STAFF REPORT AND RECOMMENDATION TO THE CLARK COUNTY PLANNING COMMISSION

TO: Clark County Planning Commission

FROM: Jan Bazala, Planner II

PREPARED BY: Jan Bazala, extension 4499

SUBJECT: Bi-Annual Code Changes – Spring, 2016

PC HEARING DATE: April 21, 2016

REPORT PREPARATION DATE: March 29, 2016

I. SUMMARY

Twenty-nine (29) code changes are presented for the Planning Commission's consideration and recommendation to the Board of County Councilors.

II. BACKGROUND

Periodically staff "batch" minor amendments to the Clark County Code to correct scrivener's errors, update references, clarify standards and codify interpretations of code language brought about by management decisions, hearings examiner or Board of Clark County Commissioners actions. An index of potential changes is included with this briefing memo, along with the proposed full-text revisions in Attachment "A". Language proposed to be deleted is ~~struck-through~~. Language proposed to be added is double-underlined.

III. PROCESS

Most of the code changes are identified by staff in the course of review of various permit applications, or in researching questions from customers.

IV. ANALYSIS

Should the code changes be approved, several sections of Clark County Codes will be revised to include:

- Title 40, including the Highway 99 overlay standards in Appendix F
- Title 14, Buildings and Structures (fence height)

- Titles 5, 10, and 32 (Updated references to Community Development only)

Attachment "A" includes the entire text of the changes, along with a "rationale" section which explains why the change is proposed. Attachment "A" is divided into four sections:

- **Scrivener's errors**, which correct obvious mistakes;
- **Reference updates,** which update references to other changed codes or agency processes;
- **Clarifications,** which are intended to make existing code language more clear,
- **Minor policy changes**, which may have impacts to existing county policy.

V. COMMUNITY OUTREACH

This is an ongoing program. The need for some of the proposed clarifications was brought to staff's attention by customer inquiries.

The Planning Commission held a work session on April 7, 2016.

A SEPA determination of non-significance was published in the "Columbian" newspaper on March 30, 2016.

A legal notice of the public hearing was published in the "Columbian" newspaper on April 6, 2016.

In addition, the text of the proposed changes was presented to the Development Engineering Advisory Board (DEAB). They voted to approve the amendments as proposed at their March 2016 meeting.

VI. RECOMMENDATION

Staff recommends the Planning Commission favorably consider this proposal and forward a recommendation of APPROVAL to the Board of County Commissioners.
Enclosures:

Bi-Annual Code Index – Spring 2016
Attachment A – Text changes
#25, Retaining walls/fences sketch

BI-ANNUAL CODE CHANGE ITEMS – SPRING 2016			
No.	Page	Title/Chapter/Section	Description
Scrivener's Errors			
1	1	Table 40.350.030-3, Road standards	Correct footnote referring to minimum centerline radii
2	3	Table 40.210.010-1-Resource zones use table	Fix table to state that heliports are a conditional use in the FR-40 zone
3	4	40.540.020.B.4.e, Land Divisions	Correct reference to binding site plan requirements
4	5	40.570.090.E.5, Non-applicable SEPA exemptions	Fix loophole which currently allows utility lines between 8 and 12 inches to be exempt from SEPA in critical areas, while requiring SEPA review for lines less than 8 inches
5	6	Appendix A page 20, Mixed Use Design Standards	Correct reference to garage standards
Reference Updates			
6	7	Chapter 5.45, Adult Entertainment Enterprises	Update Department of Public Services references to Community Development
7	8	Chapter 10.08A, Vehicle Load Limits	Update Department of Public Services references to Community Development
8	8	32.04.045, Enforcement Code	Update Department of Public Services reference to Community Development
9	9	40.570.080.C.3.c, SEPA and County Decisions-	Update references to sewer regulations
10	10	40.350.030.B.4.b.(1)(c), Road Standards	Update subsection regarding the number of lots that can obtain access from a shared driveway
11	11	40.500.010, Summary of Procedures and Processes	Update 5 year deadline reference to 7 years for extensions of final plat phases
12	12	40.520.020.D.8, Uses Subject to Review and Approval	Update reference to the special use section that applies to townhomes
13	13	40.540.120, Alteration and Vacation of Final Plats alterations	Update approval timeline between preliminary and final approval for plat

14	13	Appendix F, Highway 99 Overlay standards Section 7.5.2	Update reference to townhouse standards
15	13	Appendix F, Highway 99 Overlay standards Section 9.3.2 Trail Implementation	Clarify that Level II addition and remodel projects are not subject to trail requirements
Clarifications			
16	14	40.100.070, Corner Lot Definition	Clarify corner lot street side setback requirements
17	15	Tables 40.210.020-3, 40.210.030-3, 40.210.040-3, and 40.230.070-3	Clarify that fire regulations may require side and rear setbacks greater than 10 or 20 feet
18	18	40.260.055, Coffee and Food Stands	Clarify that small coffee and food stands are exempt from traffic impact fees
19	19	40.350.030.B.4.d	Clarify that road taper specifications are not included in the County's standard plans
20	20	Table 40.510.050-1, application submittal requirements	Clarify that proof of submittal to DAHP includes a DAHP response of receipt of an archaeological pre-determination
21	21	40.520.030.I, Conditional Uses	Clarify the process to expand a conditional use
22	22	Appendix F, Highway 99 Overlay standards Section 7.4.4	Clarify that garden apartments are subject to multifamily design requirements
Minor Policy Items			
23	22	14.06.105.2, Clark County Residential Code	Adopt the International Residential Code standard to allow fences up to seven feet high without building permits
24	23	Table 40.230.085-1, Employment Districts Use Table	Prohibit wrecking yards and tire wholesalers in the Business Park zone
25	24	40.320.010.F, Landscaping Standards	Amend fence height and setback requirements for retaining walls and fences
26	26	Table 40.350.030-1, Rural Urban Classification table	Add C-2b ("Urban Collector with Bike Lanes") classification to the Rural to Urban Classification Conversion Table

27	26	40.560.010, Plan Amendment Procedures	Limit amendments to the Shorelines Master Program to once a year
28	28	40.570.090.D.1.b, SEPA Critical Areas	Eliminate SEPA review requirement for Shoreline Exemptions that are located within Flood Hazard Areas
29	29	Section 4.2, Highway 99 Overlay Standards	Process wireless communication facilities as Conditional Uses in the Highway 99 Overlay area

Spring 2016
Proposed
Bi-Annual Code Amendments
Attachment "A"

Proposed changes are shown by ~~strikeouts~~ and double underlines.

The proposed text changes are followed by a **Rationale** section to provide background to the proposed changes.

SCRIVENER'S ERRORS

1. Correct footnote referring to minimum centerline radii in Table 40.350.030-3

(see next page)

Table 40.350.030-3

Roadway Type		Design Speed (MPH)	Maximum Grade (%) Flat[1]	Maximum Grade (%) Rolling[1]	Maximum Grade (%) Mountainous[1]	Minimum Centerline Radius (ft.) Flat	Minimum Centerline Radius (ft.) Rolling	Minimum Centerline Radius (ft.) Mountainous	Design Volume (ADT)	Minimum Full Access Intersection Spacing (ft.)	Minimum Full Access Intersection Curb Return Radii (ft.)[2,3]	Minimum R/W Radius Chords
	Storefront	25	7	9	10	200	200	200	12,000	275	35[4]	35[4]
Access	Neighborhood Circulator	25	15	15	15	150	150	150	3,000	150	25	NA
Access	Urban Local	25	15	15	15	70[4,5]	70[4,5]	70[4,5]	1,500	100	25	NA
Access	Short Cul-de-sac	25	18	18	18	70[4,5]	70[4,5]	70[4,5]	180	100	20	NA
Access	Private Road	25	18	18	18	70[4,5]	70[4,5]	70[4,5]	1,000	100	See Dwg F16 or F17	NA
Access	Private Road	25	18	18	18	70[4,5]	70[4,5]	70[4,5]	1,000	100	See Dwg F16 or F17	NA
Access	Rural Local	30	15	15	15	150	150	150	2,000	150f	25	NA
Access	Private Road	25[6]	18	18	18	60	60	60	500	100f	25	NA

[1] May be steeper for short distances where permitted by AASHTO Guidelines.
[2] Intersection of two (2) different street classifications shall use the larger intersection radius.
[3] Must meet state standards if intersecting state roads.
[4] Storefront streets may require curb extensions at intersections subject to Section 9.1.2 of the Highway 99 Overlay Standards, or for Mixed Use developments.
[5] Except for where the curve is between eighty (80) to one hundred ten (110) degrees, a minimum thirty-five (35) foot radius may be used.
[6] Design speed for rural private road may be reduced to twenty (20) miles per hour without road modification, if topography imposes severe restriction and has approval from the County Engineer.
[7] Forty-five (45) foot radius will be required on roads where truck/transit will use, and there is only one (1) lane of traffic.

