



Commissioners

Nancy E. Barnes
Jim Malinowski
Jane A. Van Dyke

*Chief Executive Officer/
General Manager*

Wayne W. Nelson

October 19, 2017

Clark County Planning Commission
1300 Franklin Street
Vancouver, WA 98660

Re: Public Facilities Zoning Classification

Dear Planning Commission,

Clark Public Utilities respectfully requests the rezoning of all of its properties currently zoned as Public Facilities back to their original zoning classification that they held prior to the 2016 Clark County Comprehensive Plan Update.

Up until recently, Clark Public Utilities was unaware that its various properties had been rezoned as Public Facilities. The utility discovered this change when one of its property sales collapsed earlier in the year after the purchaser refused to accept the parcel with the Public Facilities zone classification.

The utility understands that the County adopted the Public Facilities classification and designated/rezoned the utility's properties to this classification as part of its 2016 County Comprehensive Plan Update. However, the utility was unaware of this wholesale change to the designation and zoning of its properties to Public Facilities until well after the Plan Update was adopted. It was thus not able to address the significant impact that this zoning change would have on its operations prior to its implementation. Recognizing that the Commission likely provided public notice, via publication, when this zoning classification was established, the utility was not provided actual notice of this proposed change. While it may be that the utility could have discovered this change in policy and zoning had it reviewed the 2016 changes to the Comprehensive Plan, modifications to the Plan in prior years have always been negligible regarding utility interests, and therefore, close monitoring was not justified. Since the utility could not have anticipated such an unprecedented and significant change in its property interest during that last Plan update, it should have been specifically notified of this action so that it could have been involved in the process.

After speaking with Planning Department staff, the utility now understands that under the new process it will take over a year to reestablish the zoning classification of any parcel to a use other than Public Facilities. Unfortunately, the utility's management of

its property holdings is likely much more dynamic than that of other municipalities and such delay will have a significant impact on its operations. In the last few years, in addition to property sales, the utility has had to perform various transactions including boundary line adjustments, property exchanges, and easement grants. These transactions will no longer be possible without first obtaining a Comprehensive Plan and zoning amendment to change the Public Facilities designation.

In addition to significantly delaying the surplus of its unneeded properties, this change will prevent the utility from conducting its normal operational activities. Given the strict use restrictions on the Public Facilities designation, the utility will be unable to grant easements to other entities or perform boundary line adjustments in the future.

The utility is frequently approached by governmental and private entities requesting easements across its lands. These easements are normally required as reciprocity for easements given to the utility for a particular project. Because property zoned Public Facilities can only be used for specific municipal purposes, the utility has no means for granting these easements in the future.¹ The entire parcel would have to be rezoned to a designation other than Public Facilities in order for the utility to grant an easement on the property, which is impossible if the property is still primarily used for a municipal purpose. This same restriction would also prevent the utility from entering into boundary line adjustments to resolve encroachment disputes with its neighbors.

In addition to granting easements to other utilities and private entities, the utility is also often approached by other municipalities, including Clark County, for easements/sales during road widening projects. Since only Park & Ride facilities, school bus facilities, and transit stations are identified as permissible transportation uses within the Public Facilities classification under Clark County Code 40.230.090, it would appear that the utility would also be unable to accommodate those requests in the future. The only avenues now available to acquire those interests by other municipalities will either be eminent domain proceedings, which will likely significantly delay those projects, or a Comprehensive Plan and zoning amendment to a designation other than Public Facilities that would allow such uses.

Given the significant impact that this zoning designation has on Clark Public Utilities, and by extension various other entities, the utility is requesting that the Commission consider specially excluding municipal utilities from the Public Facilities classification, and reestablish the original zoning classification for their property holdings, during the next Comprehensive Plan Update. If the purpose of the Public Facilities designation is to maintain consistency and recognize existing public facilities, it would seem that a Public Facilities overlay would accomplish the same effect without the adverse consequences associated with amending the Comprehensive Plan and removing the underlying zoning classifications.

