



Clark County Planning Commission

Steve Morasch, Chair
Ron Barca, Vice Chair
Bill Wright
Karl Johnson
Richard Bender
Matt Swindell
Robin Grimwade

PLANNING COMMISSION MINUTES THURSDAY, NOVEMBER 16, 2017

Public Services Center
BOCC Hearing Room, 6th Floor
1300 Franklin Street
Vancouver, Washington

6:30 p.m.

CALL TO ORDER

MORASCH: All right. Good evening, and welcome to the November 16, 2017, Planning Commission hearing. I will call the meeting to order. Can we have a roll call, please, Sonja.

ROLL CALL VOTE

WRIGHT: HERE
BARCA: HERE
MORASCH: HERE
SWINDELL: HERE
JOHNSON: HERE
GRIMWADE: HERE
BENDER: HERE

GENERAL & NEW BUSINESS

A. Approval of Agenda for November 16, 2017

MORASCH: Thank you. Well, the first item on our agenda is approval of the agenda. Do we want to take the agenda in order, or does someone want to move to move the rail matter up to the front?

JOHNSON: I **MOVE** we change the rail matter up front and then approve the agenda as written.

BENDER: **Second.**

MORASCH: It's been moved and seconded. All in favor of amending the agenda to move the

rail matter up front say aye.

EVERYBODY: AYE

B. Approval of Minutes for October 19, 2017

MORASCH: Opposed? All right. It's been moved and passed to amend the agenda. So we will be hearing the rail, freight rail dependent uses first. But before we get there, can we have a motion to approve minutes of the October 19th, 2017, meeting.

GRIMWADE: I **MOVE** the minutes be adopted.

WRIGHT: **Second.**

MORASCH: It's been moved and seconded. All in favor?

EVERYBODY: AYE

MORASCH: Opposed? All right. The minutes from the October 19, 2017, meeting have been approved.

C. Communications from the Public

MORASCH: Now, we are moving on to Item III.C., communications from the public. This is the time for anyone in the audience, or a member of the public that wishes to speak on a matter that's not on our agenda. So anyone who wants to speak on a matter that's not on our agenda, now is the time to come forward. All right. I don't see anyone coming up. So we will close the communications from the public and we will move on to our first public hearing item.

Opening Statement

And before we do that, I have a new, well, fairly new statement that we read at the beginning of our public hearings. I'm only going to read this statement once, it's going to apply to all of the public hearing items on our agenda tonight.

I'm the Planning Commission Chair and the procedure for each of our hearings tonight will go as follows: We will begin with a staff report. The Planning Commission members may ask staff questions if they have any at this point. And once all the questions of the staff -- or excuse me -- questions of the Planning Commission members for the staff have been asked, I will then open the hearing for public testimony.

Members of the audience who wish to testify regarding a hearing item need to sign the sign-in sheets at the table located, well, it's usually in the back of the room. I think it's outside tonight

because we've got a lot of people here, but I will give anyone an opportunity to come down at the end even if you didn't sign the sign-in sheet, but please do try to sign the sheet so we have a written record of who's testifying.

Anyone who is giving testimony will need to come to the table in the front of the room and we'll ask that you state your name and spell your last name for the record.

Once everyone has given their testimony, I will then close the public testimony portion of the hearing and the Planning Commission will deliberate and may ask staff to answer questions or make rebuttals, and then the Planning Commission will take a vote on their decision. Now, our decision is just a recommendation and it will be forwarded to the Board of County Councilors. The Board of County Councilors has the final decision-making authority for all the matters on our agenda tonight.

Please speak clearly into the microphone so the court reporter can record your testimony. State your name and slowly spell your last name for the court reporter, and please try to be concise and don't repeat yourself or others. It's okay to say, you know, I agree with what so and so said. Because of the number of people here tonight, we're limiting public testimony to three minutes and there's a timer in the front.

If the Planning Commission asks questions at the end of your testimony, that's not going to count against your three minutes. You'll have three minutes to make your presentation. If there's questions, then that will be usually at the end and it's okay if we go over the three minutes only on the Planning Commission questions.

Your testimony should relate to applicable standards for the hearing item and those standards are set out in the staff report. Copies of it are available on the tables in the back. If you have any exhibits or anything in writing that you wish us to consider, please submit that to staff up in the front of the room and we will consider it and it will be included as part of the record for this hearing item.

PUBLIC HEARING ITEMS

- A. Freight Rail Dependent Uses:** A proposal to amend the Comprehensive Plan's Land Use, Rural and Resource, and Transportation Element with policies to allow freight rail dependent uses; and adopt a Phase I overlay map identifying areas where such uses would be allowed.

Staff Contact: Jose.Alvarez@clark.wa.gov or (360) 397-2280 x4898

MORASCH: At this point, I will ask if there's any member of the Planning Commission that has any conflicts of interest that they would like to disclose on any of the hearing items tonight? All right. With that, that concludes my introduction, and we will begin the public hearing on the freight rail dependent uses with a staff report. Jose, are you giving us the staff report on this?

