



Clark County Planning Commission

Karl Johnson, Chair
Ron Barca, Vice Chair
Rick Torres
Steve Morasch
Matt Swindell
Bryan Halbert

CLARK COUNTY PLANNING COMMISSION MINUTES OF PUBLIC HEARING THURSDAY, OCTOBER 17, 2019

Public Service Center
Council Hearing Room
100 Franklin Street, 6th Floor
Vancouver, WA
6:30 p.m.

CALL TO ORDER & ROLL CALL

JOHNSON: Okay. Good evening. I'd like to call this meeting to order for Thursday, October 17th, 2019. My name is Karl Johnson, I'm the Planning Commission Chair. Can we have a roll call, please.

ROLL CALL

SWINDELL: HERE
MORASCH: HERE
HALBERT: HERE
TORRES: HERE
BARCA: HERE
JOHNSON: HERE

GENERAL & NEW BUSINESS

A. Approval of Agenda for October 17, 2019

JOHNSON: At this time I would like to ask if any of the Planning Commissioners would like to disclose any conflicts of interest? Seeing none, we will move on and I am looking for a motion to approve the agenda for October 17th, 2019.

BARCA: **Motion** to approve the agenda as written.

SWINDELL: **Second** it.

JOHNSON: All those in favor?

EVERYBODY: AYE

JOHNSON: All those opposed? Before we begin the next part of the hearing, I have a little thing to read here.

Planning Commission Opening Statement:

The procedures for tonight will be as follows: We will begin the hearing with a staff report. The Planning Commission members will ask staff questions if they have any at this point. I will then open the hearing for public testimony.

Members of the audience who wish to testify on a hearing item need to sign in on the sign-in sheets at the back of the room. Members of the public wishing to give oral testimony are to come to the front of the room at the table facing the Planning Commission.

The Chair has the discretion to make the following statement if reasonable and appropriate under the circumstances, testimony on this matter is limited to X amount of minutes per person. Your testimony should be related to the applicable standards for this hearing item. The relevant standards are set out in the staff report, copies of which are available at the table in the back of the room.

If you have any exhibits you want us to consider such as a copy of your testimony, photographs, petitions or other documents or physical evidence, please hand it into staff. This information will be included in the record for the hearing item, we will consider it as part of our deliberations.

When you testify you must testify at the front table in the front of the microphone so the court reporter can hear your testimony. State your name and address for the record and spell your name for the court reporter. Be relevant and concise and don't repeat yourself or others testifying.

I will then close the public testimony portion of the hearing. The Planning Commission will deliberate and ask staff to answer questions or make rebuttals. The Planning Commission will then take a vote on their decisions. It is important to understand that our recommendations will be forwarded to the Board of County Councilors who have the final decision-making authority.

B. Communications from the Public

JOHNSON: With this said, I would first like to ask, are there any communications from the republic, excuse me, from the public regarding anything that is not on our agenda at this time?

Seeing none, we will move to our first item and that is the Comprehensive Growth Management Plan for 2015-2035, zoning maps and Title 40.

PUBLIC HEARING ITEMS

- A. Clark County completed a review and update of its comprehensive plan according to the Growth Management Act (GMA) on June 28, 2016. The plan was appealed to the Growth Management Hearings Board (GMHB) and a hearing on the issues was held February 8, 2017. The GMHB ruled on March 23, 2017 that certain portions of the 2016 plan update, including the establishment of a Rural Industrial Land Bank (RILB) had not complied with certain requirements of GMA. The county appealed the RILB decision. On Aug. 20, 2019, the Washington State Court of Appeals filed its decision on review of the GMHB decision. The court decision upheld the GMHB ruling that the portion of the 2016 Plan related to the RILB had failed to comply with the GMA. The Planning Commission will consider amendments to the **Comprehensive Growth Management Plan 2015-2035, zoning maps and Title 40** as a response to the GMHB final decision and order regarding the **Rural Industrial Land Bank (RILB)**, CPZ2019-00032_GMA Compliance RILB.
Staff Contact: Gary Albrecht at Gary.Albrecht@clark.wa.gov or (564) 397- 4318 and Oliver Orjiako at Oliver.Orjiako@clark.wa.gov or (564) 397- 4112

ALBRECHT: Good evening, Chair. Good evening, Planning Commission members. Gary Albrecht, Clark County. I'm here to discuss --

JOHNSON: Gary, can I interrupt you, I missed one thing, sorry about that. We have something being removed from our agenda, and in case there's anybody in the audience, I need to just get this out.

The applicant of CPZ2019-00008, which is Whipple Creek, has withdrawn their request to amend the comp plan and zoning designation. They were simultaneously pursuing a determination about this case from the Hearing Examiner. They received a determination from the Hearing Examiner that their request could be handled through the Type III process.

If anyone here tonight is to testify -- is there anyone here tonight that is going to be testifying on this? If so, please note that we will not be hearing this case or will we be taking any public testimony on it. Sorry about that. Continue, Gary.

ALBRECHT: Thank you, sir. I'm here to discuss CPZ2019-00032. Thank you. There's the agenda we'll talk about this evening.

The background, it's a rather lengthy background starting back in 2007 when Clark County receives a rural industrial land bank application that Clark County prepared an addendum to evaluate and disclose potential environmental impacts and mitigation measures associated with the application.

The addendum is an appending document to the Clark County comprehensive growth management plan final environmental impact statement from May 2007. They created a master plan in 2007. The SEPA for environmental impact statement was appealed. The SEPA is

a State Environmental Policy Act just in case you didn't remember what it was for. So, and then moving on to 2014, there was some development regulations created for the rural industrial land bank.

In 2016 the comprehensive growth management plan was updated. It adopted the rural industrial land bank overlay, made some arterial atlas amendments for circulation around the industrial land bank and as you know the comprehensive plan was appealed to the Growth Management Hearings Board.

In 2017 the Growth Management Hearings Board decision came out, the final decision order. As a result of that, one of the pieces from it was the County amended the 2015 buildable lands report. And in 2018 the Growth Management Hearings Board issued some compliance orders, you can see them on the slide there, and in 2019 the Court of Appeals' decision came out and Clark County decides to not appeal that decision.

Here's the vicinity map of the rural industrial land bank. As you can see, it's between the City of Vancouver or the City of Vancouver's urban growth boundary and the City of Battle Ground's urban growth boundary. And the Court of Appeals, so the August 20th, 2019, decision, the cities of Ridgefield and La Center annexed land recently designated in their UGAs in 2016.