Rationale: Footnote 4 in the "Minimum Centerline Radius" columns should be labeled footnone 5. Footnote 4 refers to situations where a curb extension can affect the curb radius of a road intersection, whereas the intended footnote 5 correctly refers to the centerline radii of roads not located at intersections.

2. Table 40.210.010-1-Fix table to state that heliports are a conditional use in the FR-40 zone

Table 40.210.010-1. Uses					
	FR-80	FR-40	AG-20	AG-WL	Special Standards
8. Resource Activities.					
a. Agricultural	P[6]	P[6]	P[6]	P	
b. The growing, harvesting and transport of timber, forest products and associated management activities in accordance with the Washington Forest Practices Act of 1974 as amended, and regulations adopted pursuant thereto	P	P	P	X	
c. Wildlife game management	P	P	P	P	
d. Plant nurseries	P	P	P	P	
e. Removal, harvesting, wholesaling and retailing of vegetation from forest lands including but not limited to fuel wood, Christmas trees, salal, berries, ferns, greenery, mistletoe, herbs and mushrooms	P	P	P	C	Chapter 40.440
f. Silviculture	P	P	P	C	40.260.080
g. Aggregate extraction and processing for the purposes of construction and maintenance of a timber or agricultural management road system	P[7]	P[7]	P[7]	X	40.260.120
h. Exploration for rock, gravel, oil, gas, mineral and geothermal resources	P	P	P	X	40.260.120
i. Extraction of oil, gas and geothermal resources, in accordance with all applicable local, state and federal regulations	R/A	R/A	R/A	X	40.260.120
j. Commercial uses supporting resource uses	P[8]	P[8]	P[8]	X	
k. Accessory buildings	P	P	P	P	40.260.010
l. Housing for temporary workers	P	P	P	P	40.260.105

m. Sawmills greater than ten thousand (10,000) board feet per day, and other products from wood residues, drying kilns and equipment	C	C	C	X	
	FR-80	**FR-40**	**AG-20**	**AG-WL**	**Special Standards**
n. Forestry, environmental and natural resource research and facilities	P	P	P	C	
o. The processing of oil, gas and geothermal resources	C	C	C	X	
p. Heliports, helipads and helispots used in conjunction with the resource activity	P	~~P~~C	C	X	40.260.170
9. Other.					
a. Signs	P	P	P	P	Chapter

Rationale: CCC 40.260.170, the special uses standards for Private Use Landing Strips for Aircraft and Heliports states the following:

A. Private landing strips and heliports may be permitted upon **approval of a conditional use permit** only in the R-5, R-10, R-20, AG-20, **FR-40,** IL and IH zoning districts.

B. **Heliports, helipads and helispots are permitted outright only in the FR-80 district**.

C. Private use heliports may also be permitted upon approval of a conditional use permit in the C-3, CL, GC and OR districts.

In cases where the code has an internal conflict, the more specific provision rules. Since the special use standards specifically require a conditional use permit in the FR-40 zone, the table must be corrected for consistency.

3. 40.540.020.B.4.e, Land Divisions-Correct reference to binding site plan requirements

40.540.020 Land Division – Introduction

B. Applicability.

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4. Exemptions. The provisions of this chapter shall not apply to the following:

a. Cemeteries and burial plots while used for that purpose.

b. Divisions of land into lots or tracts, each of which is one thirty-second (1/32) of a section of land or larger, or twenty (20) acres or larger, if the land is not capable of description as a fraction of a section of land. For purposes of computing the size of any lot under this item which borders on a street or road, excluding limited-access streets or roads, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street, and the side lot lines of the lot running perpendicular to such centerline.

c. Divisions of land which are the result of the actions of governmental agencies, such as condemnation for road construction purposes.

d. Divisions of land made by testamentary provisions, or the laws of descent.

e. Divisions of land into lots or tracts classified for industrial or commercial use, when the responsible official has approved a "binding site plan" for use of the land in accordance with Section ~~40.520.040(B)~~. 40.520.040(C).

Rationale: Subsection B.4 lists a number of land division methods that are exempt from state and county platting requirements. One method is the "binding site plan" process, which can be used only for commercial or industrial sites. The incorrect reference (40.520.040.B) refers to site plan review applicability section; 40.520.040.C correctly refers to the binding site plan section.

4. 40.570.090.E.5, Non-applicable SEPA exemptions-Fix loophole which currently allows utility lines between 8 and 12 inches to be exempt from SEPA in critical areas, while requiring SEPA review for lines less than 8 inches

E. Non-Applicable Exemptions to Critical Areas.

Clark County selects the following categorical exemptions to be inapplicable within certain critical areas as specified below:

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5. Utility-related exemptions under WAC 197-11-800(23) do not apply as follows:

a. Communication lines in WAC 197-11-800(23)(a) are not exempt in shoreline management areas;

b. ~~Eight (8) inch or less diameter water~~, Water, sewer and stormwater facilities in WAC 197-11-800(23)(b) are not exempt in any critical area;

c. Electric facilities in WAC 197-11-800(23)(c) are not exempt in shoreline management areas;

d. Natural gas distribution facilities in WAC 197-11-800(23)(d) are not exempt in shoreline areas; and

e. Right-of-way clearing in WAC 197-11-800(23)(f) is not exempt in shoreline areas.

6. The natural resources management exemptions under WAC 197-11-800(24) do not apply as follows:

a. Issuance of leases for school sites in WAC 197-11-800(24)(e) is not exempt in any critical area; and

b. Development of recreational sites in WAC 197-11-800(24)(g) is not exempt in any critical area.

7. Personal wireless service facilities in WAC 197-11-800(25) are not exempt in any critical area.

Rationale: Under WAC 197-11-800(23)(b), utility lines less than 12 inches in diameter are exempt from SEPA review unless the development is located in a critical area. This section currently states that lines 8 inches or less are not SEPA exempt if located in a critical area, but as written, it still exempts lines between 8.01 and 12 inches in diameter even if in a critical area. The exemption in WAC 197-11-800(23)(b) used to apply to utility lines 8 inches and above, but was raised to 12 inches in 2014; however, this section was never updated to correspond to the larger exemption.

5. Appendix A page 20, Mixed Use Design Standards- Correct reference to garage standards

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Townhouses
With increasing land costs, townhouses are becoming the "single-family home" for the new generation of first time home-buyers in the Pacific Northwest. Townhouses have also proven to be popular with empty nesters seeking smaller spaces and no yard work. The mixed-use development examples herein show how townhouses can successfully be integrated into a pedestrian-oriented mixed-use environment.