ALVAREZ: I think Oliver is going to -- I will be giving that, but Oliver's going to do an introduction first.

MORASCH: All right. Oliver's going to do an introduction. All right. Oliver, I'll turn it over to you. Thank you.

ORJIAKO: Good evening, Planning Commission members. I want to thank you for giving me the opportunity to make opening remarks before I turn it over to Jose Alvarez. I also want to thank those that are in the audience and those that are watching.

This is a bill that County staff are charged to begin the process of, how the County will implement the, what is known as, the freight rail dependent uses. I also want to thank the representative, Representative Liz Pike and Senator Lynda Wilson, those that worked on the bill.

So the hearing tonight is about the County's effort to implement the bill on freight rail dependent uses. The legislation, known as Third Engrossed Senate Bill 5517, passed the Washington Legislature in July of this year and was signed into law by Governor Jay Inslee. The law amends the Growth Management Act to allow freight rail dependent uses. It became effective October 19th, 2017, so it's relatively new. The bill is an opportunity to really create job, as I indicated job opportunity here in Clark County, I think.

The Planning Commission is aware there are facts out there that more than 60,000, if not more, of county residents travel across the river each morning to seek for job across the river, so this is an attempt. Whether this bill will create 60,000, but if that's the case, I think it's a plus to consider freight rail dependent uses. The Planning Commission is also aware that the railroad is owned, the short line railroad is owned by Clark County, and this is also an opportunity to look at take advantage of this bill and see what can happen going forward.

The Planning Commission is also aware that the Growth Management Act, which Clark County is fully planning under, was passed in 1990. And for purposes of guiding the development of comprehensive plans and development regulations, there were 13 goals and the shoreline was added later making it 14 goals, and the GMA is codified as RCW, Revised Code of Washington, 36.70A, and I want to focus on Goal 8 of the Act.

Goal 8 deals with natural resource industries, and it says maintain and enhance natural resource-based industries, including productive timber, agricultural and fishery industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.

The other 13 goals, if you will, include urban growth, reduced sprawl, transportation, housing, economic development, property rights, permits, natural resource industries, as I indicated that's Goal 8. Open space and recreation, environment, citizen participation and coordination,

public services or public facilities and services, historical preservation, and then the shoreline makes it the 14 goals.

They also have a section of the RCW, and that is RCW 70A.070, among other provisions of that section, it requires that while counties accommodate appropriate economic advancement in the rural area and allows for a variety of densities, it provides that that be done in a manner that the uses that are not -- or that are permitted are not characterized by urban growth and that are consistent with rural character.

So what is before you, Planning Commission members, is the proposed policies that will serve as the foundation or, if you will, the framework for the development of the use list, and the proposed development regulations that will come later. So the goal is to make sure that the policies are for the Planning Commission and the public to consider, if the policies we are proposing whether we get it right, and that the policies are not inconsistent with the provisions in GMA or as amended by the bill.

In trying to consider how to implement this bill, we must answer two major questions. One is, where will the freight rail dependent uses be allowed? That will be answered by adopting a map of an overlay where these uses could potentially be approved. The other question is, what sort of uses will be allowed in this overlay? So to begin to answer that question, comprehensive plan policies and proposals will be the basis of the list of allowed uses. The overlay map must comply with the bill, and must be based on a rule that applies to all properties. Jose will go in details about our process and what we have done so far.

I will only add that uses and other regulations will follow based -- but I want to assure the public and the Planning Commission, that we are not proposing any changes to the existing zone. If you are currently designated as agriculture, forest or have a mining overlay, that will not change. Similarly, all uses permitted in each zone will continue; in other words, if you have agriculture, you will continue to use your property as an agricultural use that is allowed in agriculture. If you're zoned forest, you will continue to do so.

What will happen is that we want to make sure that as we identify what uses will be allowed in the future, we want to first identify where that will apply. So if you want -- the second thing we will do is that if you want to be included or excluded from the application of an overlay designation, the criteria and the language for that is not before you, that will come later and will be included in the code when that is adopted and developed.

We want to hear from those that are in the audience and ask them if they may, to really focus on the proposed policies because we want to make sure that, a, whether we got the policies right consistent with the bill, because that's the first thing we want to see accomplished.

I will turn it over to Jose who will go in details about what is before the Planning Commission and the process. There are copies of the proposed policies and map. What I will also add that

those that are watching, you can find a copy of the bill on the County website at www.clark.wa.gov. Go to the Community Planning Department and from there select Planning Commission and click on freight rail dependent uses. You will also on that site, find uses permitted in Rail Industrial District and Light Industrial Districts as well. Those are the uses or example of uses that will help in the development of the list of freight rail dependent uses.

So I just want to set the stage on what is before you and then turn it over to Jose. If you don't have questions for me, Jose will give you more details of what you're being considered, or asked to consider.

MORASCH: All right. Thank you, Oliver. Any questions for Oliver before we turn it over to Jose? All right. Take it away.

