Proposed Course of Action

April 12, 2019

**PROPOSED COURSE OF ACTION**

**I. Declare all land in Forest Districts above 2000 feet in elevation to be “High Elevation Resource Lands” which must be left in a natural condition free from all development. Designate these places on a special “High Elevation Protection Overlay Map” which will be included in our zoning regulations, enhanced energy plan and the revised version of the Town Plan for 2020.**

PROS:

1) This eliminates the problem of trying to precisely define what a ridgeline is. We just won’t use that term.

2) This will protect almost all the high ridges and scenic assets in town. It protects the headwaters of streams, eliminates prospective industrial turbine sites, and preserves forest blocks and high elevation habitat that may be needed as more and more species adapt to climate change.

3) This does not restrict development on property above 2000 feet in the Rural Residential districts. No special exemptions are needed to install solar arrays or wind energy systems for onsite electricity consumption or for net-metered solar arrays or wind energy systems that do not exceed 15 kW capacity.

CONS:

1) There are several land parcels in Rural Residential areas east of Abbott Road that are above 2000 feet. Development would be permitted there. At most, two of these sites were prospective turbine locations. One is probably too steep to develop according to our zoning regulations.

2) Mandating that all land above 2000 feet in Forest Districts remain in its natural condition means that all permitted and conditional uses in these areas that are listed in Sec. 201.3 of the zoning regulations can only occur below 2000 feet. This includes private and recreational camps, single family homes and the extraction of earth resources. Is that okay, or is it too restrictive? If it’s too restrictive, we can add some exceptions to this rule or could try to redraw the High Elevation Protection Overlay map to allow some of these activities at higher elevations, as long as they occur well below the highest, most visible mountaintops.

**II. Redraw the boundary of the Recreational/Commercial District to include the Timber Ridge ski trails.**

PROS:

1) This would allow solar arrays on these trails without having to add any special exemptions in the zoning regulations or in the enhanced energy plan.

2) These trails were created for recreational purposes and continue to be used as such. Therefore, it is logical to include the in the Recreational/Commercial zoning district.

3) The map Jeff Nugent made for us recently shows the boundary of the ski trails, so it should be relatively easy to do this.

CONS:

None that we can think of.

**IMPLEMENTATION**

**I. Changes to the Town Plan**

**A)** p.72 Policy 1: “Protect and enhance Windham’s Scenic Landscapes and Resources. Action 1. (***eliminate*** *“****Prominent ridgelines” and replace with) Land above 2000 feet elevation in Forest Di*stricts (Or we could say “High Elevation Resource Lands”)** shall be left in a natural condition, free from all development, including roads, building structures, utilities, wireless broadcast telecommunications facilities, and industrial wind turbines. *(Do we need to add exceptions for the permitted and conditional uses in Sec. 201.3?)*

B) p.87 Economic Development Policies: Policy 1: “The town prohibits any commercial or industrial operations on ***(eliminate “its ridgelines”and replace with)*** land above 2000 feet elevation in Forest Districts other than forestry and will not support any commercial or industrial activity that exceeds the capacity of its public infrastructure including emergency response assets.” *(Again, do we add exceptions?)*

C) p. 92 (93) Utilities and Resources map shows prominent ridgelines (**Replace with a new “High Elevation Protection Overlay” map.**

D) p. 102 (103) Viewsheds map shows prominent ridgelines **(change this to show “High Elevation Resource Lands”)**

**II. Changes to the Zoning Regulations**

A) Sec.201.5 change language to eliminate “ridgelines” and say instead “high elevation resource areas (land above 2000 feet in Forest Districts).”

B) Sec. 207 Prohibited Use #4. Eliminate the word “ridgelines” and instead say “Development on land above 2000 feet elevation in Forest Districts.” *(Do we need to add exceptions for permitted and conditional uses in Sec. 201.3?)*

C) Sec. 209 Performance Standard #10 Eliminate references to ridgelines and instead say “Development on land above 2000 feet elevation in Forest Districts”

a) “All development, including roads, structures (except camps as defined herein) utilities and wireless telecommunications facilities are prohibited.” *(Do we eliminate this sentence, keep it as is, or add additional exceptions?)*

D) Should we add a second sentence to the first paragraph of Sec. 505 to say “Wind installations are subject to restrictions set out in Sections 207 and 209 of these regulations.” This is what we say about solar energy systems in Sec. 506. N.B. This possible change is not contingent upon the creation of a High Elevation Resource Protection Overlay.