Key Applicable Standards

- Larger development site must meet mixed-use requirement
- Larger residential development must be within density range of 18-43 dwelling units per acre
- Open space requirements per Section A.1
- Building use, location, and orientation requirements per Section A.2
- Parking garage standards per Section B.~~5~~ 4
- Building design standards per Chapter D

Rationale: There is no section B.5. Garage and parking standards are found in B.4.

REFERENCE UPDATES

6. Chapter 5.45, Adult Entertainment Enterprises-Update Department of Public Services references to Community Development

5.45.020 Definitions.
As used in this chapter:

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(11) "Department" means the ~~office of planning and development review of the Clark County department of public services.~~ Community Development Department.

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5.45.040 License applications—When and where to apply.
Applications for a license, whether original, transfer or renewal, must be made to the planning manager by the intended operator of the adult entertainment enterprise. Applications shall be made by hand delivery to the permit center of the Clark County ~~department of public services~~ Community Development Department. during regular business hours, Monday through Friday, excluding holidays. Applications for licenses shall be made on a form to be furnished by the department. The application shall be accompanied by an application for site plan review pursuant to Section 40.520.040 of this code. (Sec. 3 of Ord. 1990-08-03)

5.45.090 License—Term and renewal—Transferability.

(1) Term and Renewal. Each adult entertainment license shall be valid for a period of one (1) year and shall expire on the anniversary of the date of issuance of the license, unless sooner revoked, or surrendered. Each adult entertainment license shall be subject to renewal as of its expiration date by the filing of a permit and license renewal application with the Planning Manager. Renewal applications must be filed at least twenty (20) days prior to the expiration date of the permit that is to be renewed.

(2) Transferability.
(a) An adult entertainment license is personal to the operator and owner or owners designated in the application, but may be transferred pursuant to this section. A transfer application must be filed within twenty (20) days prior to any change in owners or operators designated in the application. A transfer application shall be made by hand delivery to the permit center of the Clark County ~~Department of Public Services~~

Community Development Department during regular business hours, Monday through Friday, excluding holidays. Applications for transfers shall be made on a form or forms to be furnished by the Department.

(b) The form of application for transfer shall include a statement under oath that the original application remains correct as previously submitted in all respects except those that are amended by an application. The transfer application shall contain a statement under oath that the individual signing the transfer application has personal knowledge of the information contained therein, that the information is true and correct, and that the person signing the application has read this chapter.

(c) No transfer application shall be accepted for filing unless accompanied by payment of one-half (1/2) the fee prescribed in Section 5.45.060.

(d) Transfer approval shall be valid for the remaining term of the original license.

(e) In the event that a transfer application is not timely filed, then the license shall be invalid for any purpose relating to the operation of the adult entertainment enterprise and any transfer shall thereafter be treated as an original application. (Sec. 3 of Ord. 1990-08-03)

7. Chapter 10.08A, Vehicle Load Limits-Update Department of Public Services references to Community Development

10.08A.090 Municipal transit vehicles, school buses, emergency vehicles, and trucks transporting perishables.

(1) Municipal transit vehicles, school buses, emergency vehicles, and trucks with loads fifty percent (50%) or more of which is perishables with a shelf life of twenty-one (21) days or less, shall be exempt from the restrictions set out in Section 10.08A.040.

(2) Municipal transit vehicles, school buses, emergency vehicles and trucks with loads fifty percent (50%) or more of which is perishable commodities with a shelf life of twenty-one (21) days or less, trucks with loads necessary for agriculture, or commodities necessary for the health and welfare of local residents shall be allowed to operate under such modified weight and speed restrictions as deemed necessary by the director of public services to protect county roads from undue damage where road use is restricted pursuant to Section 10.08A.070. An emergency closure trip permit must be secured from the ~~office of the department of public services~~ Community Development Department prior to the operation of any vehicle under the modified restrictions referred to above. (Sec. 9 of Ord. 1991-07-13)

8. 32.04.045, Enforcement Code- Update Department of Public Services reference to Community Development

32.04.045 Misdemeanor penalty.

(1) Unless a different criminal penalty is otherwise prescribed, the violation of any land use, public health or nuisance ordinance, including Section 9.24.010, shall constitute a misdemeanor punishable as provided for in Section 1.02.210.

(2) ~~Staff for the department of public services~~ Community Development staff may initiate criminal prosecution in lieu of or in addition to the civil penalty provided for hereinafter when, after consultation with the Prosecuting Attorney, they are of the opinion that the civil penalty has or will not be effective, timely, or when the violation is a second or subsequent violation. (Sec. 2 of Ord. 1989-10-30; amended by Sec. 3 of Ord. 1991-11-09)

Rationale: The Department of Public Services changed its name to Community Development during the 1990's.

9. 40.570.080.C.3.c, SEPA and County Decisions-Update references to sewer regulations

c. Water. It is the county's policy to conserve and protect the quality, quantity and functional value of surface waters, wetlands, floodplains, and groundwater by enforcing the following code provisions and resolutions and through the imposition of other reasonable measures, including monitoring and hydrologic studies of surface and groundwaters, to mitigate water-related impacts; provided, that minor new construction including the construction, reconstruction or expansion of single-family residences or accessory residential structures on pre-existing lots containing wetlands shall only be subject to State Environmental Policy Act mitigation measures where clearly necessary to prevent or lessen identified and significant environmental degradation:

(1) Chapter 40.386, Stormwater and Erosion Control;

(2) Chapter 40.450, Wetland Protection;

(3) Chapter 40.410, Critical Aquifer Recharge Areas;

(4) Chapter 40.420, Flood Hazard Areas;

(5) Section 40.250.022, Surface Mining Overlay District;

(6) Chapter 40.460, Shoreline Overlay District;

(7) Chapter ~~24.04, Sewage Regulations~~ 40.370 Sewer and Water;

(8) ~~Chapter 24.05, Individual Sewage Disposal System Requirements~~ 24.17 On-site Sewage Systems Rules and Regulations;

(9) Chapter 24.12, Solid Waste Management;

(10) Resolution No. 1991-07-35, coordinated water system plan;

(11) Resolution No. 1994-03-16, groundwater management plan.

Rationale: Chapters 24.04 and 24.05 were repealed in 2007 and replaced with updated sewage regulations.

10. 40.350.030.B.4.b.(1)(c), Road Standards-Update subsection regarding the number of lots that can obtain access from a shared driveway

4. Access Management.

a. Applicability. As noted in Section 40.350.030(A)(2), this subsection also applies to applications for building permits and applications for access to public roads.

b. Access to Local Access Roads.

(1) Driveway Spacing.

(a) Excepting the bulbs of cul-de-sacs, driveways providing access onto nonarterial streets serving single-family or duplex residential structures shall be located a minimum of five (5) feet from the property lines furthest from the intersection. Where two (2) driveways are permitted, a minimum separation of fifty (50) feet shall be required between the driveways, measured from near edge to near edge.

(b) Corner lot driveways shall be a minimum of fifty (50) feet from the intersecting property lines, as measured to the nearest edge of the driveway, or in the case where this is impractical, the driveway may be limited to twenty (20) feet in width and located five (5) feet from the property line away from the intersection or as a joint use driveway at this property line. Where a residential corner lot is located at the intersection of a nonarterial street with an arterial street, the corner clearance requirements of Section 40.350.030(B)(4)(c)(2)(f) shall apply to the nonarterial street.

(c) Flag lots and joint driveways serving ~~two (2) or three (3)~~ up to four (4) lots are exempt from the requirements of this subsection.

(d) Nonresidential driveways are prohibited from taking access from an urban access road as defined in Table 40.350.030-2 unless no access exists or can be provided to a collector.

Rationale: In 2014, the number of lots that can be accessed by a joint driveway under 40.350.030.B.11 was changed from three to four. This is an update for consistency with that section.