ALVAREZ: Thank you, Oliver. So I just wanted to do an overview of the bill, the comprehensive plan amendments that we're proposing, and how the bill is being included in the policies and the comp plan amendments that we're proposing. I want to go over the overlay map and then sort of a summary of the public process to date.

So as Oliver mentioned, ESB 5517 was passed this summer. The bill essentially amends four sections of the Growth Management Act, three that we're going to focus on. RCW 36.70A.030, which is the definition section, freight rail dependent uses was added to that and also a definition of a short line railroad.

RCW 36.70A.060, the natural resource lands and critical areas development regulations. There was new language added essentially to allow for freight rail dependent uses in resource lands. That same section that was amended also has existing language about conservation of resource lands. So in the policies, we're trying to balance between the new use, the new uses that are allowed with the amendment, and the existing language that requires us to protect those resource areas.

RCW 36.70A.108 is the comprehensive plans transportation element. That section was amended, again, to allow for freight rail dependent uses that do not require urban government services in rural lands. And we'll show you how we included that in the comprehensive plan amendments to be clear that the uses don't allow for the extension of urban government services.

So essentially we had to, with the passing of the bill and the amendment to the Growth Management Act, we needed to amend the comprehensive plan and we're proposing amendments in three elements of the comp plan. The land use element to give you an overview of the overlay that we're proposing that sort of describes what the overlay is, and then the rural and natural resource element.

There's a new goal and three new policies. These reflect the language that's in the bill that was

passed. And with the language, it tries to balance the new language with the existing language to conserve those natural resources.

In the transportation element we have one new policy and seven implementation strategies. In looking at the bill, we in our transportation element, we don't have a real big discussion on the short line railroad in the county, so in addition to adding that to the policy, we thought we needed to add some strategies to sort of address some of the potential impacts from an increase in use of the short line railroad.

So I'm just going to go through the proposed changes. I sent you an Exhibit 4 that has new language, comp plan amendment language since I believe the work session, and the language highlighted in yellow is language that's changed since that work session. And on the PowerPoint I've also highlighted that language in yellow so hopefully you can follow along.

So the first thing is the land use element. We needed to add, we're proposing an overlay to describe the freight rail dependent uses. We're getting the language from the definition Section 2 in the bill which describes what freight rail dependent uses are and the short line railroad. Also add that when we, we did have a meeting with the Railroad Advisory Board subcommittee October 23rd, and went through this language with them.

I know that they've submitted additional proposed changes, but at that time we took into account some of the proposed recommendations that they made and that's included in this proposal.

So next is the goal in the rural and natural resource element. We added a goal, support freight rail dependent uses where the use is dependent on and makes use of the short line railroad as defined by the Surface Transportation Board. Again, this is coming from the Section 2, the definitions of freight rail dependent uses and the short line railroad.

The next one is Policy 3.9.1. Again, this is in the rural and natural resources element. The policy is to support freight rail dependent uses in rural lands as well as agriculture, forest and mineral resources lands. The new language in yellow is where the use is dependent on and makes use of the short line railroad within the county. We thought we needed to add that language to be consistent with the language in the definition of freight rail dependent uses that also has the same clause where the use is dependent on. And in Section 3 of the bill is where it talks about the new uses allowed in the ag, forest and mineral resources lands adjacent to the railroad.

Policy 3.9.2 in the rural and natural resources element, freight rail dependent uses will be allowed on parcels with a freight rail dependent use overlay. We added a comma and struck and, and it continues with where such uses minimize impacts on adjacent rural and resource uses. This is again from Section 3 of the bill. In the PowerPoint on the Section 3(1)(a) is the existing language that's in the Growth Management Act. The second paragraph is the new language that was added. So we thought it was important to try to balance the new uses with

also trying to minimize the impacts on adjacent rural and resource uses.

The next policy is 3.9.3 in the rural and natural resources element. The County may modify development regulations to include development of freight rail dependent uses that do not require urban governmental services in rural lands. Again, this is from Section 5 of the bill, it's in the transportation element of the comprehensive -- or not the comprehensive plan -- but the Growth Management Act, and this is just language directly from that section.

The transportation element, we added a policy 5.4.5, improve mobility and access for the movement of goods and services on the short line railroad to enhance and promote economic opportunity throughout the county. This is essentially language from paraphrasing Section 1, which is sort of more of the intent in the bill that talks about the importance of transportation planning and trying to use existing infrastructure to try to alleviate strains on government infrastructure and recognizing that economic development is an important component of the rail.

The seven transportation element changes are trying to address the issues in Section 5 of the bill that deals with transportation and trying to have concurrency standards and also to have the addition to improvements or strategies to accommodate the impacts of development.

I won't go through all of them, but just point out that I believe in the work session, two things; one, on the last bullet, Commissioner Barca had a question about that, how it differs from the bullet above it.

Essentially there's three jurisdictions where the rail traverses, the City of Vancouver, the City of Battle Ground, the Town of Yacolt and the unincorporated county. So when it talks about an account for community needs in relation to the rail system, I think that's what we're talking about is trying to coordinate with those jurisdictions in implementing the bill. And the bullet before where we added, and on resource uses to minimize impacts on residential neighborhoods and on resource uses, again, that's going back to the balancing in the bill in terms of the existing language and we thought it was important to add that.