¹ While the Public Facilities designation identifies utility use as permissible, that use appears to be limited to municipal utilities. It would appear that private utilities, such as Northwest Natural, would be unable to use an easement from Clark Public Utilities, on lands designated as Public Facilities, for their operational activities.

On behalf of Clark Public Utilities, thank you for your consideration.

Sincerely,



John Eldridge
Legal Counsel



proud past, promising future

CLARK COUNTY
WASHINGTON

COMMUNITY PLANNING

March 24, 2017

Lynn Smith, Senior Right-of-Way Agent
Clark County Public Works
P.O. Box 8900
Vancouver, WA 98668

Dear Ms. Smith:

During Clark County's 2016 Comprehensive Growth Management Plan update, a Public Facility zoning designation was developed to align with the existing Public Facility comprehensive plan designation. The zone was created to recognize developed properties that are publicly owned. Vacant publicly owned properties keep their existing zoning until they are developed, at which time the zone changes to Public Facility.

Community Planning has researched your agency's properties. We identified which properties are developed and applied the Public Facility zoning designation to them.

Please review the below list of your agency's properties to ensure Community Planning accurately identified and categorized them. If your agency is in the process of selling surplus property or if a property is not currently vacant, please let me know so I can update our records.

The following property numbers are associated with your agency as your property and are listed below:

223961000
232962000
235666005
226727000
235378000
120301000
216472000
121226000
216457000
192930000
192906000

204018000
196286000
197453000
185464000
198122000
118257308
189054000
118257306
189189000
156238000
189249000
146239000
189386000
155126000
104356000
148164000
144291000
144742000
159165000
156957012
187836000
155118000
199289000
98131094
189027000
185207000
148464000
108033000
180593000
189840000
226078000
200350000
185766000
236107000
164502000
204041000

I appreciate your help in this task. In our post-comp plan adoption processes, Community Planning wants to be sure we have properly assessed all properties and can clarify some code language.

To reach me with updated information, or if you have questions or concerns, please email me at laurie.lebowsky@clark.wa.gov or call me at (360) 397-2280 ext. 4544.

Thank you for your assistance.

Sincerely,

Laurie Lebowsky
Planner III
Community Planning

Clark County - Vancouver WA Ship Request Form

Ship Request #: 135384



Sender

Name: Schroader, Kathy
CC #: CP - 0001.000.545.558611.422.018105
Phone: 4483
Email: Kathy.Schroader@clark.wa.gov
Mail Stop:
Building:
Floor:
Department:

Recipient

Attn To: _Daily Mail
Company: _mailroom
Address: Daily outgoing mail
City: Vancouver
State: WA
Zip: 98660
Country: US

Shipping Instructions

Items

APRIL 3, 2017: EMAIL FROM LYNN SMITH OF CPU

From: Lynn Smith

To: Lebowsky, Laurie

Subject: Request for confirmation on properties

Date: Monday, April 03, 2017 10:36:41 AM

Laurie,

I received your letter regarding the confirmation of our properties and the zoning attached

to them, while I am happy to assist with this request, can you provide me with the date you

need this data back, we have many projects going right now and I want to make sure I respond to you within the timeframe set.

Please let me know when you need to have this information returned to you.

Thanks

Lynn

MAY 2017: EMAIL EXCHANGE WITH LYNN SMITH OF CPU

From: Lebowsky, Laurie
Sent: Thursday, May 04, 2017 11:16 AM
To: 'Lynn Smith'
Cc: Eric Beck (ebeck@clarkpud.com); Lebowsky, Laurie
Subject: RE: Request for confirmation on properties

Hi Lynn,
I included you in a letter regarding the Public Facilities docket item.

Eric had some questions and I realize I needed to respond to your email.

Can you get me a response by the end of the month?

Thank you.



Laurie Lebowsky
Planner III
COMMUNITY PLANNING

360.397.2280 ext 4544



From: Lynn Smith [<mailto:LSmith@clarkpud.com>]
Sent: Monday, April 03, 2017 10:37 AM
To: Lebowsky, Laurie
Subject: Request for confirmation on properties

Laurie,
I received your letter regarding the confirmation of our properties and the zoning attached to them, while I am happy to assist with this request, can you provide me with the date you need this data back, we have many projects going right now and I want to make sure I respond to you within the timeframe set.