11. 40.500.010, Summary of Procedures and Processes-Update 5 year deadline reference to 7 years for extensions of final plat phases

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B. Development Approvals Timeline – General.

1. Basic Rule. Preliminary approval of land divisions (Chapter 40.540), site plan approval (Section 40.520.040), uses subject to review and approval (R/A) (Section 40.520.020), approval of conditional use permits (Section 40.520.030), approval of planned unit developments (Section 40.520.080), approval of mixed use developments (Section 40.230.020), approval of master plans (Section 40.520.070), and approval of variances (Section 40.550.020) shall be valid for a period of seven (7) years after approval. The right to develop an approved land division, site plan, use permitted subject to review and approval (R/A), conditional use permit, planned unit development or variance or part thereof expires seven (7) years after the effective date of the decision approving such development, unless:

a. For land divisions – A fully complete application for a final plat has been submitted.

b. For use approvals that do not require a building permit – The permitted use has legally commenced on the premises.

c. For all other approvals – A building permit for the approved development has been issued and remains in effect, or a final occupancy permit has been issued.

2. Extensions – Phased Developments.

a. Those applications specifically approved for phased development may receive an unlimited number of subsequent two (2) year extensions in accordance with the following:

(1) At least one (1) phase has met the general development approvals timeline basic rule described in Section 40.500.010(B)(1);

(2) The request for the extension has been submitted in writing to the responsible official at least thirty (30) days prior to the ~~five (5)~~ seven (7) year deadline, or, in the case of a subsequent extension request, at least thirty (30) days prior to the expiration of the approval period;

(3) The applicant has demonstrated an active effort in pursuing the next phase of the application; and

(4) The applicant has demonstrated that there are no significant changes in conditions which would render approval of the application contrary to the public health, safety or general welfare.

Rationale: In 2011, the Board extended the time that developers have to complete final land use processes from 5 years to 7 years. The reference above should have been updated with that code change.

12. 40.520.020.D.8, Uses Subject to Review and Approval (R/A) – Update reference to special use section that applies to townhomes

D. Approval Criteria – Special Uses.

When the following uses are allowed subject to review and approval (R/A) the responsible official shall review them subject to the applicable standards and criteria in Chapter 40.260:

1. Accessory dwelling units (Section 40.260.020);
2. Bed and breakfast establishments (Section 40.260.050);
3. Home businesses – Type II (Section 40.260.100);
4. Kennels (Section 40.260.110);
5. Mobile homes on individual lots (Section 40.260.130);
6 Mobile home parks (Section 40.260.140);
7. Opiate substitution treatment facilities (Section 40.260.165);
8. Townhouse developments (Section 40.260.~~230~~ 155);

9. Wireless communications facilities (Section 40.260.250);

10. Zero lot line development (Section 40.260.260).

Rationale: The townhome special use section 40.260.230 was repealed and replaced with the addition of the narrow lot standards section 40.260.155 in 2011.

13. 40.540.120, Alteration and Vacation of Final Plats-Update approval timeline between preliminary and final approval for plat alterations

40.540.120

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B. Process.

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3. Final Approval. Within ~~five (5)~~ seven (7) years of the date of preliminary approval of the vacation or alteration, the applicant shall submit for final plat approval through the final plat process of Section 40.540.070. If the nature of the plat alteration is minor, the review authority may set appropriate conditions and processes for final review and recording of the alteration at the time of preliminary approval.

Rationale: In 2013 the preliminary approval "shelf life" of most land use approvals was extended from 5 years to 7 years. This reference was overlooked with the code was changed.

14. Appendix F, Highway 99 Overlay standards Section 7.5.2 – Update reference to townhouse standards

Townhouse Configuration and Orientation

(1) Code applicability. Townhouses shall be exempt from development criteria set forth in Table ~~40.260.230-1, CCC 40.260.230~~, 40.220.020-4 except for minimum density (all overlays) and maximum density (Single Family Overlay only).

Rationale: The special use standards for townhouses in 40.260 were integrated into the "multifamily" zoning district, and are now in Table 40.220.020-4.

15. Appendix F, Highway 99 Overlay standards Section 9.3.2 Trail Implementation – Clarify that Level II addition and remodel projects are not subject to trail requirements

9.3.2 Trail Implementation

Proposed trails shall be constructed by the developer/applicant in conjunction with new development ~~and Level II Remodels~~ as set forth in Chapter 1. Trails shall be provided in perpetual easements granting public access unless otherwise agreed upon by the county and the project applicant. Limited fee reductions and exemptions may be available. New developments exempt from trail implementation:

- Individual single family homes and duplexes

Rationale: There is a conflict in the Highway 99 code as to when trails mapped in Chapter 9 of the Highway 99 code must be provided. The section noted above requires trails to be provided for "level II additions and remodels"; however, Chapter 1, Section 1.2 (b) does not require trails to be provided for level II additions and remodels. Further, the Pedestrian Access and Connectivity Section 5.3.1(3)(c)(iv) states that "*new developments on sites showing proposed trails on applicable regulatory maps in Chapter 2 shall comply with the trail provisions in Section 9.3*"-no reference is made to level II additions and remodels.

Community Planning staff noted that during the adoption process for the Highway 99 code the requirement for Level II projects to provide trail connections was eliminated; however, the reference to trail requirements in Section 9.3.2 was not removed from the earlier draft of code.

CLARIFICATIONS

16. 40.100.070, Definitions-Clarify corner lot street side setback requirements

Lot line, front	"Front lot line" means that portion of the property line abutting a street right-of-way, street easement, street tract, or private driveway easement. • For corner lots, the front lot line is that which provides vehicular access. In the case where vehicular access is provided on more than one street, one (1) front lot line and one (1) street side lot line shall be designated., ~~except that~~ Within a street side setback, entrances to garages, carports, or similar vehicular shelters shall maintain a ~~front yard~~ minimum 18 foot setback from the property line, street easement, street tract or inside edge of any pedestrian easement, ~~whichever is greater~~ when the street side setback for the applicable zoning district is less than 18 feet. If access is provided to a corner lot by an alley, the front lot line is that which is most opposite the alley.

Rationale: This code section appears to have been written to apply mostly to small urban lots which have a 10 foot street side setback and an 18 foot front yard setback. The existing text requires a front setback for garages off of street

side setbacks, which in the urban area, would maintain an 18 foot setback to keep vehicles from parking across sidewalks.

However, this provision applies to all zones, including Rural and Resource lots which have much larger front setback requirements; implementation of the existing text in those zones requires a 50 foot setback to both a front and a street side, effectively negating an allowed 25 foot street side setback in the Rural and Resource districts.

The proposed changes require garages along street sides to be set back at least 18 feet, or the standard street side setback, whichever is greater.

17. Tables 40.210.020-3, 40.210.030-3, 40.210.040-3, and 40.230.070-3 - Clarify that fire regulations may require side and rear setbacks greater than 10 or 20 feet

Table 40.210.020-3. Setbacks, Lot Coverage and Building Height

Zoning District	Minimum Setbacks[4]				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)2		
		Street (feet)	Interior 1 (feet)			
R-20	50[5]	25	20, 50[1]	20, 50[2]	N/A	35[3]
R-10	50[5]	25	20, 50[1]	20, 50[2]	N/A	35[3]
R-5	50[5]	25	20, 50[1]	20, 50[2]	N/A	35[3]

[1] Side Setback. Minimum side setback on each side of the residential dwelling and incidental buildings shall be twenty (20) feet unless fire regulations require a greater setback, and fifty (50) feet for accessory buildings used for agricultural purposes. Side setbacks from abutting property zoned for natural resource or surface mining uses shall be a minimum of fifty (50) feet for all structures.

[2] Rear Setback. Minimum rear setback for all structures when the abutting property is not zoned for natural resource or surface mining uses is twenty (20) feet unless fire regulations require a greater setback. Minimum rear setback shall be fifty (50) feet when abutting property zoned for natural resource or surface mining uses.