So the other element that, in addition to the policy and comprehensive plan amendment changes, we needed to develop an overlay zone. For folks who aren't familiar with our nomenclature, we just have a definition of what an overlay zone is. It's essentially a zoning district that can be applied over an existing district to either establish additional or stricter standards, and in this case we'll be adding additional standards. Those won't be developed until we complete this process when we come up with the development regulations and the list of uses.

So the definition of the freight rail dependent uses talks about adjacent to the railroad that's not defined in the bill. We do have some language in our existing code that talks about, sort of defines adjacent, is near or close, and so we thought we needed to have a more -- to develop a

criteria that could be used consistently if we're looking to expand this so that it's consistent throughout the process. And since we were starting this as a Phase I to identify this area, we went with sort of a narrow interpretation of adjacent, which is essentially abutting plus or minus, and I'll show you the map that identifies the parcels that we are proposing to be included in that overlay.

The overlay also excludes properties that are zoned R-5 south of 119th. North of where we are proposing the overlay begin is zoned R-5. So we decided to exclude that one because of the parcelization, and also the difficulty in trying to have the compatibility between freight rail dependent uses and residential properties. While we don't have a list of uses yet, that it's more than likely going to be more industrial and intensive along those lines, which don't seem to be compatible with the existing residential.

So the properties outlined in red with the red hatch mark is the area that we are proposing to have the Phase I, the first phase of the overlay apply to. These properties in orange are all zoned for agriculture, AG-20. The properties in blue are part of the rural industrial land bank. This gray is the urban, existing urban growth boundary. So this is actually light industrial, this is a lower, I think it's urban low R1-20 zoning and this is commercial.

Like I mentioned, we decided to break this project up into two phases given the time constraints we had. And so the first phase is to identify the policies and the overlay map. And subsequent to the Board taking action in January, we would begin the process to identify the list of uses and development regulations, and we would have a public process that would come before you similar to this process, and again, you'd make your recommendation to the Board.

This is just an overview of the public process we've had to date. We started with the work session with the Board back in September. We got direction from the Board October 18th. We had a public meeting on the 19th. Met with the Railroad Advisory Board on the 23rd where we went over the overlay and the policy comp plan amendment language. Contacted the Department of Commerce for their 60-day review.

We issued a SEPA which the closing comment on that is today. We have not received any comments on the SEPA which we issued as a non- -- as a determination of nonsignificance. We had the work session with you all two weeks ago. We did have a public meeting open house November 8th at Prairie High School where about 50 people attended that, I think I sent you links to the video of that.

The Railroad Advisory Board subcommittee had asked for a meeting on November 13th, and I think they submitted comments to you, what they would like to see, an expansion of the overlay and some changes to the policy language and that will come before you later. We're here this evening and then the Council is set to have a work session December 6th and have a public hearing on January 9th. Do you have any questions?

MORASCH: Any questions for staff? All right. Thank you. With that, I will open the public hearing on the freight rail dependent uses, and the first person on our sign-in sheet is Les Cotton. Is Les Cotton here? Would you like to come down and --

BARCA: There he is.

MORASCH: There he is. All right.

WISER: Three minutes?

MORASCH: Yes.

PUBLIC TESTIMONY

COTTON: Good evening. I guess I wasn't going to be called up here, but my name is Les Cotton, C-o-t-t-o-n. My address is 17709 NE 102nd Avenue in Battle Ground, 98604. And --

COOK: Excuse me. Is his mic on?

BARCA: Yeah.

MORASCH: It sounds like it to me, yeah.

BARCA: Try and speak a little closer to the microphone, please, Mr. Cotton.

COTTON: Is that better?

BARCA: Oh, that's much better.

COTTON: Do you want me to start again?

BARCA: I think we're good, yeah.

COTTON: Yeah. And we on the overlay map, we have -- we actually own about 28 acres and it's composed of five different lots. Two of the lots are zoned on the overlay for rail dependent, and we are requesting that all five of these lots kind of be considered as one parcel. And our main reasoning is that the five lots are already contiguous with each other and they're all zoned the same now, we're AG-20, and they all have a, they currently all have - let's see. What do they call it? - they all have a railroad industrial reserve overlay now, and it just makes a lot more sense to us that these five parcels would all be considered as one.

The two lots that are already on the freight rail dependent, if only those two lots were zoned that way, it would be difficult for us to get to the other three parcels which are north of that.

So we just kind of feel strongly that it would make a lot more sense, and we feel that a lot more users would be considering a little bit larger parcel, so... I've got 36 seconds left. Any questions?

MORASCH: All right. Does anyone have any questions for Mr. Cotton?

SWINDELL: Actually, yeah. Where are your parcels located exactly? Can we see it on the map there.

MORASCH: I think it's right where the mouse pointer is.

BARCA: Yeah, the cursor is on them right now.