Please let me know when you need to have this information returned to you.

Thanks

Lynn

Lynn M. Smith
Senior Right of Way Agent
Office 360-992-8507

Clark Public Utilities: P.O. Box 8900: Vancouver, WA: 98668

MAY 5: ERIC BECK EMAIL EXCHANGE

From: Lebowsky, Laurie
To: "Eric Beck"
Cc: Orjiako, Oliver; Lynn Smith; John Eldridge; Dan Charlson
Subject: RE: PF zoning
Date: Friday, May 05, 2017 2:55:52 PM

Eric,

I reviewed your email and my responses to your issues are in red. I hope this helps. Thank you for the explanation and upcoming work sessions and hearing dates. We will plan to have someone in attendance. We must have missed the last notification. Do you know if one was sent out, and to who within the Utility it was sent to?

We had pretty extensive public involvement for the Comprehensive Plan update. It was a three-year process where we had issues several press releases, several workshops in addition to a supplemental EIS, and public notices.

Over the years, we have sold surplus properties, and the parcel reverted back to the previous zoning designation and the county received property taxes from the new owner. This appeared to benefit both parties. With the current zoning, this has hindered a sale by the utility and stopped property taxes to be paid to the county. We would like to see if the Planning Commission and Board would support allowing a PF zoned property that is declared surplus, and sold to the public, to be allowed to convert to the surrounding or previous zoning. Do you think something along these lines would be possible?

Certain issues have arisen with properties zoned Public Facility where public agencies wish to surplus them, so we are taking a second look at the Public Facilities zone. I sent a letter to Clark PUD asking for a response regarding which properties are vacant or are being surplused so that we can re-zone them to their previous zoning for the docket. In the future, our plan is to re-zone public facility properties in a docket after they have been developed.

Is the list that you sent Lynn intended to be all the properties owned by Clark Public Utilities? From my review of the list, parcel number 118257308 and 118257306 are the two lots that were declared surplus and we tried to sell. The two lots, at one time had a well on the properties that has been removed and the lots have been vacant for a number of years. These two lots should be rezoned to the previous designation to fulfill the sale of the properties. Parcel number 120301000 is vacant and maybe declared surplus in the near future. The rest of the lots appear to have active facilities on them and would be appropriate to be designated a Public Facility.

The properties listed are the ones that our records indicate are owned by CPU and are zoned PF. My list does not include properties owned by CPU and not zoned PF.

I will note that the properties you have listed in this email should be re-zoned back to their previous zoning.

Please let me know what other properties need to be re-zoned that are owned by CPU and currently zoned PF.

Thank you for your assistance and feel free to email or call if you have further questions.

Laurie Lebowsky

Planner III

COMMUNITY PLANNING

360.397.2280 ext 4544

From: Eric Beck [mailto:EBeck@clarkpud.com]

Sent: Thursday, May 04, 2017 5:05 PM

To: Lebowsky, Laurie

Cc: Orjiako, Oliver; Lynn Smith; John Eldridge; Dan Charlson

Subject: RE: PF zoning

Hello Laurie,

Thank you for the explanation and upcoming work sessions and hearing dates. We will plan to have someone in attendance. We must have missed the last notification.

Do you know if one was sent out, and to who within the Utility it was sent to?

Over the years, we have sold surplus properties, and the parcel reverted back to the previous zoning designation and the county received property taxes from the new owner. This appeared to benefit both parties. With the current zoning, this has hindered a sale by the utility and stopped property taxes to be paid to the county. We would like to see if the Planning Commission and Board would support allowing a PF zoned property that is declared surplus, and sold to the public, to be allowed to convert to the surrounding or previous zoning. Do you think something along these lines would be possible?

Is the list that you sent Lynn intended to be all the properties owned by Clark Public Utilities? From my review of the list, parcel number 118257308 and 118257306 are the two lots that were declared surplus and we tried to sell. The two lots, at one time had a well on the properties that has been removed and the lots have been vacant for a number of years. These two lots should be rezoned to the previous designation to fulfill the sale of the properties. Parcel number 120301000 is vacant and maybe declared surplus in the near future. The rest of the lots appear to have active facilities on them and would be appropriate to be designated a Public Facility.