This Court's decision said the annexed land is moot because the County has no ability to plan for annexed land and the Hearings Board cannot compel the County to take action. That decision is supported, has supported the Board's ruling of de-designation of agricultural land was out of compliance with the Growth Management Act. And the Council direction, the Council is not appealing the summer ruling of 2019, the Court of Appeal decision, the proposed amendments to comply with the rulings.

So what's being removed, basically everything that is related to the rural industrial land bank is a caption of it and the next few slides will go more into detail of what's getting removed. We'll start off by repealing the three ordinances related to the rural industrial land bank, I'll just call it the RILB for short.

So the 2016-04-03 establishes the parcels, there's about, well, there's 13 parcels, about 600 acres of land and the 2016-05-03 added a couple more parcels to that, and the 2018-12-64 ordinance was a moratorium for that land so no permits could be brought in to develop it.

So the purpose is to amend the comprehensive plan designations to take off the rural industrial land bank and to change it to the agricultural land designation, amend the zoning of light industrial with a rural industrial land bank overlay and taking it back to the agricultural land that it was previously designated.

There's a number of proposed comprehensive plan text amendments on the screen. And there's a number of proposed Clark County Code Amendments, amendments are for the Employment Districts, the 40.230.085; the Master Planned Development, that's the 40.520.070; the Rural Industrial Development Master Plan, the 40.520.075; and the Plan Amendment Procedures for the 40.560.010.

And the Arterial Atlas Amendments that it changes for the circulation taking away everything that we put in place for that, I'll have a map of that later on. There's the map right there. And the public process.

The Growth Management Hearings Board, we started the process in August 20th, 2019, the Department of Commerce, the SEPA. So we've gotten two comments on the SEPA, they're in your supporting documents in the, in your, on your electronic packet and one was from the Nisqually Indian Tribe saying there were no concerns and that to keep them informed of any independent disclosures of archeological resources of human burials are noticed and the other comment was from the Department of Ecology for mapped wetlands. Their comment was to recommend determination, wetland determination, delineations be conducted in the future development proposals which that would occur at the time of development and that's it.

That's all I have for a presentation. So I'm ready to take comments and questions if you have any.

JOHNSON: Any questions? It's pretty straightforward. At this time is there any comments from the public? Seeing none, we will bring it back for any discussion or a motion.

SWINDELL: So just to be clear, these are things that we have to do this, this isn't a matter of I'd like to change this or that, nope, this is what we need to do to be in compliance; correct?

ALBRECHT: This will ensure, this will help us to come into compliance. Chris Cook can answer more on that.

SWINDELL: Thanks, Chris.

COOK: Christine Cook, Deputy Prosecuting Attorney. What it -- to summarize this in really quickly, it's repealing everything about the rural industrial land bank and restoring code and arterial atlas and comp plan and to what they were before the rural industrial land bank was adopted or in the absence of the rural industrial land bank and, you know, sure, the County could decide to do otherwise, that would keep in place the order of noncompliance and invalidity that has been imposed by the Growth Board, and that order of noncompliance and invalidity is one of the reasons why Public Works has not received some grant money this year, ten million at least that just was earmarked for the County and the County couldn't sign the contract. There are other grants and loans that the County was unable to apply for because of that.

I mean, this is an appellate body, they have jurisdiction over growth management, when they say you did it wrong, they have some clout and I think that the Council has come to decide that it may make more sense to come into compliance than to try to continue with something that is at this point not helping the County.

SWINDELL: Okay. That makes sense.

JOHNSON: Thank you. Any other questions? I would take a motion if that's appropriate. Anything else from the public on this matter?

PUBLIC TESTIMONY

BOLEN: Can I come forward or should I speak from here?

JOHNSON: Yes, you should come forward and state your name and spell it out for the reporter so she can hear it and it's on the record, please.

BOLEN: Sorry, we came late. I'm Bill Bolen, my wife Alice behind me.

HOLLEY: Spell your name.

BOLEN: Pardon me?

HOLLEY: Spell your last name.

BOLEN: B-o-l-e-n. And I'm a little confused what I'm doing. I just wanted to, I was notified of this hearing and I need to make a statement regarding our property. We live on 61st Avenue, N.W. 61st Avenue just south of 192nd Street. Pardon me. Yeah, 192nd Street. We purchased our property two years ago and we purchased an incredibly beautiful view of some fields and trees which we continue to love. Operated with the idea that we were in basically 20-acre country and recognizing that a good deal of that neighborhood has been --

BARCA: He's in Whipple Creek.

BOLEN: -- converted into one acre, effectively one-acre property, possibly fives, I don't know how they --

JOHNSON: Excuse me, sir. Right before you got here, I think you're speaking of the Whipple Creek.

BOLEN: Correct.

JOHNSON: Okay. Right before you got here, and I'm going to read this statement again for you just so you can hear it again. Okay.

BOLEN: Sure.

JOHNSON: And I apologize that --

BOLEN: We came three minutes late and we didn't hear that.

JOHNSON: Yeah. So the applicant of Whipple Creek has withdrawn their request to amend the

comp plan and zoning designation. They were simultaneously pursuing a determination about the case from the Hearing Examiner. They received a determination from the Hearing Examiner that their request could be handled at a Type III process.

So for here tonight we're not going to take any testimony on this case, we're not going to hear it tonight, it's been removed from our agenda and we're not going to take any public testimony on it. And I'm sorry I didn't, I was trying to figure out which one you were talking about. So tonight --

BOLEN: I'm sorry, I wish I could have been better organized. We didn't hear any of this, anything about what the proposal was until about two to three weeks ago.

JOHNSON: That's okay. I would encourage you to get with staff to help them clarify that just a little bit more for you, but for tonight nothing is going to happen on this matter at all, and I apologize for your trip all the way down here, we just got this notice at the very last minute right before the hearing.

BOLEN: I love walking in the rain especially here. Okay. Thank you very much.

JOHNSON: Thank you, sir. Yeah. With that said, is there anybody else from the public that would like to speak on the matter at hand? Seeing none, I would hear a motion.

RETURN TO PLANNING COMMISSION

TORRES: I **MOVE** that the Commission approve CPZ2019-00032 as written.

SWINDELL: I'll **second** it.

JOHNSON: The motion's been made and seconded. Roll call, Sonja, please.

ROLL CALL VOTE

SWINDELL: AYE

MORASCH: AYE

HALBERT: AYE

TORRES: AYE

BARCA: AYE

JOHNSON: AYE

JOHNSON: Motion passes 5/0. And with that said, we'll move on to our next item. Our next item on the docket is Clark County Unified Development Code Amendments on the Columbia River National Scenic Area Code Update. Staff.