ALVAREZ: Do you see the map up there?

SWINDELL: Yeah, right there. Okay. Oh, I see. Okay.

MORASCH: Is that where your property is where that mouse pointer is right now? Can you see the map? I guess you can look at it up there, we can see it down here.

ALVAREZ: Is that it?

COTTON: Down just a little bit. Down. Right there. Up a little. That's one of the parcels.

ALVAREZ: So this one's already included.

COTTON: So the five lots would be, the other three lots are just north of that. So it's kind of like filling gaps in, I guess you could say. Right there, yeah.

MORASCH: Has staff looked at adding those three, was there a reason they weren't included?

ALVAREZ: So this is the area where we essentially went to abutting. When we first started this, we looked at parcels within 500 feet and then sort of narrowed it down to abutting. And so that's why those, I don't think those parcels are within 500 feet and that's why they were excluded, and we weren't looking at contiguous ownership. I guess the definition's adjacent.

What we were proposing is that we start with abutting, and then when we go through the process of the development regulations, we sort of identify a criteria for sort of what the max could be because essentially adjacent is the minimum. We don't -- the threshold could be a quarter of a mile, a half a mile, some sort of determined distance, but we weren't prepared to identify that at the time, and when we had our meeting with the Board, we proposed this as the first phase as a starting point.

MORASCH: Okay.

ALVAREZ: But it's something that could be considered in the future and you can make a recommendation on that.

MORASCH: All right. Thank you. Any other questions for Mr. Cotton or for staff? All right. Well, thank you very much for coming.

COTTON: Thank you.

MORASCH: Stick around and you can listen to us deliberate or you can watch us on TV. Daniel Weaver.

WEAVER: My name is Daniel Weaver, W-e-a-v-e-r, and I'm chair of the Railroad Advisory Board, and we've worked on this for some time, many years actually. And we have found that the major impediment to the growth of the railroad and the development of jobs along the railroad is the availability of industrial property. We've worked on the industrial land bank in getting that also established.

We have a couple of major concerns about the way that staff has proposed this. Even though we initially approved the language that they did, we had time to study it afterwards and realized that there was some problems with it.

The first major problem is the fact that they've only included a portion of the rural industrial land bank, which is the part that the railroad goes through. That is all a contiguous piece of property that is managed by and controlled by Mr. Lagler of the Lagler Dairy, and so that entire blue area is really all one contiguous piece of property. And for us to be able to utilize any of that property for the railroad, it would have to be all of it, because he cannot afford to sell part of it and then move his dairy to the east as he is looking to do into northern or northeastern Oregon or Idaho, so we have to have that whole piece of property.

In addition to that, we've had inquiries about property along the railroad that is major pieces of property, not the fragmented pieces that we've been looking at over the years. So that whole industrial land bank, in our opinion, should all be included in the overlay at this point in time to make that beneficial and viable for going forward with that piece of property; otherwise, we're not going to be able to use that big chunk of land that's currently part of the rural industrial land bank because Mr. Lagler won't let it go.

The other thing of concern is the interpretation of what is allowed and not allowed in industrial development in the rural area and how that's to be developed. We believe that it is permitted to be developed in the rural areas, and there's some question as to whether it's allowed to have urban utilities put into that area.

Those are the major concerns that we have, and we'd ask that the Planning Commission please to consider that for their deliberations and include that property, and consider the information that we submitted with our recommendation as to modifications to the wording of the implementation of the Senate bill.

MORASCH: All right. Thank you. Any questions? I guess I have a couple. I just want to make sure I've got the right document that you sent, the November, is it the November 15 letter?

WEAVER: Yes, that's our letter of recommendation.

MORASCH: With the attachment?

WEAVER: Yes. And in that letter we recommended, I didn't attach an overlay map, but we recommended that the entire industrial land bank be included in the overlay.

MORASCH: That was going to be my next question. I'm looking at the map that we're looking at and I see a big blue rectangle with a bunch of hash lines on it. So it looks like it's already included or --

ALVAREZ: So a portion, this portion is included. The rest of the blue that's outside of the urban growth boundary is also part of the industrial land bank.

MORASCH: Oh, that whole other section over there, I see.

WEAVER: The whole big chunk is part of the industrial land bank and part of the Lagler property.

MORASCH: Okay.

COOK: We should add that our records show different owners, and I am not attempting to impune or cast dispersions on Mr. Weaver at all, so beware of that. We haven't heard directly from Mr. Lagler whether he wants all his property in here. The Planning Commission and the Board have had issues in the past with annual reviews and dockets where it was not certain that the actual owner of the property was behind a request to change the designation or the zoning. So we don't have anything in writing or otherwise from Mr. Lagler.

MORASCH: Okay.

WEAVER: I have spoken directly with Mr. Lagler and with his attorney, Mr. Horenstein, and I believe there's information in Mr. Horenstein's letter, but...

COOK: I am not sure that Mr. Horenstein represents Mr. Lagler.

MORASCH: You may want to talk to them again and have them clarify that before this gets to the Board of County Councilors.