Thank you again and let me know how we can help.

Eric E. Beck, P.E.

Engineering Manager - Water

Clark Public Utilities

(360) 992-8021

From: Lebowsky, Laurie [mailto:Laurie.Lebowsky@clark.wa.gov]

Sent: Thursday, May 04, 2017 11:13 AM

To: Eric Beck <EBeck@clarkpud.com>

Cc: Orjiako, Oliver <Oliver.Orjiako@clark.wa.gov>; Lynn Smith <LSmith@clarkpud.com>; Lebowsky,

Laurie <Laurie.Lebowsky@clark.wa.gov>

Subject: PF zoning

Hi Eric,

County staff proposed the Public Facility zoning for lands that are publicly owned. This zoning proposal was passed with the 2016 County Comprehensive Plan Update, which

was a three-year process.

Certain issues have arisen with properties zoned Public Facility where public agencies wish to surplus them, so we are taking a second look at the Public Facilities zone. This review is part of this year's dockets. This item is scheduled for a Planning Commission work session on September 7 and a hearing on September 21 of this year. The Board will schedule a hearing most likely November or December of 2017. The changes will become effective January 1, 2018.

Attached to this email I have attached a letter I mailed to Lynne Smith at CPU, and also an email from her asking for a timeline. In the letter, I include the property numbers for properties owned by CPU that have the Public Facilities zone. I have asked if any of these properties need to be re-zoned because CPU wants to sell them or the properties are vacant and not yet developed as a public facility.

Our goal in the future is to designate publicly-owned, public facilities with the Public Facilities zone.

I hope this information helps but feel free to call or email if you have further questions.

Laurie Lebowsky

Planner III

COMMUNITY PLANNING

360.397.2280 ext 4544

This e-mail and related attachments and any response may be subject to public disclosure under state law.

From: John Eldridge [mailto:JEldridge@clarkpud.com]
Sent: Tuesday, August 01, 2017 9:32 AM
To: Lebowsky, Laurie
Subject: RE: Public Facilities Designation

Thanks Laurie.

John

From: Lebowsky, Laurie [mailto:Laurie.Lebowsky@clark.wa.gov]
Sent: Tuesday, August 01, 2017 9:28 AM
To: John Eldridge <JEldridge@clarkpud.com>
Cc: Lebowsky, Laurie <Laurie.Lebowsky@clark.wa.gov>
Subject: RE: Public Facilities Designation

Hi John,

I reviewed the spreadsheet for the list of properties zoned PF. Properties highlighted in gold mean they will revert to their previous zoning. I added the first property you mentioned in your previous email to the group of properties to revert back to their previous zoning. The rest of the properties mentioned in your last email had already been marked for reverting to the previous zoning.

I have attached the spreadsheet for your review. This spreadsheet will eventually be part of the staff packet for the hearings and eventually to be sent to GIS so they can update the zoning maps.

Please call or email if you have questions or concerns.

Thank you.



Laurie Lebowsky
Planner III
COMMUNITY PLANNING

360.397.2280 ext 4544



From: John Eldridge [mailto:JEldridge@clarkpud.com]
Sent: Monday, July 31, 2017 4:08 PM
To: Lebowsky, Laurie
Cc: Lynn Smith
Subject: Public Facilities Designation

Laurie,

I understand that you have been speaking with Chuck Maduell at Davis Write Tremaine. He mentioned that you were looking for Clark Public Utilities' final list of pending surplus properties in order to reestablish their original zoning designations. Would you please add the following properties to that list:

Parcel	Address
108033000	7420 NE 51st St Vancouver
118257308	Lot 4 Valley View Estates NE 114th St
118257306	Lot 5 Valley View Estates NE 114th St
120301000	NE 1/4 NE 1/4 NE 1/4 S03 T3N R3E

Just let me know if you have any questions.

Thanks,

John Eldridge
Legal Counsel