PUBLIC HEARING ITEMS, continued

- B. Clark County Unified Development Code (Title 40.250.030) Amendments (CPZ2019-00033 Columbia River Gorge National Scenic Area Code update)** – The proposal is to amend the Clark County Code pertaining to the Columbia River Gorge National Scenic Area to correct a scrivener's error to CCC 40.240.H, which states that the development and production of mineral and geothermal resources are required to follow a Type IV (legislative) process. The review procedures should be a Type III (quasi-judicial) process as they are elsewhere in code.
Staff Contact: Sharon.Lumbantobing@clark.wa.gov or (564) 397-4909

LUMBANTOBING: Good evening, Planning Commissioners. My name is Sharon Lumbantobing with Clark County Community Planning for the record. Let me -- okay. One moment, please. Okay.

So this is CPZ2019-00033, this is a proposal to correct a scrivener's error to Clark County Code 40.240.440(H). The review procedures for development and production of mineral and geothermal resources should be a Type III quasi-judicial process not a Type IV legislative process. Nowhere in the Gorge Code is a Type IV process applicable.

This is an excerpt from Table 40.500 in the code and it shows what procedure types are applicable. You can see in the midway, midway to the bottom of the table, the Columbia River Gorge permit uses Type II and Type III processes, nothing in Type IV, and in Title 40.510.040 this lists the description of what types of changes are made through a Type IV process, it's things like the comprehensive plan map, it's policy changes, so comp plan map and text and zoning changes, development regulations, arterial atlas, shoreline master program, not permitting processes, those don't go through the Planning Commission to the Council.

So staff believes these to be a scrivener's error, was not a conscious policy decision, it occurred when the entire Title 18 was repealed and replaced with Title 40. Council approved an interim ordinance on September 25th to correct the scrivener's error and the County now has 60 days to adopt a permanent ordinance through the Type IV process which is what we're doing now.

We received three public comments earlier today, those are forwarded to you and they're on the website. We are here in the process Planning Commission hearing. We'll be going to, let's see, where are we, okay, so we'll be going to a County Council work session on October 23rd and then a hearing on November 5th, it has its own adopting ordinance that would take effect after we go to Council. That's all I have. Are there any questions?

BARCA: Based on the last minute inputs from the public it has the appearance that this has become contentious probably because there is something pending, has there been any discussion to resolution of that before we go forward?

HALLVIK: I think I can speak to that a little bit and I'm sure that others in the audience will also speak to it. There has been pending --

HOLLEY: And you are?

HALLVIK: Excuse me, I'm sorry. My name is Taylor Hallvik and I am a Deputy Prosecuting Attorney with Clark County, the spelling is H-a -- maybe I'm not on.

BARCA: No, you're on, just get a little closer to the microphone.

HALLVIK: All right. My spelling of my last name is H-a-l-l-v as in Victor i-k. There has been pending essentially code enforcement litigation both in Clark County through a Hearing Examiner process as well as through the Columbia River Gorge Commission that culminated yesterday in a final decision from the Columbia River Gorge Commission, which I anticipate will be appealed. There is an application that was, a pre-application that was received for some mining activity in an area that would be subject to this code change and that was received I believe a week or so ago after the interim ordinance was adopted.

So there does, there is pending litigation and I expect that there will be an appeal of the Gorge Commissions' decision, so that is a backdrop that I think exists. I believe it's unrelated to the merits of whether this is or is not a scrivener's error and I believe the record is pretty overwhelming and clear that it is a scrivener's error that is being corrected now by the Council.

BARCA: Thank you for the enlightenment.

TORRES: So I have a question. So you said the permit was applied for after the Council made their conditional determination or --

HALLVIK: It was a pre-application that was received by the County after that.

TORRES: And that was received before or after?

HALLVIK: After.

TORRES: After.

MORASCH: I have a question. Why are the exhibits to the staff report not online and do you have them tonight so that we can look at them?

LUMBANTOBING: They are online. They should be.

MORASCH: Where? They're not online on the Planning Commission website.

LUMBANTOBING: They could be on the -- I will check and then get them up online.

MORASCH: Do you have copies today that I can look at or can you point to me to where they are online because I --

LUMBANTOBING: On your projects page.

MORASCH: I'm on the Planning Commissions agenda page, 10/17/19, Item CPZ2019-00033, I've got a Staff Report, SEPA, Public Comments, Supporting Documents and Presentation and I've gone through all those links and I haven't found the exhibits.

LUMBANTOBING: We can -- we'll make sure that they're there. I can try to -- they should be there. If not, we will put them up, we'll get them up tonight.

TORRES: Are they, the comments dated the 16th of October?

LUMBANTOBING: Those are online.

TORRES: Those are online.

MORASCH: Yeah, the comments are.

BARCA: The comments are.

MORASCH: It's just the exhibits, some of which I wouldn't mind looking at.

LUMBANTOBING: These were the pieces of the past ordinance and showing that the strikethrough.

BARCA: We can't hear you.

LUMBANTOBING: Oh, these were exhibits from the past ordinance, the Title 18 ordinance, showing there was no strikethrough.

MORASCH: That's the one I'm most interested in looking at, that's Exhibit 3, and also Exhibit 1 which is the old 1996 ordinance.

LUMBANTOBING: Okay. My apologies, they should be here. Since we moved away from the binders I don't have copies on me right now, but they should have been up online and my apologies for that. The only other place is possibly here. I don't know if you want to take the time now. I can get them up online tonight. I can try to see if they're on the Grid from the interim ordinance. So that's where they didn't crossover. Okay. So is this it, interim ordinance, that's somebody else's.

COOK: That's it.

LUMBANTOBING: That's it. Okay. It should be attached here. So these are all the, so it was on the Council Grid for the adopting interim, for the interim ordinance and you want to see the exhibit where the strikethroughs are missing?

BARCA: Yeah, Exhibit 3.

LUMBANTOBING: We're in the right section code. That's the letter.

SWINDELL: It said Type IV right up there on the top there on the top of that page.

LUMBANTOBING: Is it right here?

SWINDELL: I believe it was --

LUMBANTOBING: Go up. Go down.

COOK: Up. Right there.

LUMBANTOBING: Right there. Okay. Right up here.

MORASCH: I can't see that not with my eyesight.

LUMBANTOBING: Right here it says Type IV.

MORASCH: I can hardly see this.

HALLVIK: At the very top of the page.

SWINDELL: And what we're saying is that needs to be Type III?

HALLVIK: That's right.

SWINDELL: Everything is Type III.

