

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Dan Taylor		06/27/94	RECEIVED JUL 5 1994 WHATCOM COUNTY COUNCIL	7/12	P&D/Council - action
Division Head: Dan Taylor	DJT	7/5/94			
Dept. Head: Nate Brown	NB	7/5/94			
Prosecutor: Dan Gibson					
Purchasing/Budget:					
Executive: Shirley Van Zanten					

SUBJECT: File Ref: #18-94IZO(EMG): An Emergency Ordinance Extending the Interim Zoning Ordinance, Whatcom County Code, Chapter 2.24A, for Sixty (60) Days

ATTACHMENTS: Proposed Ordinance
 Agency Report with Attached Staff Report
 Draft Planning Commission Minutes

SUMMARY STATEMENT: Please complete sections of box as appropriate & explain the item below.

Related County contract #: n/a	Should Clerk schedule a hearing? NO /X/ YES / / Requested date:
Amount budgeted for this item/project: \$ n/a	Is it (or will it be) within budget? YES / / NO / / (Please explain below) n/a
Budget line item number(s): n/a	

Whatcom County's Interim Zoning Ordinance, Chapter 2.24A, will expire on July 15 unless the ordinance is extended. The Planning Commission has recommended a two-year extension to the Interim Zoning Ordinance; however, there is not enough time to enact the proposal and have it become effective before the July 15, 1994 deadline. Therefore, this emergency extension will serve to cover the small time period when there would otherwise be an absence of land use regulations for the areas under the jurisdiction of the Interim Zoning Ordinance. This area includes the fee lands of the Lummi Indian Nation Reservation and private property exclaves within the National Forest and the Seattle City Light property along Highway 20. The Planning Commission's recommendation for a two year extension, along with a proposal for permanent zoning for the Seattle City Light property, is scheduled for the July 12 Council meeting.

ORIGINATOR'S RECOMMENDED ACTION: The Director of Planning and Development Services recommends Council accept the Planning Commission recommendation and adopt the attached ordinance.

COMMITTEE ACTION TAKEN:

COUNCIL ACTION TAKEN:

7/12/94: Council adopted the ordinance.

Related File Numbers:

Ordinance or Resolution Number (this item only): 94-040

SPONSORED BY: Consent

PROPOSED BY: Planning

INTRODUCTION DATE: 7/12/94

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ORDINANCE NO. 94-040

AN EMERGENCY ORDINANCE EXTENDING THE INTERIM ZONING ORDINANCE, CHAPTER 2.24A, FOR SIXTY (60) DAYS.

WHEREAS, pursuant to RCW 36.70.790, Whatcom County adopted an Interim Zoning Ordinance on July 6, 1972; and

WHEREAS, the Interim Zoning Ordinance is scheduled to expire on July 15, 1994, prior to the implementation of permanent zoning in certain areas of the County leaving those areas without zoning of any kind; and

WHEREAS, Determination of Non-Significance was issued by the Deputy SEPA Official on June 17, 1994;

WHEREAS, pursuant to RCW 36.70.590 legal notice was published in the Bellingham Herald on Thursday, June 9, 1994; and

WHEREAS, at a special meeting on June 22, 1994, the Planning Commission recommended a two year extension of the Interim Zoning Ordinance; and

WHEREAS, there is not adequate time to enact the proposal before the July 15, 1994 date of expiration of the Interim Zoning Ordinance; and

WHEREAS, all of the above paragraphs represent Findings of Fact by the Whatcom County Council. Based upon these Findings of Fact, it is declared that enactment of this ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Interim Zoning Ordinance, Chapter 2.24A of the Whatcom County Code, is hereby extended for sixty (60) days from the adoption of this Ordinance.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

1 ADOPTED this 12th day of July, 1994.

2 WHATCOM COUNTY COUNCIL
3 ATTEST: WHATCOM COUNTY, WASHINGTON

4 Marina McAllister, Acting Clerk Robert A. Imhof
5 Ramona Reeves, Council Clerk Robert A. Imhof, Council Chair

6 APPROVED AS TO FORM: Approved () Denied

7 Daniel L. Gibson
8 Daniel L. Gibson
9 Civil Deputy Prosecutor

Shirley Van Zanten
Shirley Van Zanten, Executive
Date: 7.13.94

**WHATCOM COUNTY PLANNING DEPARTMENT
AGENCY REPORT**

IN THE MATTER OF EXTENDING THE INTERIM ZONING)
ORDINANCE, CHAPTER 2.24A UNTIL JULY 15, 1996, OR UNTIL) FINDINGS, REASONS
PERMANENT ZONING IS ESTABLISHED FOR ALL AREAS WITHIN) AND MOTIONS
WHATCOM COUNTY JURISDICTION AND ADOPTING)
COMPREHENSIVE PLANNING DESIGNATIONS AND PERMANENT)
ZONING CLASSIFICATIONS FOR SEATTLE CITY LIGHT)
PROPERTY)