[3] Residential buildings only.

[4] Nonconforming lots subject to the provisions of Section 40.530.010(D)(2).

[5] From public road right-of-way, private road easement or tract, or private driveway easement that provides access to the lot.

Table 40.210.030-3. Setbacks, Lot Coverage and Building Height						
Zoning District	Minimum Setbacks[4]				Maximum Lot Coverage	Maximum Building Height (feet)
	Front[5] (feet)	Side		Rear (feet)2		
		Street[5] (feet)	Interior (feet)1			
RC-2.5	25	25	10, 50[1]	10, 50[2]	N/A	35[3]
RC-1	25	25	10, 50[1]	10, 50[2]	N/A	35[3]

[1] Side Setbacks. Minimum side setback on each side of the residential dwelling and incidental buildings shall be ten (10) feet unless fire regulations require a greater setback,, and fifty (50) feet for accessory buildings used for agricultural purposes. Side setbacks from abutting property zoned for natural resource or surface mining uses shall be a minimum of fifty (50) feet for all structures.

[2] Rear Setbacks. Minimum rear setback for all structures when the abutting property is not zoned for natural resource or surface mining uses is ten (10) feet unless fire regulations require a greater setback. Minimum rear setback shall be fifty (50) feet when abutting property zoned for natural resource or surface mining uses.

[3] For all structures.

[4] Setbacks for nonconforming lots shall be those as set forth for conforming lots except in cases where the standard setbacks will result in the buildable area of the lot being reduced to less than ten thousand (10,000) square feet. In these cases setbacks may be reduced to achieve a building envelope of at least ten thousand (10,000) square feet, however in no case may they be reduced to less than twenty (20) feet for the front setback and five (5) feet for the side and rear setbacks.

[5] Setbacks in rural centers are measured from right-of-way, and not from public sidewalk easements; provided, that setbacks to garage and carport entrances shall maintain a minimum eighteen (18) foot setback from sidewalk easements.

Table 40.210.040-3. Setbacks, Lot Coverage and Building Height						
Zoning District	Minimum Setbacks[4]				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)2		
		Street (feet)	Interior (feet)1			
UR-20	50	20, 50[1]	20, 50[1]	20, 50[2]	N/A	35, 50[3]
UR-10	50	20, 50[1]	20, 50[1]	20, 50[2]	N/A	35, 50[3]
UR-40	50	20, 50[1]	20, 50[1]	20, 50[2]	N/A	35, 50[3]

[1] *Side Setback. Minimum side setback on each side of the residential dwelling and incidental buildings shall be twenty (20) feet unless fire regulations require a greater setback,, and fifty (50) feet for accessory buildings used for agricultural purposes. Side setbacks from abutting property zoned for natural resource or surface mining uses shall be a minimum of fifty (50) feet for all structures.*

[2] *Rear Setback. Minimum rear setback for all structures when the abutting property is not zoned for natural resource or surface mining uses is twenty (20) feet unless fire regulations require a greater setback. Minimum rear setback shall be fifty (50) feet when abutting property zoned for natural resource or surface mining uses.*

[3] *Thirty-five (35) feet for residential structures, fifty (50) feet for nonresidential structures.*

[4] *Nonconforming lots subject to the provisions of Section 40.530.010(D)(2).*

Table 40.230.070-3. Setbacks, Lot Coverage and Building Height						
Zoning District	Minimum Setbacks[4]				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)2		
		Street (feet)	Interior (feet)1			
UH-10	50	25	20, 50[1]	20, 50[2]	N/A	35[3]
UH-20	50	25	20, 50[1]	20, 50[2]	N/A	35[3]
UH-40	50	25	20, 50[1]	20, 50[2]	N/A	35[3]

[1] *Side Setback. Minimum side setback on each side of the residential dwelling and incidental buildings shall be twenty (20) feet unless fire regulations require a greater setback, and fifty (50) feet for accessory buildings used for agricultural purposes. Side setbacks from abutting property zoned for natural resource or surface mining uses shall be a minimum of fifty (50) feet for all structures.*

[2] *Rear Setback. Minimum rear setback for all structures when the abutting property is not zoned for natural resource or surface mining uses is twenty (20) feet unless fire regulations require a greater setback. Minimum rear setback shall be fifty (50) feet when abutting property zoned for natural resource or surface mining uses.*

[3] *Residential buildings only.*

[4] *Nonconforming lots subject to the provisions of Section 40.530.010(D)(2).*

Rationale: When a property is located within a Wildland Urban Interface, or when fire flow is inadequate, increased side and rear setbacks (typically 30 foot minimum) may apply. The requirement for larger setbacks under these circumstances is not new; this addition is proposed only to alert the reader that a 10 or twenty foot setback may not be adequate in all cases.

18. 40.260.055, Coffee and Food Stands — Clarify that small coffee and food stands are exempt from traffic impact fees

40.260.055
****

C. Development Standards.
1. Sites with on-site parking and/or drive-up facilities will require an approved driveway approach with adequate sight distance per Section 40.350.030(B)(8).
2. Drive-up stacking. Stands with drive-up windows require three (3), eighteen (18) foot-long queuing spaces per window. Fewer spaces may be approved by the responsible official; provided, that a plan is submitted that shows the site has sufficient overflow areas so that traffic will not block streets, sidewalks, or parking lot circulation aisles.
3. Parking. Parking shall meet minimum ADA requirements. One (1) parking space per employee per shift shall be provided. Additional parking for walk-up patrons on undeveloped sites shall be provided at a rate of one (1) space per outdoor seating table. Parking may be provided by the following methods:
   a. On site;
   b. On-street parking; provided, that the parking space is legally available and along the site's street frontage. Posted-time or day-restricted parking spaces do not qualify as legally available for the purposes of this section; or
   c. If no parking space is available on-site or on-street, a joint agreement for off-site parking may be used subject to Section 40.340.010(A)(5).
4. Paving. Gravel parking and maneuvering areas may be approved, if it provides an adequate all-weather surface. Dust shall not become a nuisance, and gravel shall not be allowed to track onto sidewalks or

streets. The creation of additional impervious surface may be subject to the stormwater requirements of Chapter 40.386.

5. Building Permits. The stand and any structures associated with the stand, such as add-on canopies, stairs, and decks shall comply with building codes. Trailer-type stands that are raised off wheels shall require building permits for adequate tie-downs.
6. Landscaping. Landscaping is not required unless headlight glare associated with drive-up queuing areas will affect abutting residential uses. In those cases, the responsible official may require screening in the form of shrubs or fencing.
7. Public Health Approval. All coffee and food stands shall comply with county and state health department regulations, including the provision of restroom and hand washing facilities for employees and patrons.
8. Stands approved under this section are not considered "new structures" for the purposes of Section 40.370.010(C).
9. Signage. Permanent signs are allowed subject to Chapter 40.310. One (1) portable sign is allowed per street frontage without obtaining a permit under Section 40.310.010(D)(10). Portable signs shall not exceed six (6) square feet per side, shall be removed at the end of each business day, and shall not obstruct vehicular sight distance.
10. Accessibility. Outdoor seating areas and restroom facilities shall comply with ADA requirements.
11. Setbacks. All stands and accessory structures shall be set back per the requirements of Table 40.320.010; however, the setback area need not be landscaped. Structures, signs, and parking and maneuvering areas shall not obstruct sight distance per Section 40.350.030(B)(8).
12. Frontage improvements are not required.
13. Developments approved under this section are not subject to traffic impact fees.

Rationale: When the Board adopted the coffee cart code provisions, their intent was to subject these types of developments to limited requirements. In addition, these developments mostly depend on pass-by trips which generate little in the way of traffic impact fees anyway. Addition of this text removes any ambiguity.

