



# Planning & Development Services

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## Memorandum

### *Update on Rural Forestry Initiative*

To: Planning Commission  
From: Kirk Johnson, Senior Planner, AICP  
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Date: October 17, 2016

The Rural Forestry Initiative is intended to apply the County's critical areas ordinance to a portion of a forested tract that is proposed for development (conversion), while allowing the remainder of the land that is reserved for long-term forestry to undergo environmental review by the state Department of Natural Resources (DNR) when a forest practices permit is submitted.

The Forest Advisory Board has asked the County to implement the Rural Forestry Initiative, believing that the County's critical areas ordinance is the appropriate environmental review tool for land being converted for development, but not for land kept in long-term forestry.

The Department is developing a Rural Forestry Initiative (RFI) proposal for release later this year, or early next, along with other code provisions to allow the Department to assume jurisdiction for Class IV-General forest practice conversions<sup>1</sup>, as required by RCW 76.09.240. The Department continues to discuss the RFI issue with the Forest Advisory Board and the proposal as described below may change as discussions continue.

### **Development on Existing Lots**

The RFI approach is already an option when the County conducts critical areas review for forest conversion and development on a portion of an existing forested lot. At the landowner's request, the County will conduct its critical areas review only on the area proposed for development plus a 200' to 250' area around it. The remainder of the lot is not subject to County critical areas review; instead, forest practice applications would be reviewed by DNR under state forest practices rules. There is no minimum lot size requirement.

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<sup>1</sup> "Conversion to a use other than commercial timber operation' means a bona fide conversion to an active use which is incompatible with timber growing....." (Forest Practices Act Definitions, RCW [76.09.020](#))

## **Standard land divisions**

The Department will continue discussions with the FAB to consider how an RFI approach might be applied to standard land divisions.

## **Current CaRD Rules**

A CaRD land division allows the creation of smaller residential lots on Rural and Natural Resource Lands than is otherwise permitted, in exchange for clustering those lots together and retaining the remaining undeveloped portion of the land in one of several open space categories.

Typically, the entire CaRD land division, including the open space area, is subject to environmental review by the County under its critical areas ordinance. The one exception is for land placed in the Open Space-Protection Areas (OS-PA) designation, which is implemented through a protective easement that allows no disturbances, including no forest practices.

## **CaRD Rural Forestry Initiative Proposal**

The Department is proposing a new RFI option for CaRD land divisions in Rural Reserve, Secondary Forest-NRL, Industrial Forest-NRL, and Rural Resource-NRL. Following are key provisions:

- The proposal would create a new open space category—Open Space-Forestry (OS-F)—for land intended for long-term forestry, meaning the harvesting and regeneration of timber. OS-F would not be placed in a protective easement as required under the existing Open Space-Protection Areas (OS-PA) and Open Space-Natural Resource Land (OS-NRL) designations.
- The landowner would submit a forest management plan to the County describing how he or she intends to manage the land consistent with state forest practice rules for protecting environmental resources, including water quality, streams and wetlands, fish and wildlife habitat, and geologically hazardous areas. The plan would need to be developed by the Skagit Conservation District or another professional forester and be comparable in scope and detail to forest management plans developed by the Conservation District.
- Forest practices conducted on the OS-F tract would be reviewed by DNR under the state forest practice rules, not by the County under its Critical Areas Ordinance.
- Construction of roads, bridges and other activities accessory to long-term forestry would be permitted in the OS-F tract subject to DNR forest practices review; however, no structures would be permitted. The landowner could apply to the County to change from OS-F to another CaRD open space designation to build a structure allowed in other CaRD open space designations. The new proposed development area would be subject to County critical areas review.

## **County Critical Areas Review of Development Area**

Under the CaRD RFI option, the County would review the area designated by the landowner for forest conversion and development under its Critical Areas Ordinance. Some portion of the OS-F tract could be included in the County's review for landslide and stormwater risks if warranted by site conditions. This

may be necessary to protect the development lots created through the CaRD land division from landslide and stormwater impacts that could result from future forest practices on the land placed in OS-F. The County is both authorized and required under the Growth Management Act to protect residential development from such impacts. Mitigation for such risks would be required *on the development lots, not on the OS-F tract*, unless the landowner opted to address potential risks identified through by the landslide and stormwater review in their forest management plan.

- Landslide hazard areas: Existing County code (SCC 14.24.420(1)) requires a geological hazard site assessment if development is proposed for an area of known or suspected geohazards risk, or at the base of a landslide hazard area, creating a risk to life and property. Depending on site conditions, the County's review for geologic hazards affecting the development area could extend onto the OS-F tract. Areas subject to geologic hazards require a geologic hazard area mitigation plan per SCC 14.24.420(3). As an example, this might include moving the proposed development area to a portion of the property with reduced landslide risk.
- Stormwater management: Existing County rules require a stormwater management (drainage) plan for most development activities that create impervious surface, such as building a house and driveway. The drainage plan must be prepared by an engineer when the impervious surface or area of land disturbance exceeds certain thresholds. The plan must ensure that runoff from development does not cause significant adverse impacts to adjacent or down-hill properties. The Department's proposal would require a drainage plan for the development area that addresses stormwater runoff generated by the development itself, and also addresses any increased runoff that may occur due to forest practices on the OS-F tract. If the proposed forest practices as described in the forest management plan were shown not to significantly increase runoff to the development area, then the drainage plan for the development area would only need to account for runoff generated on site. If the proposed forest practices would significantly increase runoff to the development area, then the drainage plan would need to indicate how that additional runoff would be handled.
- Windthrow: Homes built in Rural lands adjacent to Forest-NRL land must be set back 200 feet from the property line to protect against trees that may become susceptible to blowing down in heavy winds due to an adjacent forest harvest on the Forest-NRL land. This setback provision protects the residence from tree damage while protecting the resource landowner from complaints about standard forest harvest practices. However, there is no such provision to buffer development lots created through CaRDs *within* forested lands. The Department's RFI proposal would require a 200 foot setback between a residence on any of the development lots created through the CaRD and the area in the Open Space-Forestry tract subject to future harvest. This 200 foot setback could be placed on the development lot, on the Open Space-Forestry tract, or on a combination of the two. Because a one-acre lot—the maximum currently allowed through a CaRD—is approximately 200' x 200', the CaRD development lots could be larger than one acre if the additional size is needed to place the setback partly or entirely on the development lot. The larger CaRD lot size would also be allowed if it was used to help to meet landslide and stormwater runoff mitigation requirements discussed above.

## **New Clearing Permit**

As part of assuming jurisdiction of forest practice conversions, the County will add a requirement to obtain a permit before performing any clearing that is not under DNR jurisdiction. This is not specifically a part of the Rural Forestry Initiative proposal but, like other code provisions needed for the County to assume jurisdiction over conversions, will move forward with the RFI proposal. The clearing permit will add no new substantive requirements, but will serve as a trigger to ensure that the applicant obtains critical areas review and properly manages stormwater. RCW 76.09.240 requires the County to regulate those forest practices no longer under DNR jurisdiction consistent with our critical areas ordinance, including land clearing and grading. The County's National Pollutant Discharge Elimination System (NPDES) stormwater permit requires inspection prior to clearing for development activities ([section S5.C.4.b.ii](#)) within the NPDES permit area. This is consistent with advice the County already provides to applicants prior to clearing (see our [Clearing, Grubbing, and Forest Practices handout](#)).