WHEREAS, pursuant to RCW 36.70.790, Whatcom County adopted an Interim Zoning Ordinance on July 6, 1972;

WHEREAS, the County has established permanent zoning in ten subareas and on Eliza Island since 1972, which leaves only three areas of the county still under interim zoning; and

WHEREAS, the Interim Zoning Ordinance is scheduled to expire on July 15, 1994, prior to the implementation of permanent zoning in certain areas of the County leaving those areas without zoning of any kind; and

WHEREAS, Planning staff made a two-part recommendation: 1) to extend the Interim Zoning Ordinance until July 15, 1996, or until permanent zoning is established for the Lummi Indian Reservation and the private in-holdings in the National Forest; and 2) to establish comprehensive planning designations and Title 20 zoning classifications on those properties owned by Seattle City Light within the North Cascades National Park; and

WHEREAS, Determination of Non-Significance was issued by the Deputy SEPA Official on June 17, 1994;

WHEREAS, pursuant to RCW 36.70.590 legal notice was published in the Bellingham Herald on Thursday, June 9, 1994; and


WHEREAS, the Planning Commission held a public hearing on June 22, 1994, and considered all testimony;

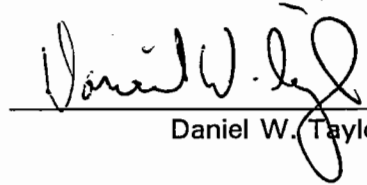
NOW THEREFORE BE IT RESOLVED:

FINDINGS OF FACT AND REASONS FOR ACTION

1. A quorum of Commission members was present during the hearing.
2. The statutory requirement was met regarding legal notice.
3. The Planning Commission concurred with the FINDINGS, CONCLUSIONS, and RECOMMENDATION presented in the Staff Report, dated June 22, 1994.
4. At the special meeting on June 22, 1994, the Planning Commission voted unanimously to approve the request.

WHATCOM COUNTY PLANNING COMMISSION


David K. Simpson, Chairman
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Daniel W. Taylor, Secretary

Date: 7-5-94

Commissioners present at June 22, 1994 hearing:

Dave Simpson, Phil Urso, Dave Ernst, Elaine McRory, Clare Fogelsong, Emil Baijot

Vote: Unanimous Ayes

Prepared by: Dan Taylor

WHATCOM COUNTY PLANNING DEPARTMENT STAFF REPORT

APPLICANT: Whatcom County

REQUEST

The request is two-fold. The first part is to extend the Interim Zoning Ordinance, WCC Chapter 2.24A, until July 15, 1996, or until permanent zoning is established for the Lummi Indian Reservation and the private in-holdings in the National Forest. The second portion of the request is to establish comprehensive planning designations and Title 20 zoning classifications on those properties owned by Seattle City Light within North Cascades National Park. The plan designations and zoning categories include Rural Forestry, Urban (Reserve) Residential, Light Impact Industrial, and General Commercial.

STATUTORY REQUIREMENTS

Pursuant to RCW 36.70.590 legal notice was published in the Bellingham Herald on Thursday, June 9, 1994, and a public hearing will be held on June 22, 1994. A Determination of Non-Significance was issued on June 17, 1994.

REGULATORY EFFECTS OF THE REQUEST

The first component of the request, as noted above, is to extend the Interim Zoning Ordinance, WCC Chapter 2.24A, for the Lummi Indian Reservation and the private in-holdings in the National Forest. Without the extension, the Interim Zoning Ordinance would expire on July 15, 1994, and leave certain areas of the county with no zoning. Extending the interim zoning maintains an existing regulatory framework in those areas until comprehensive planning and regular zoning, as established in Title 20, can be applied.

The second component of the proposal addresses the properties owned by Seattle City Light and are presently zoned General Protection (GP) under interim zoning. The GP zoning district functions to provide a measure of broad protective control deemed appropriate and necessary to protect public and private interests, in accordance with the mandate of Chapter 35.70.780 RCW. Its purpose is to establish a multiple-use district in which expansion of business, industry, and concentrated residential development is restricted to a minimum extent. The zone was developed as an interim solution (see chapter 2.24A of the Whatcom County Zoning Ordinance, Section 2.24.510) until the identified land receives a single classification under the permanent zoning ordinance. The permitted uses in this district range from Agriculture and the necessary accessory uses; Forestry; One Single-family Dwelling per each lot of record; the usual accessory uses to Industrial; and other uses that require prior administrative approval such as surface mining of soil, gravel and peat extraction. The Newhalem and Diablo exclaves are presently covered entirely by this classification.