19. 40.350.030.B.4.d –Clarify that road taper specifications are not included in the County's standard plans

d. Access to Arterials. In order to limit the number of residential roads intersecting with arterials while providing adequate neighborhood circulation, residential roads intersecting with urban arterials shall be classified and constructed to standards applicable to local residential access or collector roads unless the review authority finds that a lesser classification adequately provides for the circulation needs of the surrounding area. In those cases in which an urban access street is less than thirty-six (36) feet wide, such street shall have a minimum width of

thirty-six (36) feet at the intersection with the arterial and shall be tapered ~~as shown on the standard plans~~ according to accepted engineering practices as determined by the Public Works Director. Road approach permits not associated with development shall be reviewed using a Type I process.

Rationale: The County does not have "standard plans" for tapers. Taper design is based on speed, road width, and other factors, so designs will vary according to conditions. Changing to "accepted engineering practices" clarifies that there is no off-the-shelf standard plan, avoiding fruitless searches in the Standard Details Manual. Note that definition of *Public Works Director* as defined in CCC 40.100.070 also includes authorized designees of the director, so this text does not require the actual public works director to be involved in each design.

20. Table 40.510.050-1, application submittal requirements-Clarify that proof of submittal to DAHP includes a DAHP response of receipt of an archaeological pre-determination

Table 40.510.050-1. Application Submittal Requirements for Type I, Type II and Type III Reviews

Submittal Item	Required for Pre-Application	Required for Application
24. Archaeological Information. If an archaeological review is required, proof that the archaeological predetermination or archaeological survey was ~~submitted to~~ received by the State Department of Archaeology and Historic Preservation for review must be submitted prior to, or concurrent with, the application. (Proof can be via an e-mail confirmation or other conclusive method of proof that DAHP has received the site-specific document for review.)		**X**

Rationale: Archaeological pre-determinations (a preliminary archaeological investigation of a site) are often required prior to issuance of a preliminary land use decision. The state Department of Archaeology and Historic Preservation reviews these studies and may require further archaeological studies and / or work prior to development. A final "approval" letter from DAHP is not required with the application submittal, but it's important to know that DAHP has acknowledged receipt of the pre-determination so that it can be anticipated that DAHP can issue a letter prior to the County's preliminary land use decision. The existing language uses both "submitted to" and "received" and thus can be misleading.

21. 40.520.030.I, Conditional Uses – Clarify the process to expand a conditional use

I. Expansions.

~~1. Subject to Section 40.520.030(G)(2), an existing permitted or lawfully nonconforming conditional use may be expanded or modified following site plan approval pursuant to Section 40.520.040 if the expansion or modification complies with other applicable regulations and is not expressly prohibited by either:~~

~~a. An applicable prior land use decision if the original use is lawfully nonconforming because it was commenced prior to a conditional use permit being required; or~~

~~b. The conditional use permit issued for such use.~~

~~c. A lawful, but nonconforming conditional use must first obtain a conditional use permit and the necessary site plan review approval subject to the standards in Sections 40.520.030(G)(2) and 40.520.040 prior to expanding or modifying that use on the site.~~

I. Expansions.

1. Subject to Section 40.520.030(G)(2), a conditional use may be expanded or modified as follows:

   a. An existing permitted conditional use may be expanded or modified by site plan approval pursuant to Section 40.520.040 if the expansion or modification complies with other applicable regulations and is not expressly prohibited by the approved conditional use permit for the site.

   b. A lawful, but nonconforming conditional use which was commenced prior to a conditional use permit being required must first obtain a conditional use permit and the necessary site plan review approval subject to the standards in Sections 40.520.030(G)(2) and 40.520.040 prior to expanding or modifying that use on the site.

Rationale: Section I.1.a of the current (struck text) states that a "lawfully nonconforming" (i.e. a use that wasn't subject to a CUP when it commenced but is now subject to a CUP) can be expanded using only a site plan review process if a prior land use decision did not prohibit such an expansion; however, in subsection c, it states that expansion for a lawfully nonconforming conditional use must obtain a CUP in addition to site plan review.

This proposed change eliminates the conflicting text and clarifies that a conditional use permit must be obtained when a "grandfathered" conditional use wishes to expand.

22. Appendix F, Highway 99 Overlay standards Section 7.4.4 – Clarify that garden apartments are subject to multifamily design requirements

(1) Windows on the street and/or courtyard. All dwelling units adjacent to courtyard gardens must provide transparent windows and/or doors on at least 15 percent of the facade (this includes any upper levels, if applicable).
(2) Building design. Garden apartments ~~should gardens~~ must comply with the applicable multifamily building design provisions set forth in Chapter 6.

Rationale: Garden Apartments are one of several multifamily housing types categorized in the Highway 99 code. All other types such as Low Rise, Mid Rise, and Walkups are required to comply with building design provisions in Chapter 6, thus staff believes that this conflicting text typo should read as noted.

MINOR POLICY ITEMS

23. 14.06.105.2, Clark County Residential Code – Adopt the International Residential Code standard to allow fences up to seven feet high without building permits

14.06.105.2 Work exempt from permit.
Section R105.2 (Work Exempt from Permit) of the IRC is amended and replaced with the following:

105.2 Work Exempt from Permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Unless otherwise exempted, separate plumbing, electrical and mechanical permits may be required for any of the following exempted items. Permits shall not be required for the following:

1. One-story detached accessory structures not used for human habitation, provided the floor area does not exceed 200 square feet (18.58 m2).

2. ~~Fences not over 6 feet (1,829 mm) high.~~ Reserved

3. Retaining walls which do not support more than 4 feet of unbalanced fill or a surcharge.

Rationale: The County has adopted the 2012 International Residential Code (IRC) for One and Two-Family Dwellings. County building code section CCC 14.06.105.2 contains the County's exceptions to the IRC. The 2012 IRC

exempts fences not over 7 feet high from the need to obtain building permits, but the limit of 6 feet still exists in this county code. Staff proposes that the County conform to the IRC building permit exemption allowance and raise the limit to 7 feet.

24. Table 40.230.085-1, Employment Districts Use Table- Prohibit wrecking yards and tire wholesalers in the Business Park zone

North American Industrial Classification System (NAICS)				IL	IH	IR	BP
C. Wholesale Trade							
423	Wholesale trade, durable goods (retail sales prohibited)			P	P	P	P
		423130	Tire and Tube Merchant Wholesalers	P	P	P	X
		423140	Motor Vehicle Parts (Used) Merchant Wholesalers	P	P	P	X
		423930	Recyclable Material Merchant Wholesalers	P	P	P	X
424	Wholesale trade, nondurable goods (retail sales prohibited)			P	P	P	P
425	Wholesale electronic markets and agents and brokers			P	P	P	P

Rationale: The Business Park (BP) zone generally allows less intensive uses than those allowed in the light and heavy industrial zones; further, there are additional development standards in the BP zone that reflect a higher design standard than for industrial uses. It's been brought to staff's attention that currently, all uses under the 423 of the NAICS classification are allowed in the BP zone, and this includes wrecking yards and new and used tire sales.

See the NAICS descriptions for the following below:

423130 Tire and Tube Merchant Wholesalers

This industry comprises establishments primarily engaged in the merchant wholesale distribution of new and/or used tires and tubes for passenger and commercial vehicles.

423140 Motor Vehicle Parts (Used) Merchant Wholesalers

This industry comprises establishments primarily engaged in the merchant wholesale distribution of used motor vehicle parts (except used tires and tubes) and establishments primarily engaged in dismantling motor vehicles for the purpose of selling the parts.

Cross-References. Establishments primarily engaged in--

- Dismantling motor vehicles for the purpose of selling scrap--are classified in Industry 423930, Recyclable Material Merchant Wholesalers; and

- Merchant wholesale distribution of new and/or used tires and tubes--are classified in Industry 423130, Tire and Tube Merchant Wholesalers.