HALLVIK: In fact one notable point is that this particular section of code relates to the large scale ag zone within the Columbia River Gorge area. I think it's also worth noting that this same use in the forest area zone of the Columbia River Gorge area is a Type III, so it's the same paragraph in an adjacent area, forest as opposed to ag in the Columbia River Gorge National Scenic Area and it reflects a Type III process as well, so I think that's another point that's worth noting.

BARCA: So all resource land is being treated in the same fashion then?

HALLVIK: Under the proposed solution, yes.

BARCA: Okay. All right.

JOHNSON: Steve, do you have any other questions for staff right now?

MORASCH: I just want to see the exhibits, but you referenced a forest zone section, do you know what code section that is?

HALLVIK: 40.240.310(G).

MORASCH: 310. Okay. 40.240.310?

LUMBANTOBING: Do you want to see it where it is in the current code?

MORASCH: I mean, I've got the code but 310 is Historic Structures.

LUMBANTOBING: 40.240.440(G).

MORASCH: 440.

LUMBANTOBING: That's the current location.

MORASCH: I was asking about the forest, you said there was a forest zone in the Gorge that was a Type III for aggregate resources and I wanted to look at that provision.

HALLVIK: I was reading the staff report, that section.

LUMBANTOBING: It is, it's 40.240.310(G) in the current code.

MORASCH: 40.240.310.

LUMBANTOBING: 310(G).

MORASCH: But 40.240.310 says Special Uses in Historic Buildings, I'm looking at the UDC right now and there is no 310(G).

COOK: So the staff report says it was --

MORASCH: Am I reading that right, 40.240.310, Special Uses, okay, because I mean my eyesight is failing a little bit so I want to make sure.

LUMBANTOBING: 520.

HALLVIK: 520. It's 40.240.520(H).

MORASCH: Okay. There it is. Thank you.

HALLVIK: It was a long way to go. Sorry. Took the long way.

JOHNSON: Any other questions for staff? Okay. With that said, at this time we will take public comments. Mr. Howsley, it looks like you want to speak too, I got your name written here twice. Okay. Mr. Horenstein.

HOWSLEY: Do you mind if we come up together?

JOHNSON: Sure, why not.

BARCA: Don't talk at the same time.

PUBLIC TESTIMONY

HORENSTEIN: We know to talk slowly and distinctly, don't we. Thank you, Chair Johnson, members of the Planning Commission. For the record, Steve Horenstein, 500 Broadway, Suite 370 in Vancouver, here representing Nutter who is the operator of this mine in Washougal.

The confusion you've just been through is the confusion that we've been through and I'd like to start by asking for you to continue this hearing because as a matter of due process the ordinance you're considering, I can't believe you didn't have it, but we didn't have it either.

Although, we know we have had seen the interim ordinance, we have no idea what you're really considering tonight because it failed to be posted, that is fundamental a due process violation and it would be hard for you to make a good decision with the confusion that's already been created, this needs a little more time.

To Mr. Barca, to say this is a contentious process is the understatement of 2019. There is litigation happening and there's more to come and this is in our view a bit of an end run by staff. They knew our application was coming and the interim ordinance was rushed through in order to give staff rather than the Board control over this process. So staff to tell you that there's plenty of support for this being a scrivener's error is laughable in my view, none of these people were here in 2003, I was.

I could submit a declaration and will when the Board gets through hearing eventually on this if necessary to tell you that the Board specifically wanted to have involvement in decisions regarding surface mining. That Board was very cognizant of the number of mines we had then which is certainly more than we have now, cognizant of the community issues involved, cognizant of the definite need for the rock, that was a considered decision at that time.

There's nothing in the record that tells you that this is a scrivener's error other than staff who weren't there then telling you so. So let me go through some of the technical issues that we think are flaws here and Mr. Howsley will talk to you about more on the merits of what's going on here.

Again, are you considering whether to make the original interim ordinance permanent, is there some other ordinance involved here, why doesn't the ordinance tell us that and why wasn't there an ordinance draft attached. I realize staff makes mistakes now and then as do we, but that's a due process mistake that requires you to continue the hearing. The interim ordinance, if adopted by you as a final ordinance just moving forward a little bit here is flawed.

Section 1 of the interim ordinance recites essentially two RCW 65 63.200 and it's 36.70A.390 as authorities for adopting the interim ordinance. 36.70A.390 part of the Growth Management

Act deals with moratoriums and zoning controls. Now, those of us that have been around for a while know what that means, it relates to stopping development within an existing zone.

What's before you in this ordinance is not about zoning, it's not about use of the site, it's about the procedure followed to permit mining activity under the surface mining ordinances and such. To call it, to try to fit it under, in and under the moratorium I think that's what, that's perhaps staff's mindset on this to stop this, but that's not what we're doing here, they're amending a procedural part of the code that deals with I would make it make a point that it's analogous to site plan approval.

When you get a surface mining permit it's really an enhanced site plan approval process because there's much more involved, but to try to couch this as an emergency ordinance that you can, an ordinance you can do on an interim or emergency basis is inconsistent with State statute and the County code is silent, it doesn't have any provisions for an interim ordinance so we have to rely on the RCW and this is not a zoning issue, this is essentially a site plan approval issue.

So we think the original interim ordinance is flawed in the first place and you would just further that flaw by adopting it. What we're not even sure about is whether this is a process to make that ordinance a permanent ordinance because it's not clear from the notice if that's the case.

The interim ordinance does not identify itself even in its text as an interim zoning control or moratorium or an interim zoning ordinance. Those are the statutory words that are involved in the process staff has chosen to move forward with. If we do have an interim zoning control ordinance, here is the burden of staff is or on Council to establish that it has the authority it was purporting to exercise when it adopted this ordinance and it's just so clear to us that that is not the case.

You know, we used to have more than one land use ordinance, now we have combined everything into Title 40, we have the zoning in Title 40, we have the processes in Title 40, we have the comp plan material in Title 40. So to say this, you can find this in the zoning ordinance, it's not what this is about, this is about process, how to approve surface mining.

Clark County Code 40.560.020 Subsection A.3. explicitly says that "A code amendment must occur through a Type IV process that includes Planning Commission review." Is that what we're doing now? Why are we going through this procedure if in the County's opinion the interim ordinance was valid, they just have to have a hearing in six months to make it permanent, we don't know why we're here, that's not clear from the staff report.

Staff again might say, well, it's because of the scrivener error and it needed to be changed while we work on a permanent change, well, why did you pick just this, there are a lot of things we need to change in the code. Those of you that deal with it daily and those of you that have been here a while know that, why did we just pick this one little piece out to change on an urgent or emergency or maybe the word is interim basis. Why does it need to be changed right now. It's been there for 16 years, that's been the code as staff told you, that's when it was last adopted.