ANALYSIS

With interim zoning lapsing on July 15, the most prudent approach would be to extend it one more time. To not do so, leaves no zoning in the exclave areas and on the reservation. As a practical matter, the land use patterns in both places are well established and basically dictated by the market. Given the location of the exclaves, a seasonal cabin, forestry, or mining are the only practical uses. Nonetheless, zoning does provide a safety net to ensure a level of predictability. On the reservation, the danger would be someone establishing a business or industrial use in an existing house in a residential neighborhood which would be offensive to existing residents who expect a single family residential pattern. The zoning also provides predictable development standards, such as setbacks.

The remainder of this section will be devoted to a discussion of the Seattle City Light property. Seattle City Light has three distinct areas of ownership (see Exhibit A). The first of the three include property composed of several large parcels just north of the Skagit County line (see Exhibit B). These are partially utilized for fish rearing ponds and for storage of gravel, wood and other debris, and explosive caps and blasting powder. There is also a burn area for wood and other burnable waste.

The town of Newhalem further east is the main center of activity (see Exhibit C). It includes a number of storage buildings or warehouses, a machine shop, dormitories, a generating plant, a library, bunkhouse, cookhouse, grocery, meeting hall, apartments, a fire station, an office building, a building for sandblasting, employee single family housing, and a sewer treatment plant. Most of these uses lie south of Highway 20 along the north bank of the Skagit River. Some of the buildings lie north of the highway on flat terrain with additional land rising steeply to the north (see Map C).

Continuing further east, the town of Diablo lies along the north shore of Gorge Lake, the stretch of the Skagit River between Gorge Dam and Diablo Dam (see Exhibit D). This area contains employee apartments, single-family houses, bunkhouses, a fire station, and recreational facilities. The major work center in Diablo next to the pen stocks and generating plant are not in Seattle City Light ownership and not subject to zoning. This area is leased from the National Park Service.

Proposed Land Use

Most of the area under Seattle City Light's ownership is developed to the extent it is intended to be. No change is anticipated for the area near the Skagit County line. Diablo also is slated for very limited change. However, in Newhalem, Seattle City Light anticipates a number of changes including removal of several existing buildings; some renovation of buildings with possible re-uses and some new construction to respond to new environmental regulations including, possibly, a new sandblasting building, paint storage, and paint mixing facilities, and a hazardous waste storage building to house cans of old paint and other chemicals waiting for proper disposal off-site.

As staff worked with Seattle City Light, the objective was to propose the minimum number of plan designations and zoning districts necessary to accommodate the existing and future uses. Because Diablo is essentially residential and proposed to remain residential, the most appropriate existing plan and zone appeared to be the Urban Reserve

8. Unless the Interim Zoning Ordinance is extended, no zoning will exist on the Lummi Indian Reservation fee lands or the exclaves of private property within the National Forest.
9. Seattle City Light owns approximately 420 acres of property within the Cascades National Park located in three clusters along Highway 20, including the towns of Newhalem and Diablo.
10. These properties have been developed over a number of years in an appropriate manner to serve the power generating needs of Seattle City Light.
11. No major new development is anticipated. Minor redevelopment, however, including some new structures and demolition and relocation of existing structures, is anticipated.
12. The General Protection zoning on the properties has the inherent flexibility to provide for the present and anticipated uses, but does require the conditional use process for new uses.
13. Forestry, Residential, Commercial, and Industrial Plan Designations and zones generally reflect the existing uses and would allow anticipated uses without requiring a conditional use permit.

CONCLUSION

1. It is in the County's best interest to extend the Interim Zoning Ordinance. An additional two years is ample time to deal with the exclaves in the National Forest and should be enough time to deal with the issues of planning on the reservation if the County and the Lummi Indian Nation commit to it.
2. Seattle City Light's current land use pattern and future plans provide the basis for the limited planning effort which was used to establish the proposed plan designations and zoning districts. As these properties are in one ownership with the National Park as the only neighbor, no additional analysis or process is required.

RECOMMENDATION

Planning staff recommends: 1) an extension of the Interim Zoning Ordinance, Chapter 2.24A of the Whatcom County Code, until July 15, 1996, or until permanent zoning is established for all areas within the jurisdiction of Whatcom County, whichever comes first; 2) the plan designations and zoning districts be adopted for the Seattle City Light property as described by the attached maps and legal descriptions. (Exhibits A through D).