423930 Recyclable Material Merchant Wholesalers

This industry comprises establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. Included in this industry are auto wreckers primarily engaged in dismantling motor vehicles for the purpose of wholesaling scrap.

Staff suggests that the above uses be specifically excluded from the BP zone.

25. 40.320.010.F,- Amend fence height and setback requirements for retaining walls and fences

F. Establishing Setback Standards for Retaining Walls and Fences.

1. Construction of private retaining walls or fences within public rights-of-way is prohibited. Exceptions to this prohibition shall require approval of the Public Works director. The Public Works Director may apply the exceptions to height and setbacks for walls and fences in 40.320.010.F 3.a through i as applicable.
2. The construction of retaining walls four (4) feet or less in height and fences ~~six (6)~~ seven (7) feet or less in height may be constructed within ~~public~~ easements. Exceptions to these height limits may be granted when written approval has been obtained from the easement holder.
3. The construction of retaining walls in excess of four (4) feet in height and fences in excess of ~~six (6)~~ seven (7) feet in height shall meet the setback requirements of the underlying zone. The height of a fence on top of retaining walls shall be measured to the grade at the bottom of the wall. Exceptions to this provision are as follows:
   ~~a. When an exception under subsection (F)(1) of this section has been granted;~~
   a. Retaining walls taller than four feet may be placed within setbacks by using a series of retaining walls four feet high or less that are separated a minimum of four feet, provided the area between walls is maintained in ground cover or shrubs. The total height of a series of walls within the building setback shall not exceed eight (8) feet. Landscaping shall be maintained consistent with CCC40.320.010.G.6. Fences are allowed on top of such walls consistent with Section 40.320.010.F.3.i;
   b. The exposed faces of retaining walls over four (4) feet in height are directed toward the interior of the lot;
   c. The retaining walls and / or fences are constructed as part of the site improvements prior to a final plat, and located between lots within the development. Retaining walls on the perimeter of the

plat may not use this exception, except as allowed under subsection (F)(3)(d) of this section;

d. Retaining walls and / or fences abutting a road right-of-way or road easement; ~~provided,~~ subject to the following:

(1) The wall or fence does not block required sight distance;

(2) Walls and / or fences over 12 feet in height will be reviewed for potential shading and visual impacts beyond the right of way or easement. The community development director may impose conditions on the design and setbacks of such walls if needed to mitigate impacts;

e. The retaining wall and / or fence is constructed between lots under the same ownership;

f. The retaining wall and / or fence is at least fifty (50) feet from a dwelling on an abutting residential property;

g. Permission to exceed the height limits within the setback is granted in writing from the abutting property owner;

h. The retaining wall and / or fence is abutting commercial or industrial zoned property or legally permitted non-residential uses;

i. Non-sight-obscuring fences such as chain link or wrought iron seven (7) feet high or less, and sight-obscuring fences forty-two (42) inches high on top of retaining walls no greater than four feet tall are allowed within setbacks;

4. The community development director may approve variations to height and setback requirements for unusual circumstances not anticipated under Section 40.320.010.F.3. The decision to approve or disapprove the requested variation should be based on factors of topography, traffic visibility, visual impacts, and location and nature of adjoining public and private structures and uses.

4. **5**.Building codes for retaining walls may require setbacks that are greater than those required by ~~this~~ section 40.320.010.F.3.

6. These provisions do not apply to fences required by state law to enclose public utilities, or to chain link fences enclosing school grounds or public recreation areas.

Rationale: This code section is intended to alleviate the impacts of tall retaining walls and fences immediately abutting a neighboring property line. It requires retaining walls over 4 feet in height and fences over 6 feet in height to maintain the standard building setback for the zone. While not currently codified, the current interpretation is that the height of fence on top of a retaining wall is measured from the top of the fence to the bottom of the wall.

The development community has noted a number of issues with the current code. One of the main issues is that when a wall/fence must be set back from a property line, it results in a "no-man's land" that is often either maintained by the abutting property owner, or not at all. Also, side and rear setbacks can be as much as 20 feet, even in the urban area. The proposal allows for a number of

exceptions including the stepping of walls, obtaining permission from an abutting landowner, situations where a residence is at least 50 feet away from the property line, and exceptions for non-residential property. The DEAB has reviewed and approved the proposed language.

26. Table 40.350.030-1, Rural/Urban Classification table - Add C-2b ("Urban Collector with Bike Lanes") classification to the Rural to Urban Classification Conversion Table

Table 40.350.030-1. Rural/Urban Classification Conversion		
Rural Classification	Converts to	Urban Classification
Rural Arterial (RA)	← →	Principal or Minor Arterial
Rural Major Collector (R-2)	← →	Minor Arterial or Collector: two lanes, center turn lane and bike lanes (M-2cb or C-2cb)
Rural Minor Collector (RM-2)	← →	Collector: two lanes (C-2) or C-2b
Rural Local Access	← →	Neighborhood Circulator

Rationale: When land is brought into an urban growth boundary for development, formerly rural road classifications must be updated to Urban standards. In addition, some conditional use developments in the rural area are required to construct frontage improvements to an urban standard. This table is used to determine which urban street classifications should be applied when urban development takes place.

A C-2 includes two travel lanes and parking on both sides; a C-2b requires the same right-of-way width but trades the parking lanes for bike lanes. The addition of the C-2b classification allows staff to require bike lanes when appropriate.

27. 40.560.010, Plan Amendment Procedures – Limit amendments to the Shorelines Master Program to once a year

C. Applicability.

The criteria and requirements of this section shall apply to all applications or proposals for changes to the comprehensive plan text, policies, map designations, zoning map or supporting documents. For the purposes of

establishing review procedures, criteria and timelines, amendments shall be distinguished as follows:

1. Countywide comprehensive plan map changes involving urban growth area (UGA) boundary changes and rural lands uses on a rotational basis;

2. Comprehensive plan map changes not involving a change to UGA boundaries;

3. Comprehensive plan policy or text changes;

4. Arterial Atlas amendments;

5. Changes to other plan documents (such as capital facilities, and the shoreline master program); and

6. Out-of-cycle amendments limited to the following:

****

P. Other Plan Amendment Categories.

1. Capital facilities plan and updates shall be reviewed at a minimum every four (4) years in Type IV public hearings conducted by the planning commission and board for those facilities subject to county jurisdiction. School capital facility plan and updates shall be reviewed at minimum two (2) year intervals.

2. The Clark County parks, recreation and open space plan shall be reviewed annually by the Clark County parks advisory board and the board. Any amendments thereto which necessitate changes to the comprehensive plan shall be reviewed in public hearings by the planning commission and the board.

3. In updating capital facilities plans, policies and procedures, the county must determine that these updates are consistent with applicable policies and implementation measures of the comprehensive plan, and in conformance with the purposes and intent of the applicable interjurisdictional agreements.

4. Changes to the Shoreline Master Program (SMP) shall be limited to once a year. Any amendments thereto shall be viewed as a limited amendment consistent with WAC 173-26-201 (1)(c), and shall be processed as a Type IV application pursuant to Section 40.510.040.

Rationale: RCW 90.58.090 and WAC 173-26-201 outline the process to prepare a limited amendment to the Shoreline Master Program (SMP). However, those processes do not indicate a timeline or how often they can occur.

Adding amendment procedures through Section 40.560.010 brings certainty to updating the SMP saving time and money spent on the possibility of multiple limited amendments adopted each year. If limited amendment changes are immediately needed, the Shoreline Administrator has the authority in CCC 40.460.705 (F) to interpret and apply the provisions of the SMP through a Management Decision allowing planning staff to implement immediately needed changes until a limited amendment is approved by DOE.