Let me tell you why. Because our clients have been directed to file an application for a mining permit and the County staff wants to make sure that the proposed procedural change was made immediately so it would apply to our clients application. Staff has expressed to us over many, many, many months of working on this that they don't view mining permits in the same way that the County Councilors does. This gives staff total control over this and cuts out the County Councilors.

You know, there's a concept in the law called targeting. Targeting is a due process violation and I'm not talking about the due process violation inadvertently made here by failing to file the notice, but the proposed procedural step is another step the County staff is taking to try to shut down the Zimmerly/Nutter rock mine, rock pit -- excuse me, I'm not supposed to use the word mine, am I.

HOWSLEY: No.

HORENSTEIN: Okay. Excuse me. -- in the Columbia River Gorge without involving the County Council. Now, Jamie will discuss with you in some detail the steps we've gone to try to just to fix this process in a collaborative way, we are officially through trying to do that at this point because it cannot be done with County staff. It's just one more attempt, this interim ordinance is just more attempt to deny our clients' procedural and substantive due process.

County staff rushed a procedural change through disguised as an interim zoning ordinance without proper legal justification just to make sure it would impact our clients. There are no other mines involved in this same situation now just to make sure the County Council would not be involved in the decision of whether mining, a legally permitted activity in the Columbia River Gorge by the way, would be allowed to continue.

The County Council understands the need for rock, there's no such thing as road construction, house construction, commercial construction or industrial construction without rock. The County Council wants us to find a way for mining to continue so that that rock is available; county staff apparently does not. And with that, I'll answer any questions or turn it over to my colleague Mr. Howsley. And my motion again I am making a formal motion to continue tonight.

BARCA: So, Mr. Howsley, you -- sorry.

HORENSTEIN: Mr. Horenstein.

BARCA: Sorry, Horenstein.

HORENSTEIN: You know better.

BARCA: I do. I was thinking of another question but it's too soon. Mr. Horenstein --

HORENSTEIN: Yes, sir.

BARCA: -- you mention the 2003 decision --

HORENSTEIN: Yes.

BARCA: -- and you mention understanding what the County Commissioners at the time and their intent was, staff in the staff report has built up a record including Exhibit 2 and 3 that point towards this as being an oversight based on the way that the exhibits look, do you have anything in the way of minutes of a meeting or any kind of written documentation from the County Commissioners' thought processes that would help counteract that?

HORENSTEIN: Thank you for asking that question. We have filed a public records request and coincidence we've gotten some of it now, the rest isn't due till just about -- according to what we hear from the public records staff which is working with Community Planning to get us this information, that we won't get it until around the time of the County Council hearing on to try to make this interim ordinance or whatever ordinance we're talking about permanent, so we're looking for that.

BARCA: All right. Thank you.

HORENSTEIN: I was involved with Section 30 mining, with mining on 192nd for the companies involved at that time, that's where a lot of the mining activity were concerned, so we're paying very close attention to what was happening at that time.

MORASCH: Did you ask for the Ordinance 2006-05-04 as well, that's the ordinance that amended both sections 40.240.440 as well as the other section, the forest section that also refers to surface mining, it looks like both those sections were amended in 2006?

HORENSTEIN: We would expect to receive that as part of what we've asked for.

MORASCH: I'd be interested -- if we do continue it, I would be interested in seeing that ordinance that amended both of those sections to see if it had any relevance or not.

HORENSTEIN: Sure.

JOHNSON: Any other comments?

HORENSTEIN: We would, in response to your question, we certainly would submit it if it turns out to be relevant as part of our -- it's hard for us to submit a detailed response to exactly what you're adopting here without knowing exactly what's in front of you, but we would expect to have a much more robust presentation when we know what the ordinance you're considering is.

JOHNSON: Mr. Howsley.

HOWSLEY: Yes. Good evening. For the record, Jamie Howsley, 1499 S.E. Tech Center Place, Suite 380, Vancouver, Washington, 98683. I am the attorney for Judith Zimmerly, the owner of

the Washougal Pit property. I'm here to, I guess supplement the or amplify the letter that I submitted to you and the County yesterday and to provide some additional background from Steve's and my perspective of how this may have come to pass in such a rushed fashion and why again we felt very targeted by County staff in this entire process.

So I had gotten wind that this was going to be on the Planning Commission agenda for tonight by my typical e-mail address. I get every one of your Planning Commission meeting agendas, I review them to see whether or not there's matters of interest either to my clients or just me from an intellectual standpoint addressing code.

I noticed that this item was up, and while we were aware of this issue going back for some time, I did have a discussion with County legal counsel about that issue and I told him that I had intended on showing up at this hearing and voicing my concern with changing this so suddenly given the fact that we were about to submit an application under protest for a Gorge permit.

The next day I get notice from County staff that they rushed through an interim ordinance through County Council and I about hit the roof. I phoned my colleague here to let him know that what had taken place.

HORENSTEIN: He was angry.

HOWSLEY: I don't get angry very often. Mr. Horenstein and I have practiced law in this community a very long time, Steve a lot longer than I have, but to again echo what he said, we were both around in 2003 at a different time with the County Commissioners and there was a very serious concern around rock supply even then and I just find it very strange that this could be considered a scrivener's error.

I could understand if it was a Type II to Type III, but a V, a Roman Numeral V is a lot different than a vertical line, and so to that end we started requesting what the County's legal basis was to make that determination that this in fact was a scrivener's error.

All that our office got back in response was basically this staff report item.

We then asked them to send us basically a whole host of other documents, they said go file a public records request, so we went and did that. As Mr. Horenstein indicated, we don't expect that information to come back to us certainly not in time for this hearing but maybe not even before the County Council hearing. The concern I have primarily is again I don't believe there's adequate justification by the history nor our memory to indicate that this in fact was a scrivener's error.

The second concern that I've outlaid in our letter that Mr. Horenstein alluded to was it's clearly that this ordinance is only targeted at this specific property. There's very limited property in the, in Clark County that is subject to the Gorge Commission rules in the first place, it's just a very small sliver of property on the east side of the county and there's only one property that has a surface mining overlay designation over it and that is my client's property. I'm not sure from a due process standpoint whether or not that that is fair or not.

I'm currently involved in another case in the City of Tacoma on a very similar issue that's in Federal Court right now. This is very concerning.