Attachments: Exhibit A
 Exhibit B
 Exhibit C
 Exhibit D

EXHIBIT B

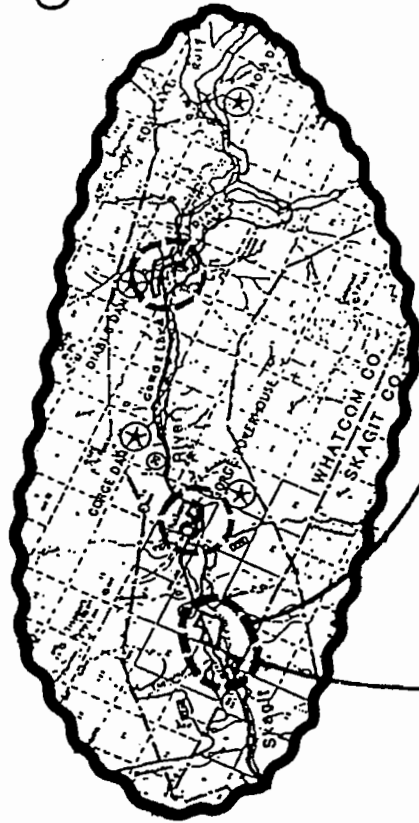
All of the following parcels:

Gov't. Lot 3 -- Sect. 36 - Twp. 37 - Ra. 11E

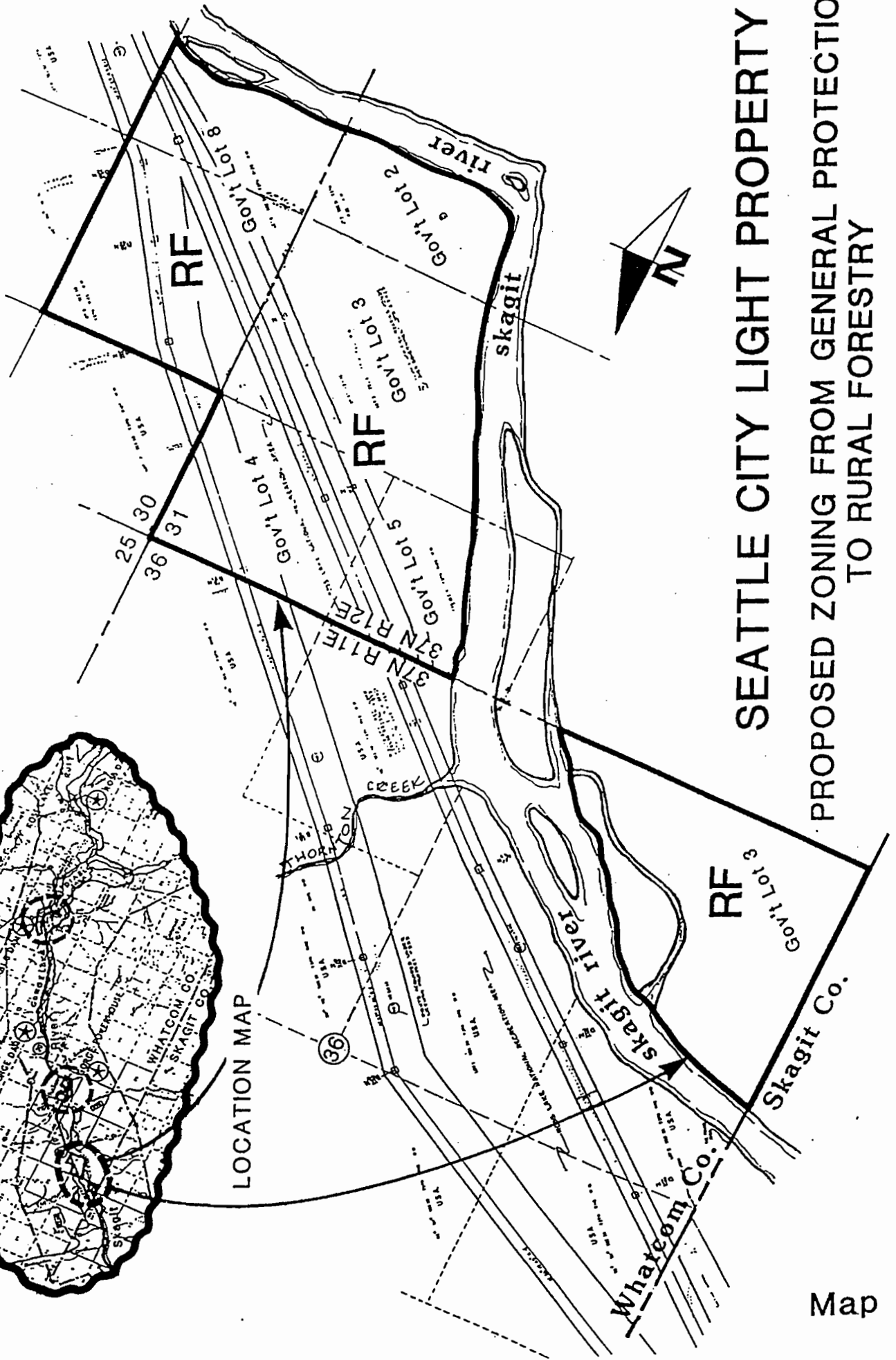
Gov't. Lot 8 -- Sect. 30 - Twp. 37 - Ra. 12E

