FRIENDS OF CLARK COUNTY
PO BOX 156
VANCOUVER, WASHINGTON 98642-0156
info@friendsofclarkcounty.org

November 15, 2018

Clark County Planning Commission
% Dr. Oliver Orjiako
Director of Community Planning
Public Services Building
1300 Franklin Street
Vancouver, Washington 98660

Via pdf and e-mail to Oliver.Orijako@clark.wa.gov

Re: CPZ2018-00021 AMENDMENT OF COMPREHENSIVE PLAN AND ZONING MAPS TO REMOVE URBAN HOLDING OVERLAY– PHASE 2

Dear Dr. Orjiako:

This letter is filed for the record by Friends of Clark County (FOCC) in support of the DENIAL finding in the Staff Report on this project dated November 15, 2018. We agree with the Staff's conclusion regarding the inadequacy of the infrastructure and inadequacy of funding for future infrastructure.

In support of our endorsement of the DENIAL of this project, we reserve our right to add additional concerns once the Planning Commission has reviewed the matter and raise those issues with the Council. In addition, we have attached an excerpt from the original Final Decision and Order in *Achen et al, v. Clark County,* 95-2-0067. As was made clear by the original FDO,

> The stated goal of these two concepts (urban holding and contingent zoning) was to prohibit urban growth within the urban growth area until sufficient infrastructure was in place or assured, or until annexation took place.
>
> The Growth Board decision made it clear that:
>
> ***We do not perceive that there exists a recognizable "right" to develop property for the maximum profit regardless of the short-term and/or long-term impact to***

> ***the taxpayer***. Nor has petitioner shown that even if such a "right" existed that the mere fact this area is the only one burdened by the contingent zone concept is in and of itself an arbitrary and discriminatory decision. ***The record is clear that the area in question, of which petitioner owns but a small portion, has significant inadequacies in public facilities. The correction of these deficiencies prior to further urbanization follows exactly what GMA requires.*** (emphasis supplied)

The UH overlay should remain until such time as the appropriate infrastructure is available.

Sincerely,

David T. McDonald
On Behalf of Friends of Clark County

Cc: Sonja Wiser

Excerpt from Final Decision and Order, *Achen et al, v. Clark County,* 95-2-0067

Urban Holdings/Contingency Zoning

As part of its concurrency requirement, Clark County adopted policies in its comprehensive plan for "urban holding districts" and "contingent zoning" provisions. At page 12.4 of the CP, these concepts were explained as follows:

"The comprehensive plan map contemplates two land use methods to assure the adequacy of public facilities needed to support urban development within urban growth areas (1) Contingent Zoning which applies an "X" suffix with the urban zone and (2) applying an Urban Holding District combined with urban zoning."

The stated goal of these two concepts was to prohibit urban growth within the urban growth area until sufficient infrastructure was in place or assured, or until annexation took place. Clark County used these two concepts within the UGA to support the concurrency goals and requirements of the Act and to provide a mechanism for tiering of urban growth.

Petitioner CCNRC contended that the urban holding district was invalid because the Act prohibits allowing an area to be included in the UGB that is not able to be served with public facilities and services in the 20-year planning period. Secondly, CCNRC pointed out, annexation of these urban holding areas would not necessarily resolve the problem of lack of concurrent public facilities and services. Petitioner Holsinger contended that the contingent zoning area was applied in an "arbitrary and discriminatory" manner to the 179th Street/I-5 area where his property is located.

The urban holding residential areas have minimum lot sizes of 1 du/10 acres. Industrial urban holding zones have a minimum lot sizes of 1 du/20 acres. Unlike the urban reserve areas, which are located outside the UGA, the urban holding areas are definitionally located within the

boundary. Each holding area is identified in the CP at page 12.5 and 6 for each individual city. Each area is required to maintain the "holding" designation until the city can assure adequate provisions are in place or will be made if the area is to be annexed. While we are unsure of how the County could enforce such a requirement if annexation did occur, we do not find a violation of the GMA on the basis of that possibility alone. The concept of the urban holding area within an urban growth area furthers the concurrency goals and requirements of the Act. The use of such a concept is in the discretion afforded to local decision makers.

It is accurate to say that the CP provides for contingent zoning restrictions only in the 179th Street/I-5 area as petitioner Holsinger claims. It is also true that that area provides the most significant reason for the adoption of the contingent zoning concept. In order to show a violation of Goal 6, a petitioner must first show that a "right" of a landowner has been violated. This has not been done by Holsinger. We do not perceive that there exists a recognizable "right" to develop property for the maximum profit regardless of the short-term and/or long-term impact to the taxpayer. Nor has petitioner shown that even if such a "right" existed that the mere fact this area is the only one burdened by the contingent zone concept is in and of itself an arbitrary and discriminatory decision. ***The record is clear that the area in question, of which petitioner owns but a small portion, has significant inadequacies in public facilities. The correction of these deficiencies prior to further urbanization follows exactly what GMA requires. We find no violation.***