Finally, this is emblematic of a lot of other issues that we've seen with the code. We have for the better part of a year pointed out inconsistencies between the Gorge Scenic Act Regulations and the County Code Regulations and we have asked multiple times, multiple meetings, multiple letters that the County staff work to reconcile those inconsistencies partly because we now find ourselves in the position where we're seeking a permit under protest and we don't even know what the standards are. We would like to see the County address this holistically rather than a piecemeal fashion which seems to address what their perceived concerns are rather than addressing all of the other inconsistent issues here in the code.

I don't take pleasure in doing this at all. I've never been put in the position I can recall of having to make this sort of testimony, but as Mr. Horenstein indicated we do feel like our clients rights are being trampled over right and left by staff on this.

So with that, you know, first of all, I think a continuance is most definitely in order for the fact of failure to put the proper documents out there for even you guys to review, us to review, but secondly, we need time to get to the bottom of this more from a historical standpoint and just taking staff's word at it versus doing a diligent search of the records needs to happen.

So with that, I'll conclude my testimony and see if there's any questions that Planning Commission may have.

RETURN TO PLANNING COMMISSION

JOHNSON: Gentlemen, any questions?

MORASCH: I have one and it's for either one of you and that has to do with the Gorge Small Woodlands Code section that Mr. Hallvik pointed out, 40.240.520(H), I don't know if you've looked at that or not, it's an interesting section, it's similar to the one they're trying to amend 40.240.440(H) that applies to ag and in the Section 40.240.520(H) it's got very similar language, except for that it specifies that in that zone a Type III review will be required under 40.510.030.

Do you have any knowledge or recollection of why the Board in the past may have wanted a Type III for aggregate in the small woodlands but not in the ag?

HORENSTEIN: I can only surmise and repeat what I said a little earlier and that is ag is ag, we've got thousands and thousands and thousands of acres of it in Clark County, it's pretty standard stuff.

Mining, surface mining is not and it gets back to my recollection of the Board's desire to remain involved in permitting that process because of the high interest of the need for the rock and the natural tension that that creates. The Boards they were a little more politically courageous back then than perhaps than now.

MORASCH: Well, I guess the point that I think that Mr. Hallvik was trying to make is, well, if they were so interested in it, why wouldn't they have required Type IV for ag, for aggregate in the forest land as well as the ag land, why the difference in treatment.

HORENSTEIN: I can't tell you any more than I have.

HOWSLEY: I would just surmise, Commissioner Morasch, that, so mining regulation in the State of Washington is pretty complex, you can mine up to three acres without getting a permit from Department of Natural Resources to do reclamation activity.

So it may be a situation where small woodland, and again I'd have to go back and dig through the record there because that would be a less impactful use there might warrant some differences versus in the case of the Washougal Pit, that the Washougal Pit had been there since 1972, was a pre-existing mine for that predated the County's comp plan in 1980, predated the Growth Management Act, predated the Gorge Scenic Act, there may have been specific consideration to those existing large scale operations, but without that additional discovery that we need to undertake, we don't know that for sure.

Personally, I've had such a bad experience with staff in this entire case, and I'm not even going to get into what Steve and I witnessed during the Hearing Examiner's case, but I don't trust them.

MORASCH: Well --

HORENSTEIN: The other thing --

MORASCH: -- I would certainly look at that if you get your public records documents, I would certainly compare and contrast those two and they were both amended in 2006 so I would look at that as well.

HORENSTEIN: Just one other thought on that, it might have been a scrivener's error, that's just as likely with the information before you that this one was.

HOWSLEY: The other way.

HALLVIK: I disagree. First of all, I don't think the changes as we've indicated in 2003 when changes are made, any time changes are made to code there's an underline and a strikethrough process when that is intentional and that was not the case for the, for the scrivener's error that has been identified in the interim ordinance in the staff report today.

MORASCH: Do we have the underline and strikethrough for 40.240.520?

HALLVIK: Not today I don't think we do.

LUMBANTOBING: Not for that, no.

HALLVIK: Not for that.

MORASCH: Well, that's probably something I'd like to see.

HALLVIK: I do think if it -- a couple of points that I'd like to address just briefly in response and I think Sharon can address the continuance request as well, but first of all, I wanted to just rebut the idea that this is a staff directed effort to exert greater control over mining approvals. The Clark County Council adopted the interim ordinance reflected in the change, this is not an ordinance, an interim ordinance that staff approved, that's of course not possible.

The other thing I would point out is that a point that's been overlooked by Mr. Horenstein and Mr. Howsley is that Type IV review processes are extremely limited in their scope and what they can apply to, they are legislative processes, not quasi-judicial processes, and to assume that this is a choice between Type III or Type IV I think is a false choice.

There is a Type III quasi-judicial process in Clark County's Code, there is not a Type IV quasi-judicial process that would allow for a project level review by through a Type IV process as it's defined very clearly and explicitly in Clark County Code which I think further buttresses the already strong case that this is a scrivener's error in 2003.

And, lastly, I would point to 40.510.040(H) as the interim ordinance authority in Clark County Code that does exist contrary to what you heard a little bit ago. That's all I have.

BARCA: Mr. Howsley, can you tell me at the time that the emergency ordinance was adopted at what was the status of your application at that time?

HOWSLEY: So there's a lot of inconsistencies that I alluded to between the Gorge Scenic Act that's in County Code or Gorge Scenic Permit Ordinances and the County Code, we were in active discussions with County legal counsel as well as the Gorge Commissions' attorney in trying to understand everybody's positions.

We were -- they knew quite emphatically because we had told them on multiple occasions that we were coming in for a permit under protest, and again, I got notification of your guys' hearing saying that this was going to be on the agenda, I talked to County legal counsel and then the next day the interim ordinance passed. I mean, there's a lot of shenanigans going on in the Federal government, this just smells funny to me.

HORENSTEIN: If I might respond to one thing that Mr. Hallvik said, there was a Type IV process for this sort of thing back in the day which gets to my point that we have much younger and newer staff that weren't around then and didn't and probably don't even know that, but to try to equate it with the way the quote is today does not reflect what existed back in the day.

LUMBANTOBING: Chair, we'd like to suggest that maybe you continue this hearing to November 7th, a date certain, at 6:30 p.m. It would be a special hearing, you don't have a regularly scheduled hearing on that date, we don't have any other agenda items.

JOHNSON: Okay. So we want to move it forward. So, Chris, is there anything that would stop us from doing that?

SWINDELL: I guess I'd just like to ask, does everybody feel that's enough time to be prepared for that?

HORENSTEIN: We've been told to count on the public records, and as I said we've gotten a few, but you can count on the balance by November 5th, so that may not give us quite enough time.

JOHNSON: Well, we'll stick with what staff asked us, what's best for them right now and then if anything changes, we'll let staff work that out.

SWINDELL: Can I ask one other question if we're going to continue?