WEAVER: Well, I did speak to him at the open house and we spoke at length about that and he's clearly on board with including it. I'm the one that originally talked to Mr. Lagler way back, eight years ago, ten years ago, and basically convinced him to go forward with this industrial land bank, and I've spoken to him a number of times and he clearly delineated that he was on board with that, he wanted to have that included.

MORASCH: Well, and all I'm suggesting is between now and the Board of County Councilors hearing on this, you may want to talk to him again, and see if he will submit something clearly in writing that says that, or come to the Board of County Councilors hearing because I'm hearing that staff says they're not certain about that, so they'd like to hear it directly from Mr. Lagler or his representative. And he's not here tonight, I don't think, but there will be, you know, the Board of County Councilors makes the final decision on this, so I would encourage you to encourage them to clarify it for the record before that hearing.

WEAVER: There is one other factor and that is that this property is on record with the County, is all tied together through a trust agreement used to borrow money against the property, and it's to be all managed by the same person. So that document is on file. So anything that's done with one piece of property should be done with all of them.

MORASCH: Okay. Any other questions?

WRIGHT: I have a question for staff that arose, I think from Mr. Weaver's testimony, about urban services that would not be permitted out in the area or would not necessarily be provided. Could you give us a little more detail on what those might be, because I believe that we have public water is available in the rural areas, both urban and suburban and rural.

ORJIAKO: Yes. Planning Commission Member Bill, you are right. If you look at the bill, which we provided to the Planning Commission members, from Page 4 through Page 5 are the definitions of public facilities, rural development, and then I believe rural development and then urban governmental services. So read those definitions that are in the bill.

You are correct that in the rural area there are some part of the rural area that public water is available, and when you talk about the distinction between rural and urban, their predominant governmental services is sewer, in this case sanitary, sanitary sewer. So if you read the definition section, you will find that that is the only distinct services that is not provided in the rural area.

Would police protection be provided in the rural area? Yes. Will fire protection be provided in the rural area? Yes. Where public water is available, will that be provided in the rural area? Yes. I think the major -- and the same will go be true for roads. But as you know in the case of

road, it is rural roads out there and in the urban area it's different standards.

So if you're talking about in terms of level of intensity, yes, you can allow governmental services that are rural in nature and that will include water, that will include roads and that will include fire protection.

Similarly, the bill, you read the bill, it talks about these uses are both urban and rural and then it gets into, okay, what does that mean. And similarly the construct of the bill is very specific that it does not allow urban governmental services, and in the definition is where you get what is included in urban governmental services versus rural governmental services. That's how I will answer your question if that is clear.

WRIGHT: So I believe you're on Page 4 and 5 of the --

ORJIAKO: Of the bill itself.

WRIGHT: Yeah. Okay. Thank you.

ORJIAKO: I don't know if Chris --

COOK: Actually, I think it's later in the bill. Well, that's where the definitions are. The language about services --

ORJIAKO: Is on Page 16.

COOK: -- in the bill is on Page 16 and what it says is "Such counties and cities may also modify development regulations to include development of freight rail dependent uses that do not require urban governmental services in rural lands." Now, we've heard argument that this actually means you can have urban services or you cannot have urban services. That is not the way my office reads this. I think the words very clearly do not say anything about permitting development with urban services outside the urban growth boundary, and the rest of GMA in general, would disallow such developments.

There is nothing in here that says for these things there can be urban governmental services that, you know, notwithstanding anything else in GMA, you can do what you want there. We think any interpretation that says you can develop with urban services or you can develop without urban services, we just think that is incorrect.

WRIGHT: So even if there were some urban services available, for instance, water --

COOK: Okay. If they're available in the rural area, then we're going to assume that those are appropriate for the rural area, but this is, this in my view, does not permit bringing new services that are urban in nature out to the rural area. For example, as Dr. Orjiako stated, the roads are

going to be rural roads, they're not going to be rebuilt to an urban standard, that's one particular facility and service that will not be changed by this bill, and sewer is another.

WRIGHT: How about private entities, could they be formed to provide say sewer services for the area?

COOK: Sewer is in general not permitted outside the urban growth boundary.

WRIGHT: But every development does have some sort of sewerage facility whether it be a septic tank or some other type of wastewater treatment disposal.

COOK: Well, of course, and every house does as well. But there's a difference between that and a sewer system, a sanitary sewer system is not something that is in general allowed in the rural area.

WRIGHT: Okay. Thank you.

BARCA: May I get a clarification on that then. I think based on what was said by Bill, what we are saying is on-site wastewater treatment is really the only solution under these circumstances.

COOK: As we read the bill.

BARCA: Okay.

WEAVER: Could I comment that we have met with Senator Wilson and Representative Pike, and with the drafter of the bill, Dana Quam, who authored the bill for the legislature, and they clearly said the intent of this was to allow that development outside in the rural areas and that was their interpretation.

COOK: With respect --

WEAVER: There's --

COOK: -- the intent of any one or two legislatures is irrelevant if it is contrary to the words of the law. They did not put those words in the law.

