

WHATCOM COUNTY PLANNING & DEVELOPMENT SERVICES STAFF REPORT

I. OVERVIEW

File # PLN2021-00014

File Name: Forest Practices Transfer of Jurisdiction

Applicant: Whatcom County Planning and Development Services

Summary of Request: Zoning code amendments necessary to receive regulatory jurisdiction over Class I, II, III, and IV Forest Practices in Urban Growth Areas and Class IV - General Forest Practices countywide.

Location: Countywide

Use of Subject Site: N/A - Countywide

Use of Surrounding Properties: N/A - Countywide

II. BACKGROUND

Substitute House Bill 1409 was passed by the 60th Legislature of Washington State during the 2007 Regular Session. This Bill amended RCW 76.09.240 such that counties planning under RCW 36.70A.040 (Growth Management Act - GMA) which meet certain criteria are required to adopt and enforce ordinances or regulations for certain forest practices to take over regulatory jurisdiction from the Department of Natural Resources (DNR). Whatcom County meets the criteria and is required to assume jurisdiction.

Under the proposed amendments, Whatcom County would regulate Class I, II, III, and IV forest practices within designated Urban Growth Areas (UGAs). These forest practices are presently regulated by DNR and include activities such as commercial timber harvests and supplementary activities such as road building and construction of landings that support timber harvests, among others. Whatcom County would also become the sole regulatory agency over Class IV – General forest practices, whereas both Whatcom County and DNR presently review these activities. Class IV – General forest practices involve timber harvest or road construction on forest lands that are being converted to another use.

We anticipate beginning to regulate these forest practices in the summer of 2022.

III. ANALYSIS OF THE PROPOSED ZONING CODE AMENDMENT

Pursuant to Whatcom County Code (WCC) 22.10.060, the Planning Commission and County Council must find that the amendment is consistent with the Comprehensive Plan in order to approve the proposed amendment to the development regulations

Goal 2D: Refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.

Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Staff Comment: Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). DNR will not process the Class IV - General permit until a Land Disturbance Permit is issued by Whatcom County. The DNR permit process takes a minimum of 15 days. Upon transfer of jurisdiction, a DNR permit will not be required, saving applicants a minimum of 15 days of permit processing time.

Policy 2D-4: Coordinate permitting requirements among jurisdictions to minimize duplication and delays.

Staff Comment: Upon adoption of the proposed code amendments, DNR will no longer review Class IV – General Forest Practices, as Whatcom County will have sole regulatory jurisdiction. The DNR permit process takes a minimum of 15 days. Eliminating the requirement for a DNR permit will save applicants a minimum of 15 days of permit processing time.

Goal 3A: Minimize the time required for processing housing-related development and construction permits in the interest of overall cost reduction.

Policy 3A-1: Streamline and simplify existing and proposed permitting processes.

Staff Comment: Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

Goal 7D: Consistent with other goals of the county, strive for balanced, clear and predictable

overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay, or create costly hurdles restricting effective and desirable economic development.

Policy 7D-1: Work with state and federal agencies to coordinate and streamline environmental review.

Staff Comment: As part of accepting regulatory jurisdiction, Whatcom County has coordinated with the Department of Natural Resources, providing documentation that demonstrates that Whatcom County Code meets the requirements for accepting jurisdiction over these forest practices. DNR will review this documentation, in coordination with the Department of Ecology, and provide Whatcom County with a memorandum acknowledging Whatcom County has met the requirements for receiving jurisdiction. Upon completion of this process, Class IV - General Forest Practice permits will no longer be processed by DNR and these activities will be reviewed solely by Whatcom County, eliminating permit delays and additional costs presently experienced by applicants.

Policy 7D-6: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Staff Comment: Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

Goal 8H: Support increasing the viability of Whatcom County's forest products industry.

Policy 8H-1: Support improving the efficiency and flexibility of state and local environmental regulations affecting the forest products industry, in order to assure environmental protection and improve predictability for the forest products industry while minimizing the regulatory costs to forest landowners.

Staff Comment: Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will result in more efficient permit issuance, as DNR will no longer review these activities. The DNR Class IV – General permit process takes a minimum of 15 days and costs \$1,500. Upon transfer of jurisdiction, a DNR permit will no longer be required, saving applicants a minimum of 15 days of permit processing time as well as permitting fees.

IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

1. An application for zoning code amendments was received by Whatcom County on

October 19, 2021

2. The proposed amendments were docketed by the Whatcom County Council on March 8, 2022.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on February 14, 2022. The associated comment period ended February 28, 2022. The associated appeal period ended March 10, 2022.
4. Notice of the Planning Commission hearing was published in the Bellingham Herald on March 11, 2022.
5. Notice of the proposed amendment was sent to the Department of Commerce on February 10, 2022.
6. On February 10, 2022 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.
7. The Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.
8. Goal 2D: Refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.

Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). DNR will not process the Class IV - General permit until a Land Disturbance Permit is issued by Whatcom County. The DNR permit process takes a minimum of 15 days. Upon transfer of jurisdiction, a DNR permit will not be required, saving applicants a minimum of 15 days of permit processing time.

9. Goal 2D: Refine the regulatory System to ensure accomplishment of desired land use goals in a fair and equitable manner.

Policy 2D-4: Coordinate permitting requirements among jurisdictions to minimize duplication and delays.

Upon adoption of the proposed code amendments, DNR will no longer review Class IV – General Forest Practices, as Whatcom County will have sole regulatory jurisdiction. The DNR permit process takes a minimum of 15 days. Eliminating the requirement for a DNR permit will save applicants a minimum of 15 days of permit processing time.

10. Goal 3A: Minimize the time required for processing housing-related development and

construction permits in the interest of overall cost reduction.

Policy 3A-1: Streamline and simplify existing and proposed permitting processes.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

11. Goal 7D: Consistent with other goals of the county, strive for balanced, clear and predictable overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay, or create costly hurdles restricting effective and desirable economic development.

Policy 7D-1: Work with state and federal agencies to coordinate and streamline environmental review.

As part of accepting regulatory jurisdiction, Whatcom County has coordinated with the Department of Natural Resources, providing documentation that demonstrates that Whatcom County Code meets the requirements for accepting jurisdiction over these forest practices. DNR will review this documentation, in coordination with the Department of Ecology, and provide Whatcom County with a memorandum acknowledging Whatcom County has met the requirements for receiving jurisdiction. Upon completion of this process, Class IV - General Forest Practice permits will no longer be processed by DNR and these activities will be reviewed solely by Whatcom County, eliminating permit delays and additional costs presently experienced by applicants.

12. Goal 7D: Consistent with other goals of the county, strive for balanced, clear and predictable overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay, or create costly hurdles restricting effective and desirable economic development.

Policy 7D-6: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

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13. Goal 8H: Support increasing the viability of Whatcom County's forest products industry.

Policy 8H-1: Support improving the efficiency and flexibility of state and local environmental regulations affecting the forest products industry, in order to assure environmental protection and improve predictability for the forest products industry while minimizing the regulatory costs to forest landowners.

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V. PROPOSED CONCLUSION

The subject amendment is consistent with the approval criteria of WCC 22.10.060.

VI. RECOMMENDATION

Staff recommends approval of the proposed zoning text amendment.

ATTACHMENTS:

- Draft Ordinance
- Exhibit A - Proposed Zoning Code Amendment
- Exhibit B – WAC222-16-050 Classes of Forest Practices
- Exhibit C - Determination of Non-Significance (DNS) issued February 14, 2022 and Distribution List