Gov't. Lots 2,3,4,5 -- Sect. 31 - Twp. 37 - Ra. 12E

COMP. PLAN DESIGNATION FORESTRY



LOCATION MAP



SEATTLE CITY LIGHT PROPERTY

PROPOSED ZONING FROM GENERAL PROTECTION
TO RURAL FORESTRY

Map B

EXHIBIT "C"

RURAL .ESTRY ZONE

A parcel of land situate in Whatcom County, Washington in Section 21, Township 37 North, Range 12 East W.M. described as follows:
All of the N.W. 1/4 of the S.W. 1/4 of said section 21 lying north of the following described line:
Commencing at the 1/4 corner common to sections 20 and 21 of said township,
Thence S 0° 23' 37" W 710 ft. along the section line to the True Point of Beginning;
Thence S 64° 56' 00" E 1454.62 ft. to the S.E. corner of the N.W. 1/4 of the S.W. 1/4 of said section 21 and the terminus of this line.
Basis of bearing is the Seattle City Light Copper Creek Coordinate Grid.

A parcel of land situate in Whatcom County, Washington in Section 21, Township 37 North, Range 12 East W.M. described as follows:
Beginning at the center of said section 21,
Thence S 0° 24' 07" W 1111.6 ft. along the north-south centerline of said section to the City of Seattle Lighting Department Project no. 553 boundary as shown on sheet 101 of Exhibit K, Skagit River Project F.P.C. no. 553 also being drawing no. D-27742, Records of Seattle City Light;
Thence N 64° 51' 21" E 1240.95 ft. along said boundary;
Thence N 27° 10' 40" E 400 ft. more or less to the line of ordinary high water of the Skagit River;
Thence North-Northwesterly along said line of ordinary high water to the intersection of the east-west centerline of said section 21;
Thence Westerly along said east-west centerline to the center of said section 21 and the Point of Beginning.
Basis of bearing is the Seattle City Light Copper Creek Coordinate Grid.

GENERAL COMMERCIAL ZONE

A parcel of land situate in Whatcom County, Washington in Section 21, Township 37 North, Range 12 East W.M. described as follows:
Commencing at the 1/4 corner common to sections 20 and 21 of said township,
Thence S 0° 23' 37" W 1295.87 ft. along the section line to the intersection of the City of Seattle Lighting Department Project no. 553 boundary as shown on sheet 101 of Exhibit K, Skagit River Project F.P.C. no. 553, also being drawing no. D-27742, Records of Seattle City Light;
Thence S 80° 50' 00" E 1337.46 ft. along said project boundary to the intersection of the west line of the S.E. 1/4 of the S.W. 1/4 of said section 21;
Thence N 0° 23' 52" E 182.64 ft. along said line to the N.W. corner of said S.E. 1/4 of the S.W. 1/4 of said section 21;
Thence S 89° 37' 27" E 1321.82 ft. along the east-west centerline of the S.W. 1/4 to the north-south centerline of said section 21;
Thence N 0° 24' 07" E 208.40 ft. along said north-south centerline to the intersection of said Project no. 553 boundary;
Thence N 64° 51' 21" E 1240.95 along said boundary;
Thence N 27° 10' 40" E 312 ft. more or less, continuing along said boundary to the intersection of the east margin of State highway SR-20;
Thence Southerly and Westerly along said SR-20 margin to a point which bears N 76° 10' 06" E 540.00 ft. from the N.E. corner of the S.E. 1/4 of the S.W. 1/4 of said section 21;

Thence S 17° 22' 21" E 480 ft. more or less to a point on the line of ordinary high water of the Skagit River, said point bears N 34° 20' 30" E 1200.00 ft. from the 1/4 corner common to sections 21 and 28 of said township;
Thence Westerly along said line of ordinary high water to the intersection of the line common to sections 20 and 21 of said township,
Thence N 0° 23' 37" E 447.70 along said section line to the True Point of Beginning.
Basis of bearing is the Seattle City Light Copper Creek Coordinate Grid.