WEAVER: But the confusing part is that the words may also, if you may also do this, you must be something else, so it's tied together, that's their theory. And the drafter, Dana Quam, said that she clearly researched that information from various legislatures to get that interpretation.

MORASCH: All right. Any other questions? All right. Well, thank you very much.

WEAVER: Thank you.

MORASCH: Amber Carter.

CARTER: Thank you, Commissioners. My name is Amber Carter, C-a-r-t-e-r. I'm here today on behalf of the Portland/Vancouver Junction Railroad.

HOLLEY: Whoa, slow down. I can't go that fast.

CARTER: Thank you.

HOLLEY: Go ahead.

CARTER: Perfect. I'm here on behalf of the Portland/Vancouver Junction Railroad, who is the freight operator for the Chelatchie Prairie Railroad, which of course is owned by the County. I worked on the legislation as part of a broader coalition that included labor, the State Farm Bureau, cities, ports and many, many others.

The legislation passed with over 80 percent support in both the House and Senate, and there were some key differences between 5517 and 1504 which is why we'd not only ask for your inclusion of the rural industrial land bank, but the rejection of the Futurewise comments that have been submitted because they, I believe, are contrary to the goal of 5517 and are more inline with the Bill 1504 that was vetoed.

Specifically I'd like to talk about the word adjacent. Staff has illuminated to the fact that adjacency is really implemented by the overlay map. The word adjacent was very carefully decided on by the legislature. They didn't choose the word abutting. Okay. They did not choose touching. They did not use any of those words that limited the opportunity to look at the entire rural industrial land bank because that was the example with maps included that is part of the legislative record on why Senate Bill 5517 was passed and the governor ultimately agreed to it after his veto of the House Bill 1504.

The issue that Dan Weaver spoke to on the may also provide government services is also one to take very careful note of. When you look at the language on Page 16, may also does not say shall only. Had it said shall only, staff's interpretation would be correct, but it does not. It says may also which leaves the opportunity to interpret the law that development regulations may also include, not just exclude urban government services.

But the fact of the matter is, the services are either there or not, and based on development regulations that are forthcoming, there will be an application process that will help illuminate on that issue. So, again, we'd ask for your inclusion of the Lagler property as part of the rural industrial land bank and the consideration of the Railroad Advisory Board subcommittee comments. Thank you.

MORASCH: All right. Thank you. Any questions?

CARTER: Thank you.

MORASCH: All right. Thank you very much. And I've got that section here, Section 2 on the last page of the bill. So that brings us to Val Alexander. Is Val Alexander here? He's coming.

PUBLIC: She's coming.

MORASCH: She. Oh, okay, she. Yes. Well, it's her turn, so... Does she need somebody to read for her?

BARCA: Yeah.

PUBLIC: Go to the next person and come back for her.

MORASCH: Okay. We will come back to Val.

PUBLIC: Thank you, sir.

MORASCH: Cathy Steiger.

STEIGER: Nothing to say.

MORASCH: Nothing to say. Okay. Sue Marshall. Is Sue Marshall here?

MARSHALL: I'm here.

MORASCH: All right. Val, if you want to get ready, you can come up after Sue.

MARSHALL: Thank you, Commissioners. My name is Sue Marshall. I'm with Friends of Clark County. I want to thank you for the opportunity to comment on the proposed Phase I freight rail dependent uses policies and zoning overlay.

We offer the following comments and concerns. We're concerned about the rushed process, about the swift timeline to approve the zoning overlay and policies without the community having a full opportunity and understand the potential impacts of this zoning change, and understand the specific freight dependent industrial uses that will be developed.

The bill was passed in just this past July. Initially it was proposed to be a development regulation change within the county without a major comp plan change. We oppose the implementation of a development regulation without first implementing a comp plan

amendment.

October 12th it was determined it would be a comp plan change, but rather than wait for the 2018 to implement this and plan for this, a rushed timeline was developed to complete the planning in the remaining 2017 window.

November 2nd, the staff report was available for the Planning Commission work session, open house was held November 8th and here we are today.

I attended the community meeting last week and there was a great deal of frustration expressed, and a number of questions that were raised by the community that could not be answered by planning staff or Council members who were there. A predominant question being, what is the rush? The policy changes are complex and countywide should be considered in a more thoughtful way that allows for adequate public participation.

Friends of Clark County is concerned with the potential impact to resource lands, particularly agricultural lands, which the proposed zoning overlay appears to be entirely agricultural lands. It is not news that we have lost a great deal of farm land to the development and to a planning process that allows for land divisions to be vested prior to determination of compliance with the Growth Management Hearing Board, as was the case in 2016 comp plan, which has yet to be found to be in compliance with the Growth Management Act.

Just to touch on a few things. I'll be short on this as my time is running out. We believe that adjacent means abutting or touching, that is the definition of adjacent. The overlay and the proposed policies allow for freight rail dependent uses on parcels rather than online adjacent to the short line railroad.

