



## FRIENDS OF THE COLUMBIA GORGE

*Via email*

November 4, 2019

Clark County Council  
C/O Sharon Lumbantobing, Planner II  
Clark County Community Planning  
PO Box 9810  
Vancouver, WA 98666-9810  
E-mail: Sharon.Lumbantobing@clark.wa.gov

**Re: CPZ2019-00033 Clark County Unified Development Code (Title 40.240.440)  
Amendments to Columbia River Gorge National Scenic Area Districts**

Dear Ms. Lumbantobing:

Friends of the Columbia Gorge has reviewed and submits these comments on the above-referenced proposed ordinance. Please distribute them to the County Council and add me to the notice list for this matter. Friends is a non-profit organization with approximately 6,500 members dedicated to protecting and enhancing the resources of the Columbia River Gorge through the effective implementation of the Columbia River Gorge National Scenic Area Act. Our membership includes hundreds of citizens who reside within the Columbia River Gorge National Scenic Area.

Friends supports extending the Interim Ordinance correcting a clear scrivener's error in Clark County Code ("CCC" or "the code") § 40.240.440.H. The error was temporarily corrected by the County Council on September 25, 2019 in Interim Ordinance No. 2019-09-13 which is currently in effect. The County Council's actions on the current proposal will merely extend the current state of affairs until the Ordinance can be made permanent.

The scrivener's error was introduced in June of 2003 when changes were made to the CCC due to a restructuring of parts of the code. The change from a Type III (quasi-judicial) review process to a Type IV (legislative) review process for "development and production of mineral and geothermal resources" was not indicated as a change to the code through strikeouts and underlining as the other changes were. *See* Exhibit 2 to Interim Ordinance No. 2019-09-13. In

addition, the County sent a letter to the Gorge Commission assuring them that “[t]here was nothing of substance changed or added except where current practice was codified” and that the “public review draft” of the changes “shows (in highlight and ~~strikeout~~) what changes were made.” See Exhibit 3 to Interim Ordinance No. 2019-09-13. Clearly a mistake was made when the review type was changed from Type III to Type IV in 2003.

Furthermore, in the “summary of procedures and processes” in the CCC, applications in the National Scenic Area (referred to as the Columbia River Gorge in the Table) are to be reviewed as Type II or Type III permits and not as Type IV permits. CCC § 40.500.010 (Table 40.500.010-1). This further illustrates that the change was inadvertent. The County should make the temporary correction permanent.

Under CCC § 40.240.050(C), any pre-applications or applications that were submitted after the Interim Ordinance was initially adopted on September 25, 2019, including the pre-application for the Washougal Pit, are vested as to the CCC that was in effect at the time of the submission. There is no legal or factual reason not to move forward with an extension to the existing Interim Ordinance.

Thank you for this opportunity to comment.

Sincerely,



Steven D. McCoy  
Staff Attorney

cc: Bill Richardson, Clark County Prosecuting Attorney’s Office  
Taylor Hallvik, Clark County Prosecuting Attorney’s Office  
Sonja Wisner, Program Assistant, Clark County  
Gary Kahn, Reeves, Kahn, Hennessy & Elkins  
Peggy Hennessy, Reeves, Kahn, Hennessy & Elkins  
Nathan Baker, Senior Staff Attorney, Friends of the Columbia Gorge