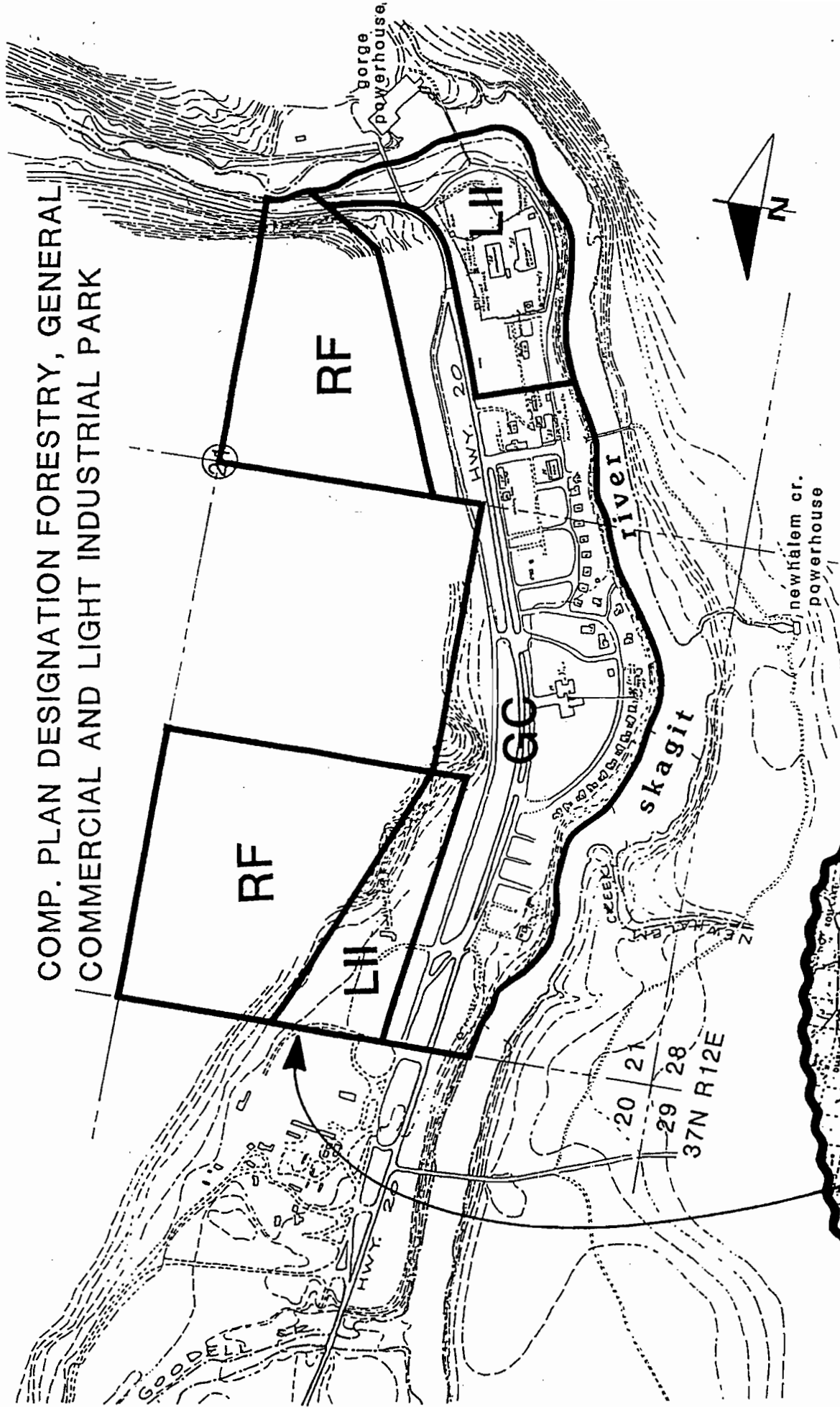
LIGHT IMPACT INDUSTRIAL ZONE

A parcel of land situate in Whatcom County, Washington in Section 21, Township 37 North, Range 12 East W.M. described as follows:
Commencing at the 1/4 corner common to sections 20 and 21 of said township,
Thence S 0° 23' 37" W 710.00 ft. along the section line, to the True Point of Beginning;
Thence S 64° 56' 00" E 1454.62 ft. to the N.E. corner of the S.W. 1/4 of the S.W. 1/4 of said section 21;
Thence S 0° 23' 52" W 182.64 ft. along the east line of the S.W. 1/4 of the S.W. 1/4 of said section 21;
Thence N 80° 50' 00" W 1337.46 ft. to the west line of said section 21;
Thence N 0° 23' 37" E 585.87 ft. along said section line to the Point of Beginning.
Basis of bearing is the Seattle City Light Copper Creek Coordinate Grid.

