Map Amendments

To ensure a comprehensive review of petitions for zoning map amendments, all petitions must be complete and submitted to the Planning Department on or before December 31st of each calendar year. The petition for zoning map amendments will then be placed on the Hearing Examiner's schedule for public hearing as follows: petitions within Commissioner District 1 (west end) will be heard beginning in June, petitions within Commissioner District 2 (mid county) will be heard beginning in May, petitions for Commissioner District 3 (east end) will be heard beginning of April. Due to the number of petitions received each year, there may need to be more than one public hearing scheduled for each of the Commissioner Districts. In addition, any of the public hearings may be continued as determined by the Hearing Examiner. If a petition for a zoning map amendment is denied, the petition can be resubmitted no sooner than the third year from the date of denial by the Hearing Examiner. Zoning map amendments do not constitute an emergency (i.e. an immediate threat to life or property for which action must be taken to alleviate the threat).

The Hearing Examiner will review the list of zoning map amendment applications received at the first meeting in February and set the schedule of hearings.

SCC Section 21.18.060, Notice of Hearing on Petitions for Zoning Map Amendments

Written notice of an application for a petition for zoning map amendment under 21.18.040 shall be by:

- A. First class United States mail addressed to the applicants; all owners of the real property subject to the proposed amendment; and to all real property owners, as shown in the records of Skamania County Assessor, located within one thousand (1000) feet from any boundary of property subject to the proposed map amendment. If the owner of the property for which the proposed map amendment is requested owns another parcel or parcels adjoin a parcel subject to the amendment, then notification also shall be mailed to owners of real property located within one thousand (1000) feet from any boundary of such adjoining parcels. Notification of the hearing schedule for all applications shall be mailed no later than the last day of February. Failure by any person listed above to receive such notice shall not invalidate any proceedings or decision in connection with the proposed map amendment. Notices addressed to the last known owners of record as shown on the County Assessor records shall be deemed proper notice to the owner of such property; and
- B. Publication in a newspaper of general circulation in the County shall consist of:
 1. A list of all applications received, and the hearing schedule to be published on the last date the newspaper is published in February, and
 2. A legal notice of the hearing to be published at least ten (10) days prior to the open record hearing date.

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SCC Section 21.18.070, Hearing by Hearing Examiner on Petition for Zoning Map Amendments
The Hearing Examiner hearing process on petitions for zoning map amendments under SCC 21.18.040 shall be as follows:

- A. The Hearing Examiner shall hold at least one (1) public hearing on all proposed petitions for zoning map amendments. At the conclusion of such hearing or hearings, the Hearing Examiner consider all testimony and documents presented and shall determine whether, based on the criteria set forth in SCC 21.18.070(b), the proposed petition for zoning map amendment should be approved or denied. The Hearing Examiner's decision shall be supported by appropriate findings of fact based exclusively on the evidence presented.
- B. The Hearing Examiner may approve the proposed petition for zoning map amendment if the zoning map amendment:
 - 1) Bears a substantial relationship to the public health, safety, and/or welfare (is the amendment consistent with the comprehensive plan);
 - 2) Is contiguous to the requested zoning designation by at least 100 feet, therefore not being a grant of special privilege and;
 - 3) Circumstances have substantially changed in the area since the adoption of the existing zoning designation.

Criteria for Approval

Comprehensive Plan Amendment

Pursuant to the Skamania County Comprehensive Plan, July 2007, pages 16-17, the following are the criteria against which proposed Comprehensive Plan amendments must be evaluated and found to be in substantial compliance for approval:

- a. A text and/or map amendment is necessary to resolve inconsistencies within the County Comprehensive Plan with which the county has no objection;
- b. Conditions have significantly 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 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;
- c. The proposed text and/or map amendment is consistent with the overall intent of the goals, maps, and land use element of the Comprehensive Plan;
- d. The proposed text and/or map amendment is consistent with RCW 36.70, those sections of RCW 36.70A to which Skamania County is required to plan under and Comprehensive Plan policies;
- e. Additionally for an amendment to the Comprehensive Plan or any Subarea Plan Map, the proposed designation must be contiguous along a shared boundary by at least 100 feet or 25% of the width of the property proposed to change, whichever is greater;
- f. Environmental impacts have been disclosed and measures imposed to avoid or, if not possible to avoid, then mitigate said impacts; and,

- g. The applicant should examine potential ramifications of the proposed text and/or map amendment to other Comprehensive Plan Elements and official controls and show how the potential ramifications have been considered and addressed.

Zoning Map Amendment

Pursuant to SCC 21.18.979.B, the Hearing Examiner may approve a petition for zoning map amendment if the zoning map amendment:

- 1) Bears a substantial relationship to the public health, safety, and/or welfare (is the amendment consistent with the comprehensive plan);
- 2) Is contiguous to the requested zoning designation by at least 100 feet, therefore not being a grant of special privilege and;
- 3) Circumstances have substantially changed in the area since the adoption of the existing zoning designation.