BARCA: We need to get a little bit clearer on this before we go to motion I think. Go ahead.

SWINDELL: I just wanted to ask just one more question. You had, Mr. Horenstein had mentioned that this particular change really only affects this one piece of property in Clark County, or maybe it was Jamie that had mentioned that, is that accurate, is this pretty much the only piece of property in Clark County that this thing is going to affect?

HALLVIK: I can't speak to that specifically. I think I don't have the information about what other types of uses or projects there may be in the large scale ag area in the Columbia River Gorge. This is a very -- part of the reason that I think there are a limited number is because there are a very limited number of, this is a very refined use as well as a very refined subset of Clark County, so that may well be true, I don't know though.

SWINDELL: And before we come, I'd like to know if I could ask for that to know in general how many pieces of property this is going to affect.

COOK: Commissioner, I would think it would affect any property that has surface mining overlay or any property that is capable of applying for a permit in the Columbia Gorge area.

SWINDELL: Okay. Is there a map that would show that?

MORASCH: Yes, the surface mining overlay map.

COOK: The surface mining overlay would certainly show that.

SWINDELL: We could have that for the hearing. I mean, that's what I was asking.

COOK: Yeah. I was going to say I would think we could pull that up right now.

JOHNSON: You can pull that up right now.

SWINDELL: Well, if we could just have that for the next hearing, that's fine, just wanted to

make sure we had that for the next.

BARCA: So fellow Commissioners, I am not available on the 7th and don't know if everybody's had a chance to ensure that they're available on the 7th.

TORRES: Yeah, I'm going to be out of town on the 7th and 8th.

SWINDELL: I will be here. One, two, three, four, that makes four of us.

BARCA: So you are at bear minimum of a quorum.

MORASCH: And it doesn't sound like that may not be enough time depending on when they get the public records.

BARCA: And so I guess I'd like to bring it back to the Commission and just talk about the idea that whatever we choose to do is not the same thing as what Council chooses to do. Our recommendation is just that at this moment in time. Us holding on and waiting isn't going to change the outcome ultimately.

We can endorse staff or we can oppose staff, but I think it's really going to come down to what's in the public record and what is the intention. You know, right now I look at this thing and saying that if County Council is pro mining it appears strange that they would have passed an emergency ordinance. Perhaps there's more to it than that.

Right now I don't see that this body is the decision-maker for this type of contentious issue, but if you're interested in holding it to the 7th, I just need everybody to understand that I won't be there for that particular hearing and whatever it is Rick won't be there either.

JOHNSON: Any other comments to Ron's?

MORASCH: Pardon?

JOHNSON: Any other comments?

MORASCH: About what?

JOHNSON: About what Ron said?

BARCA: About --

MORASCH: About continuing it to the 7th?

JOHNSON: Yeah.

BARCA: Yeah.

MORASCH: Oh, it just doesn't seem like the 7th is going to be enough time.

COOK: To do what?

MORASCH: To get the public records.

COOK: Well --

MORASCH: I would like them to get their public records in response to their public records request and then come back and present those records to us and it sounds like if the County has promised to get them by the 5th, then if there's a day or two delay, then we won't even get the records until after the 7th, so...

COOK: I would think that the --

MORASCH: If we come back on the 7th and we don't have any more records to look at, then we won't have any more information than we have here tonight, so what would be the point.

COOK: I would expect that for example the ordinance can be provided well before then and the exhibits to it, they may not be able to get, you know, hundreds of pages of conversion of Titles 17 and 18 to Title 40, I don't know, maybe they can. Mr. Howsley has had his office come to our office directly and copy pieces of paper before and I don't -- so that's a possibility, but as to whether they can get all of the records that they want before the Planning Commission meeting, I'm not sure that that is due process issue, I think not having the ordinance and the exhibits might be, but...

MORASCH: Well, I would like to have as much information as possible.

SWINDELL: Can I ask it --

MORASCH: I see some arguments on both sides here and we can get into those if we get into deliberation on the merits, but...

SWINDELL: I guess I'm asking, I want to ask this question, if it really is only affecting one piece of property what is the rush, why are we pushing this through so fast, why are we in a hurry to do this? It's not really a big thing. Can't it wait, make sure we got all our ducks in a row, fix all the other issues and take care of business, what's the push?

HALLVIK: I think to that point there I would come back to the point that there really isn't a Type IV quasi-judicial process by which to process an application for the exploration and development of mineral resources, so the County's in a position where it has a tool or a process that's specified in the code and through an apparent scrivener's error that doesn't really exist and so that's the part of the dilemma.

BARCA: When was the 60-day emergency ordinance adopted?

HALLVIK: September 25th.

BARCA: So --

COOK: November 24 would be the 60 day.

BARCA: -- November 24 Council has to hear it again.

COOK: Before then, yeah.

JOHNSON: I just looked at my calendar too and I won't be able to be here so we won't have a quorum, I just glanced at it, so...

SWINDELL: So did you say you weren't going to be here?

JOHNSON: I'm not going to be able to be here.

SWINDELL: So I mean do we want to just go ahead and push this thing through as a vote tonight and I mean based on what I'm hearing there's so much confusion and I mean honestly there's just, I mean personally there's just no way that I could recommend this moving forward with the change myself, I just there's too much, too much movement. We've got a lot of questions.

It sounds like there's a lot of history and knowledge that maybe we don't currently have and the purpose of why that was there so, and I personally don't understand what the big rush is to do this, so I don't know why there was an emergency ordinance that only affects one piece of property, it sounds a little, a little too rushed to me, but...

HALLVIK: And I would point out that it's not an emergency ordinance, there is a, it was an interim ordinance to make this --

SWINDELL: Oh, an interim ordinance that was done pretty quickly.

COOK: Yeah.

SWINDELL: So, okay, I might describe that as an emergency ordinance to stop something, but, okay. But that's where I'm at guys.

BARCA: But 60 days still applies.

MORASCH: Well, but the headline, the title of the section you're relying on is interim actions moratorium emergency, so I mean you can say it wasn't an emergency but I agree it was pushed through pretty darn fast.

JOHNSON: Comments? Questions? I would entertain some type of motion.

MORASCH: Well, before we have a motion, I think we need to finish the public testimony, close the public hearing and then have some deliberation.

JOHNSON: Oh, I thought we closed public testimony.

MORASCH: I mean, we still have people up here testifying and there's more people in the audience, I don't know who else wanted to testify, but --

JOHNSON: At this time -- yeah, I don't have anybody else.

MORASCH: -- I would like to close the hearing and then I would like some deliberation before we have a motion.