A parcel of land situate in Whatcom County, Washington in Section 21, Township 37, Range 12 East W.M. described as follows:
Commencing at the 1/4 corner common to section 21 and 28 of said township,
Thence N 34° 20' 30" E 1200.00 ft. to a point on the line of ordinary high water of the Skagit River and the True Point of Beginning;
Thence N 17° 22' 21" W 480 ft. more or less to the south margin of State highway SR-20;
Thence Easterly and Northerly along said SR-20 margin to the intersection of the City of Seattle Lighting Department Project no. 553 boundary as shown on sheet 101 of Exhibit K, Skagit River Project F.P.C. no. 553, also being drawing no. D-27742, Records of Seattle City Light;
Thence N 27° 10' 40" E 88 ft. more or less along said project boundary to the line of ordinary high water of the Skagit River;
Thence Southerly and Westerly along said line of ordinary high water to the True Point of Beginning.
Basis of bearing is the Seattle City Light Copper Creek Coordinate Grid.



COMP. PLAN DESIGNATION FORESTRY, GENERAL
COMMERCIAL AND LIGHT INDUSTRIAL PARK



NEWHALEM

PROPOSED ZONING FROM GENERAL PROTECTION TO
GENERAL COMMERCIAL, LIGHT IMPACT INDUSTRIAL
AND RURAL FORESTRY



LOCATION MAP

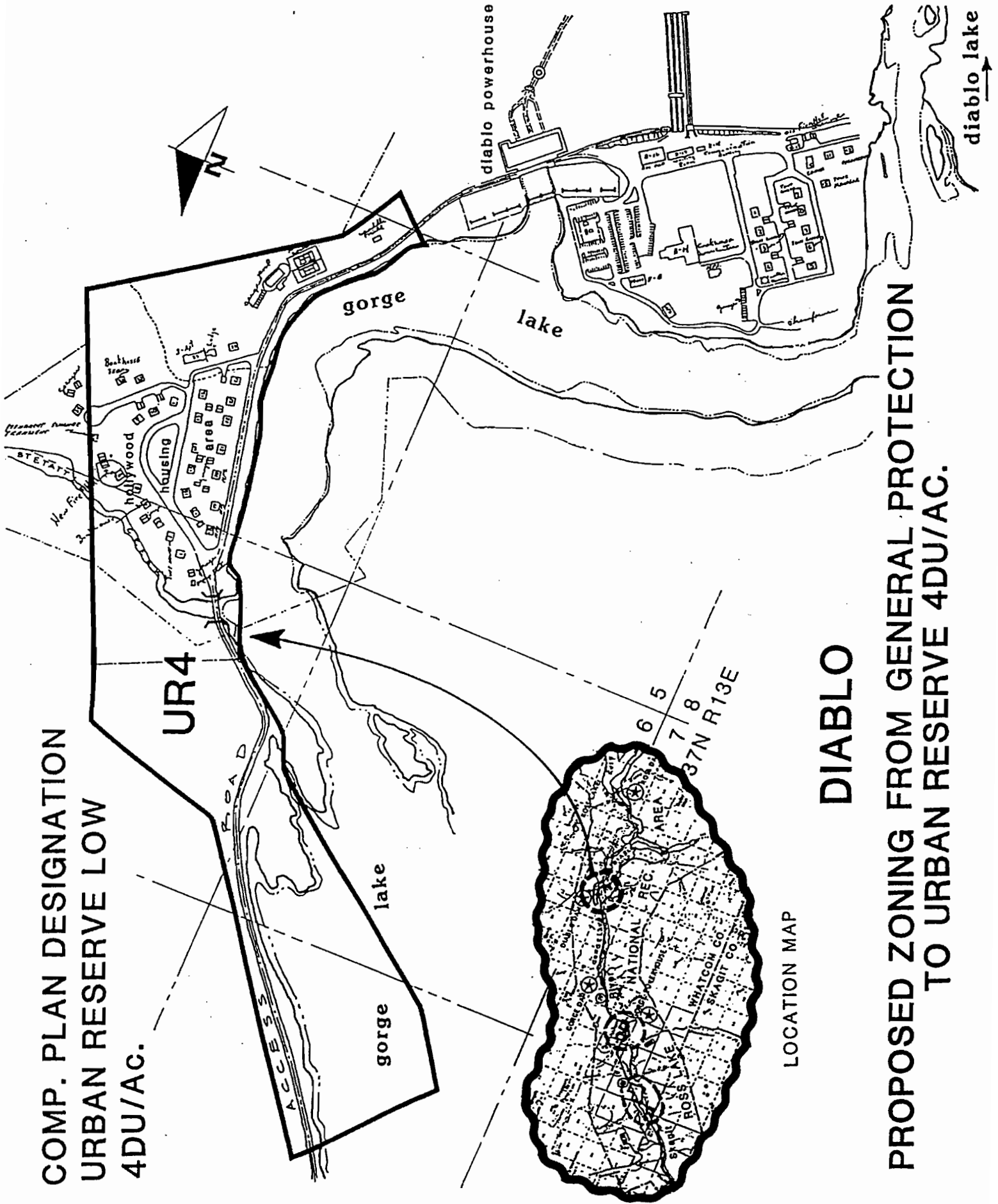
This is the legal description for the City of Seattle, City Light Department fee-owned property in the vicinity of Diablo, Washington.