Conclusions Based on Findings

A. Comprehensive Plan Amendment

1. Amendment of the Comprehensive Plan land use map from West End Forest Lands 20 to Rural Lands 5 would resolve the inconsistency arising from the fact that the subject parcels are not capable of acting as buffers to commercial forest lands due to lack of proximity. No County agency has voiced any objection to the land use map amendment. *Findings 3, 4, 5, 18, and 19.*
2. Since the current land use designation went into effect on the site, 70% of the RL5 designated lands have been developed. This reduction in available rural residential property in the West End at a time when such properties are considered desirable in the real estate market constitutes a change in circumstances. *Findings 2, 5, 11, and 17.*
3. The proposed map amendment would be consistent with the overall intent of the goals, maps, and land use element of the Comprehensive Plan. Due to the adjacency of existing rural residential development on parcels averaging four acres in size, the re-designation of the subject parcels to RL5 would have a negligible impact on the character of the overall West End Subarea and would allow development consistent with the already existing pattern of residential development. The parcels contain no known habitats of protected species. WDFW was notified of the proposed amendment and raised no objections. There are no regulated critical areas on or adjacent to the property. SEPA review was conducted and an MDNS was issued. If the map amendments are approved and the proposed 12-lot development goes forward, future building permits would invoke renewed review for the presence of species and habitats of importance, as well as geotechnical review of the landslide hazard and erosion hazard areas mapped in the vicinity. Future development permits would include big game winter range notice. The proposed amendments would not be inconsistent with any applicable goals or policies in the West End Subarea. *Findings 3, 4, 8, 9, 10, 13, 14, and 18.*

4. Due to the current and any future review prior to site development, the proposed map amendment would be consistent with Section 36.70A.170 of the Growth Management Act. *Findings 7, 18, and 19.*
5. The subject property abuts a section line and abuts Rural Land 5-designated lands along more than 3,000 feet of contiguous north, south, and west boundaries. *Findings 1, 3, and 6.*
6. The record demonstrates that if approved, the land use map amendment would have no negative ramifications for other Comprehensive Plan Elements or official controls. *Findings 5, 18, and 19.*

B. Zoning Map Amendment

1. If the requested Comprehensive Plan land use map amendment is approved, the proposed zoning map amendment from WE-FL20 to RL5 would be consistent with the West End Subarea Plan and therefore consistent with the public health, safety, and welfare. *Findings 3, 5, 12, 13, 14, and 19.*
2. The subject property abuts the RL5 zone for more than 3,000 feet along its north, west, and south boundaries. The parcels' shared boundaries with RL5 zoned properties offsite constitute greater than 25% of the their west and south boundaries. Rezone approval would not constitute a grant of special privilege or result in incompatible spot zoning. *Findings 3, 4, 6, and 12.*
3. Since the current zoning was adopted for the subject parcels, approximately 70% of the existing RL5 zoned properties in the West End Subarea have been developed, leaving only 30% available. Testimony has established that there is market demand for five acre residential lots in the West End. These factors constitute changed circumstances adequate to support rezone approval. *Findings 2, 4, 5, 11, and 17.*

RECOMMENDATIONS

Based upon the preceding findings and conclusions, the Skamania County Hearing Examiner recommends to the Board of County Commissioners that the request for approval of Comprehensive Plan Map Amendment and Zoning Map Amendment for Tax Lots 02-05-35-0-0-0100-00, 02-05-35-0-0-0102-00, and 02-05-35-0-0-0104-00 in the West End Community Subarea from West End Forest Lands 20 to Rural Lands 5 **should be GRANTED** subject to the following conditions applicable to the Applicants and any successors in interest:

1. Prior to any future development on Class II and Class III Landslide Hazard Areas, the Applicants shall submit a geotechnical report prepared by a professional engineer licensed in the State of Washington with expertise in geological engineering, describing the site stability and proposed mitigation measures sufficient to avoid on-site and off-site landslide hazards.

2. Prior to any future ground disturbing activities, an Erosion Control Plan shall be submitted for review and approval.
3. All ground disturbing activities shall remain outside of the potential on-site Class IV stream and associated buffer identified on Washington State Department of Natural Resources (DNR) mapping, until it is determined in consultation with DNR whether the stream exists, and if it does exist, whether it is perennial or seasonal, and therefore what the appropriate buffer width would be.
4. Prior to future construction, the developer shall submit a Stormwater Management Plan prepared by a professional engineer licensed in the State of Washington that is consistent with Washington State's Stormwater Manual for Western Washington.
5. The Applicant or successor(s) in interest shall work with the Skamania County Community Development Department during any subsequent short plat process to identify the most beneficial location for a habitat corridor through the properties. The corridor shall be a minimum 50 feet in width and is intended to provide a natural environment for animals to travel through the properties. The corridors shall remain free of development and naturally vegetated to provide cover and protection except as impacted by any forest management plan in effect under the forestry deferral program. The corridors shall allow for nature trails that may also be used by future residents of the platted lots.

Recommended June 29, 2016.

By:



Sharon A. Rice
Hearing Examiner for Skamania County