HOWSLEY: I think, just the only thing I would say in closing is I'm pretty frustrated with the processes of this, this is not done appropriately, you guys should not be put in this position, so with that.

HORENSTEIN: And I would add a decision to move it forward tonight especially with the due process issue and the substantive issues involved will just make this more complicated for everybody including County staff.

JOHNSON: Thank you.

HALLVIK: I would add, it does look like there's a date on November 21st that may be available for a continued hearing as well and that would --

LUMBANTOBING: Well, that would have been -- we don't have a Planning Commission hearing, but that would have been the date we would have if there had been an agenda item.

SWINDELL: I'll be here.

BARCA: And how does that fit within the 60-day window?

HALLVIK: Not well.

BARCA: It doesn't fit within the 60-day window because you have to still get it before County Council. Right.

COOK: One solution could be for County Council to extend the interim ordinance by holding another public meeting or by holding a public hearing actually.

BARCA: So the proponents could go forward with that extension and start the whole fight all over again. Okay.

JOHNSON: So at this time I'd like to close the public testimony part of this hearing and bring it back to the Planning Commission for deliberation.

HALBERT: There are no others who are here to testify?

JOHNSON: There are no others here to testify.

COOK: Excuse me, if you could talk into the mic, please, Commissioner.

HALBERT: I will.

SWINDELL: Steve, you want to do some deliberating here.

MORASCH: I did. I just had a few points and I mean I feel like we don't have enough information to really make a determination on whether this is really a scrivener's error or not, but because I would like to see for instance the redline page for that other Section 40.240.520. I'd like to see the amendment that occurred in 2006 to both of these sections just to see what was changed and on and to the extent there may be staff reports available or minutes from some of the hearings adopting these things that might be relevant.

So I think there's a lot more information that could be provided, but if I was going to make a decision tonight, on the one hand we do have the Section 40.240.520 that specifies Type III for small woodlands and we have 40.240.440 that specifies Type IV, but on the other hand I'm looking at this redline and it's true that Type IV review procedures were not underlined on the redline but the Section 40.510.040 was underlined and that is the section that would be applicable if it were a Type IV, so I don't know. It's hard for me to look at this and say it was obviously a scrivener's error because it wasn't underlined, because at least part of it was underlined.

So based on what we have here, I'm not comfortable saying it was a scrivener's error so I guess I would vote if there were a motion to approve the interim ordinance I guess I would vote no at this point. I may or may not change my mind after I see more information that's not available today, so that's where I'm at.

SWINDELL: And I agree with Steve, I don't believe we have enough information and I think there's a lot of it seems very rushed to me. I think we really just need to take a minute, take a breath, let everybody get the ducks in a row and move forward at a later date, but to move forward tonight I just, I couldn't, I wouldn't.

BARCA: So my thought is there's enough legal counsel already involved, it doesn't really matter whether we say yes or no.

SWINDELL: I think it does. I disagree with that. I think it does. I think it does make a difference. We're here to represent the people and I think it does make a difference.

BARCA: When it comes to mining and the multiple times that County Council has overruled Planning Commission's thought process about it, I think there is a higher agenda than necessarily what we believe is the way either the law is written or is intended.

To say that mines are political, I think is a fair statement, to say that there's a large desire to have the aggregate industry healthy is probably a fair statement, that is not the same thing as saying that staff has some sort of agenda against it, it may not be the case.

When I see how quickly County Council was willing to adopt the interim ordinance, that gives me pause because I would have thought that they themselves would have not wanted to be on board with something that would have limited the industry. So there's lots of times that I think it's important for us to be on the record and make the Council aware of what's going on, but I think this has already reached a point that it's out of our pay grade and our decision yes or no is not going to slow down or speed up the process. The public records will come when the public records come and County Council can choose to extend this at their discretion based on the information that is available to them.

So I'm open for a motion tonight to pass it along and I would honestly say that if we all say no, that's our determination. I say no because I don't have enough information, I've said that lots of times and I'm fine with that. I can't make a good decision because I don't have enough information, that's the most I can do and I've come to terms with that over 20 years, sometimes it just happens that way.

TORRES: Yeah, from my perspective Steve brings up some good points and I think I'd like to see a little bit more information to clarify the points that he brought up so, I'm in favor of postponing.

HALBERT: I'd be in agreement with that also, I agree with Steve, I'd like to see more information. The exhibits weren't even available to us to review tonight. I'd like to see what the public records come up with, even if it's not every detail at least the gist of this.

So I feel like it's a responsibility that's given to us to do the best review we can even if the answer is we still don't get all the information, but we get as much as possible, we understand tonight we don't have even or we only have a very small portion of information to make a decision from whether or not it matters in the long run.

BARCA: When do we think we're going to get together again, if indeed nobody's available until the 21st and the ordinance expires on the 24th?

TORRES: Well, I guess how difficult would it be to get Council to extend?

LUMBANTOBING: We can get Council to extend it.

HALLVIK: We can ask them, that's how I would put it I guess.

JOHNSON: I believe at this time, you know, I'll put quotes around it, that's their problem, but I just I appreciate it, it is a divisive topic. One thing I want to say is, Mr. Howsley, when you come up here I listen to you many, many times and you have a plethora of information, but one thing I would counsel you on is the idea that staff has a nefarious something, and I know from your

side it is your side, and I take I'm looking at this, but I personally rely on staff to tell me what they think and I've never heard them tell me anything that isn't true.

So I would encourage you to, as you go through this to, as frustrating as it may be, to try to adopt that because that was frustrating for me to hear from you which was, yeah, whatever. With that said, I would entertain a motion if necessary or close our portion of it.

SWINDELL: Do we need to make a motion to continue? Make a **MOTION** we continue this hearing to November 21st at 6:30 p.m.

JOHNSON: Date certain.

TORRES: **Second.**

JOHNSON: We have a motion that's been made and seconded. Sonja, roll call.

ROLL CALL

MORASCH: AYE

HALBERT: AYE

TORRES: AYE

SWINDELL: AYE

BARCA: AYE

JOHNSON: AYE

JOHNSON: Motion's been passed 5/0.

OLD BUSINESS

None.

NEW BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

JOHNSON: With that said, is there any new business at hand? Hearing none, any comments from the Planning Commissioners? With that said, we're adjourned.

ADJOURNMENT

The record of tonight's hearing, as well as the supporting documents and presentations can be viewed on the Clark County Web Page at:

<https://www.clark.wa.gov/community-planning/planning-commission-hearings-and-meeting-notes>

Television proceedings can be viewed on CTVV on the following web page link:

<http://www.cvtv.org/>

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