**III. Changes to the Enhanced Energy Plan**

A) Policy 3.1, Action Step # 4. Eliminate references to ridgelines and instead say “*Land above 2000 feet elevation in Forest Di*strictsshall be left in its natural condition, free from all development.” *(Do we need to add exceptions for permitted and conditional uses in Sec. 201.3?)*

Policy 4.7 Bullet point #2 Change this to read “Fragile natural areas including land above 2000 feet elevation in Forest Districts (subject to any exceptions set out under Policies 3.1 and 4.12.)

Policy 4.12 Eliminate references to ridgelines and instead say “*Land above 2000 feet elevation in Forest Di*strictsshall be left in its natural condition, free from all development including roads, building structures, utilities, wireless broadcast telecommunications facilities, and industrial wind turbines. The town prohibits any commercial or industrial operations in High Elevation Resource Lands other than forestry and will not support any commercial or industrial activity that exceeds the capacity of its public infrastructure including emergency response assets.”

(Again, do we add various exceptions here or maintain a blanket prohibition? Is it necessary to spell out the kind of development that is prohibited?)

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\*\* If we want to create a “High Elevation Resource Lands” designation and a “High Elevation Protection Overlay Map”, do we make this a new, additional overlay district (Sec. 201.7) or do we incorporate this into the existing Resource Protection Area Overlay (Sec. 201.5)? Currently Sec. 201.5 only seems to apply to the Rural Residential District (see map #7, “Future Land Use Areas” on p. 99 of the Town Plan) and it allows the permitted and conditional uses in that district. The purpose of the Resource Protection Area Overlay is not very clearly stated. If we want to include High Elevation Resource Lands in Sec. 201.5 both the purpose and the uses sections will have to be rewritten.

Regardless of whether we create a new High Elevation Protection Overlay, or whether we incorporate High Elevation Resource Lands

in Sec. 201.5 , we may want to adopt some of the language in the Westminster Town Plan and zoning regulation as follows. The language in black is from the Westminster zoning regulations; language in red text is additional verbiage we may want to add.

ARTICLE XIV of their zoning is a Ridgeline Protection Overlay District (RPOD) which we might call a High Elevation Protection Overlay District.

Sec.1412 Purpose.

The purpose of the High Elevation Protection Overlay District is to protect fragile and ecologically important land and to preserve Windham’s rural character and scenic landscape. High-elevation sites above 2000 feet in Forest Districts are especially fragile and important for a variety of reasons, particularly because they are the source of the headwaters for numerous streams and rivers, and include forest blocks and high elevation habitat that may be needed as more and more species adapt to climate change. These areas are appropriate for no development, or perhaps for limited, low-impact development. Any development that may be allowed must be located and designed in a manner that protects the uninterrupted skyline and minimizes environmental disruption and adverse visual impact on designated ridges, hilltops and adjacent slopes.

Sec. 1421 BOUNDARIES.

District boundaries are identified on the attached High Elevation Protection Overlay Map.

Sec. 1422 PARCEL DIVIDED BY OVERLAY DISTRICT.

The provisions of this Article shall only apply to that portion of a parcel located within the Overlay District.

Sec. 1460 CRITERIA FOR APPROVAL

A. Conditional Use Approval:

All Development within the High Elevation Protection Overlay District shall require conditional use approval. (This would involve changing Sec 201.3 which allows some permitted uses. We might not want to change this.)

B. Placement of Structures.

The highest feature of all structures shall be located a minimum of 20 feet below the nearest identifiable ridge or hilltop unless the ZBA determines that an alternative location with less than the 20-foot minimum on the parcel would be less visible and better comply with these standards. However, this standard shall not prohibit development of any preexisting lot that is entirely within the 20 vertical feet of the nearest identifiable ridge or hilltop. In such case, the structure shall be located in such a way as to minimize adverse visual impact.

C. Height not to Exceed Canopy

Structures shall be situated so that the height of any structure will not visually exceed the height of the tree canopy adjacent to or serving as the visual backdrop for the structure.

D. No Adverse Visual Impact

Structures shall be situated so that they shall not result in an adverse visual impact…

E. Forest Cover.

On wooded sites, forest cover shall be maintained or established adjacent to proposed structures to interrupt the visibility of structures…