The Department of Ecology and staff are in support of streamlining the limited amendment process by adding procedures as described below in Section 40.560.010 providing certainty to SMP limited amendments.

28. 40.570.090.D.1.b, SEPA Critical Areas - Eliminate SEPA review requirement for Shoreline Exemptions that are located within Flood Hazard Areas

D. Critical Areas.

1. Clark County designates the following as critical areas, in which the exemptions as specified in subsection (E) of this section do not apply:
   a. Shoreline Management Areas. Land and water areas under jurisdiction of the Shoreline Management Act are critical areas. These shorelines of the county are mapped in the Clark County Shoreline Master Program, which maps are incorporated in this chapter by reference. All development subject to shorelines substantial development permits, shorelines conditional use permits, and shorelines variance permits are subject to SEPA, except that SEPA review shall not be required for the exempt shoreline developments listed in Section 40.460.230(B); provided, that no part of the exempt shoreline development is undertaken on lands covered by water as defined in WAC 197-11-756. In addition, the minor repair or replacement of structures such as pilings, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks that are specifically exempted within WAC 197-11-800(3) shall also be exempt from SEPA review.

   b. Floodplains. Except for exempt shoreline developments listed in Section 40.570.090.D.1.a that are above the ordinary high water mark or other development outside of shorelines areas that does not require a Flood Hazard Permit under 40.420, all ~~All~~ areas within ~~the one hundred (100) year floodplain boundary~~ Special Flood Hazard Areas delineated by the Federal Emergency Management Agency (FEMA) under the Flood Insurance Study for Clark County are critical

areas. These ~~one hundred (100) year floodplains~~ Special Flood Hazard Areas are designated on FEMA's Flood Insurance Rate Maps (FIRM), which are incorporated in this chapter by reference.

Rationale: Development within Shorelines areas requires review under the County's Shoreline code. Certain types of development are exempt from obtaining a Shorelines Substantial Development Permit; these projects are referred to as "Shorelines Exemptions" which generally require less exhaustive application and review requirements. Under existing code, Shoreline Exemptions don't require SEPA review unless they are located within flood hazard areas.

Staff believes that SEPA serves limited function for these projects, since they already require review under the Shorelines code, as well as the flood hazard code.

This code amendment would eliminate the SEPA review requirement for Shorelines Exemptions that are located in flood hazard areas. It would not eliminate the need for flood hazard review.

29. Section 4.2, Highway 99 Overlay Standards-Process wireless communication facilities as Conditional Uses in the Highway 99 Overlay area

4.2 Activity Center

Permitted Uses

Additional uses permitted:

• All housing types shown in Table 4.1.

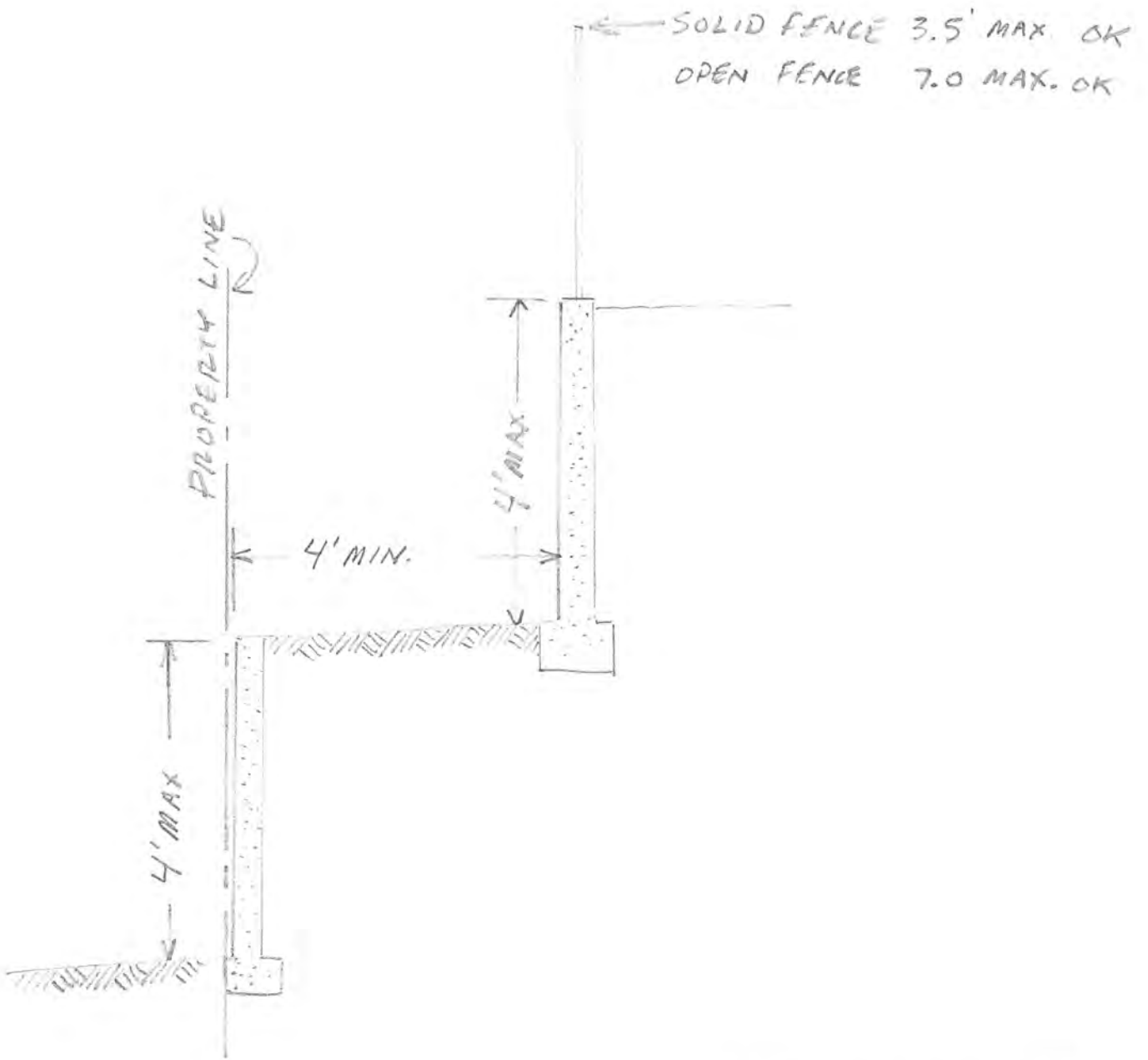
• All the uses shown as Review and Approval are permitted and are not subject to the Review and Approval procedures or requirements. All uses shown as conditional in CCC 40.220 and 40.230, except for those listed below, are permitted, and are not subject to the conditional use requirements of CCC 50.520.030.

The following uses are still subject to conditional use review and requirements:

- Event facilities in excess of 50,000 square feet
- Hospitals
- Outdoor paintball facilities
- Drive-in theaters
- Stadium arena facilities
- Zoos
- Solid waste handling and disposal sites
- Type III wireless communication facilities

Rationale: New wireless communication facilities are conditional uses in all Urban Residential and commercial zones that are outside of the Highway 99 Overlay area. This section of the Highway 99 Overlay standards allows many uses that are otherwise listed as conditional uses is their respective zones to be reviewed as Permitted uses, including wireless facilities. Staff believes that wireless communication facilities should be processed as conditional uses which require a public hearing in activity areas.

Chapter 40.230 (Commercial, Business, Mixed Use and Industrial Districts) was added to the text because Chapter 40.220 (Urban Residential Districts) are not the only zoning found in activity areas. In fact, most of the uses that are still listed as conditional are not allowed in the Urban Residential Districts, thus lending credence to the idea that 40.230 was intended to be included.



SKETCH FOR ITEM # 25