EXHIBIT "D"

The following described real estate situated and being in Whatcom County, Washington, to-wit:

Beginning at a corner No. 1 situated on right bank of Skagit River, from which United States Location Monument No. 124 bears North 36° 10' 20" East 32 3/10 chains distant, thence north forty five degrees ten minutes West 9 and Thirty-two hundredths chains to corner No. 2; thence North fifty-six degrees fifteen minutes East Twenty and twenty-eight hundredths chains to corner No. 3, thence north eighteen degrees forty-eight minutes east nine and five-tenths chains to corner No. 4; thence north sixty-eight degrees twenty minutes east twenty-four and seventeen-hundredths chains to corner No. 5, thence south thirty-two degrees thirty six minutes east fifteen and seven-hundredths chains to corner No. 6, thence south fifty-seven degrees forty-five minutes east three and ninety-six hundredths chains to corner No. 7; thence South Forty degrees West one and ninety seven hundredths chains to corner No. 8 situated on said right bank of Skagit River; thence meandering said right bank of Skagit River, North Thirty-eight degrees forty-five minutes west seven and eight-tenths chains, south eighty-three degrees West ten chains, south seventy-three degrees thirty minutes west ten chains, south forty-eight degrees thirty minutes west fourteen chains, south fifty-seven degrees sixteen minutes west four and sixty-two hundredths chains to corner No. 1, the place of beginning; containing 43 and fifty-six-hundredths acres,

COMP. PLAN DESIGNATION
URBAN RESERVE LOW
4DU/AC.



DIABLO

PROPOSED ZONING FROM GENERAL PROTECTION
TO URBAN RESERVE 4DU/AC.

LOCATION MAP

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

Special Meeting

June 22, 1994

Page 1

CALL TO ORDER The meeting was called to order by Chairperson, David Simpson, at 7:05 P.M. The meeting was held in the Council Chambers, 1000 North Forest, Bellingham, Washington.

ROLL CALL PRESENT: Dave Ernst, Phil Urso, Elaine McRory, Clare Fogelsong, and David Simpson, and Emil Baijot

STAFF PRESENT Terry Galvin and Carole Magner

Public Hearing

File 18-94:IZO Interim Zoning Ordinance

No conflict of interest was noted. Terry Galvin presented staff report, explaining that he was filling in for Dan Taylor who is unavailable.

This hearing is to request consideration for extending the Interim Zoning Ordinance until July 15, 1996, and to adopt comprehensive planning and permanent zoning for the areas owned by Seattle City Light including Newhalem and Diablo.

A letter from Seattle City Light was read into the record. Staff worked with Seattle City Light to determine a best fit to meet their future needs. Maps showing proposed designations were discussed.

Map C area west of LII and north of Highway 20 is not part of Newhalem or part of the exclave. The building have been abandoned and is owned by the National Forest. The County does not have jurisdiction over that area.

Staff recommends approval of the extension.

Map D: North of UR4 is a cul-de-sac with housing indicated that is not in UR4. Galvin isn't familiar with this, but imagines Seattle City Light housing is encroaching into the National Forest. There's probably some kind of agreement established between the two entities.

Why UR4 in Diablo and UR18 in Newhalem ... Newhalem is already at build-out ... there's a leap of faith that Seattle City Light won't go into the development business in the future.

Map C: Who owns property between RF designation. Galvin explained that all three exclaves are surrounded by the National Forest. There are other private holdings throughout the National Forest ... practically speaking no development could occur there.

Map D: Further south below the Diablo powerhouse, what is the area not in UR4 and is there a zoning designation. Galvin explained that the property is owned by the National Forest with long term lease.

Galvin added that according to the Environmental Planner for the Lummi Nation, the Lummi's support interim zoning at this time.

With no further testimony, the public hearing was closed.

Moved by Baijot, seconded by McRory to accept staff recommendation for extending the Interim Zoning Ordinance. (This is to include both sections of the request.)

Fogelsong questioned Lummi support and Galvin explained that in fact the Lummi Nation and

RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION

Special Meeting

June 22, 1994

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the County are continuing to debate jurisdiction over the fee lands. Cross Cultural Workshops have at least begun to bridge communication gap between the two entities.

Questioned called for. Roll Call: Ayes: Baijot, Urso, Ernst, Fogelsong, McRory, Simpson; and thereupon the motion carried unanimously.

With no further business to come before the Commissioners, the meeting adjourned at 7:30 p.m.

WHATCOM COUNTY PLANNING COMMISSION

ATTEST:

David Simpson, Chairperson

Daniel W. Taylor, Secretary