We think the policies should be limited to adjacent lands, and I've proposed some language there. And I just would add specifically, we oppose adding in all of the 600 acres encompassed in the rural industrial land bank property especially the east side property currently not included in the overlay. We're concerned about resource land protection, again, we have some proposed language. And we would like to encourage freight rail in urban areas and also have some language there. You can read my testimony.

It's not clear, though, whether the overlay map is proposing a new industrial center or if it is intended to just provide access to the rail. We thought that the bill was to provide access to freight rail movement, not an industrial area. We've participated in a thoughtful way and we would like to continue and would encourage you in whatever powers you have to slow this process down. Thank you very much.

MORASCH: All right. Thank you very much. Does anyone have any questions? All right. Thank you very much. Val Alexander, are you ready? Are you going to read for Val.

MARSHALL: Okay. I'll be reading on behalf of Val.

MORASCH: All right.

ALEXANDER: I have a basic question for you and those who are promoting the development of valuable rural lands and destroying some neighborhoods for some nebulous plans that are supposed to provide thousands of jobs so that Clark County citizens don't have to drive across the bridge to Portland. What is a rail dependent business? I hope for anyone, before anyone makes a decision on this issue, they will have the answer to that question.

I have researched the list of companies that have inquired about the land in question and there is almost no information on most of them. Zen Chemical is based in India and Eagle Manufacturing is from West Virginia, but the rest are not really listed on any website that I could find. I hope that people making a decision on this will insist on seeing the proposals and follow up on them as it looks like some smoking mirrors to me.

What will we, taxpayers, be asked to pay for the infrastructure for this site, and what will be done about water and sewer facilities? Will the railroad have to be moved? What will happen to the 149th Street crossing at 117th? Will there have to be an overpass?

I hope you and the Planning Commission will have a good judgment to insist on a full investigation on how this will really affect the taxpayers before you make a decision. Thank you.

MORASCH: Thank you. And I have a question. Was that submitted in writing? I thought I saw something from Val and now I'm looking through my papers, I have a large stack here and I can't find it, but we did get it.

MARSHALL: Val says yes.

BENDER: It was submitted.

MORASCH: Okay. Great. Any other questions for Val? All right. Well, thank you both. David McDonald.

MCDONALD: Good evening, Commissioners. David McDonald, Ridgefield, Washington, speaking on behalf of myself tonight. First I want to echo Ms. Marshall's statement about the tight timelines. The last time I saw something like this was when Councilor Madore tried to jam through something in October of 2015 in October, the same time frame. This is a very big deal. It's the beginning of potentially allowing for development along 31 miles of railroad between the current urban area and Chelatchie Prairie.

Phase I is just an overlay of Phase I. It can change based upon the policies that you have. It is impossible to know the implications of it all at this point. I've tried. I've filed a public records

request. I got over 2,000 pages of public records that involve County interaction with the Railroad Advisory Board and other individuals just between July 1st and September 19th. I have not been able to actually sift through it all to give you a good viewpoint from my perspective, so I can't really comment as much as I would like to on the project at this time. I'll have to buy the time we get to the Commissioners, but we can't at this point.

Three points. One, no urban services in rural or resource lands. I agree with the County's Prosecuting attorney that there's an inconsistency created by the bill and the current existing law which prevents urban services from going into resource lands. In terms of adjacent, you know, this bill was crafted specifically to be in two counties. They were able to use language that says we want, you know, this particular piece of property east of the -- or excuse me -- west of the Cascades that has this exact population. They could have said since it's going to be Clark County, they wanted all of this blue area, they could have said something besides adjacent.

As an aside, there are two cases in Washington courts which read adjacent as being abutting. I would agree that it's abut. I would also agree with staff that it shouldn't extend beyond 500 feet, because near is near to the railroad. The blue on the Lagler property east of 117th, it's divided by 503 from the railroad, it's not even close.

Secondly -- or excuse me -- thirdly, I would caution you against the creep factor which happens and has happened time and again since I've been involved in land use, and that's been since the late 1980s. Land that is developed, which you will see in this hatch tag which is ag land, the people next door, outside that red line on the west side, just like the gentleman here and his family tonight, they're going to keep coming in and saying now we're adjacent, now we're attached, now we're near and now we want to be developed just like everybody else.

When you start this, you will have that creep. We suggest policies that restrict the growth beyond a certain distance. The policy should restrict it, not the development regulation. If you don't and if you don't recreate policies that actually state strongly the development -- or excuse me -- that you can't have a use that's inconsistent with resource lands or nearby resource lands, you'll lose them. I apologize for not having something more detailed in writing, I'm still working on it. Thank you.

MORASCH: All right. Well, you can always submit it before the Board of County Councilors --

MCDONALD: Will do.

MORASCH: -- and they'll review it. Thank you for coming. Before you leave, any questions? All right. Thank you very much.

MCDONALD: Thank you.

MORASCH: That is the end of our sign-in sheet. Is there anyone who wanted to talk on the freight rail? I see a hand. Are you waving to come down and talk or are you waving just to speak with him? Okay. I don't see anybody's hand going up that wants to talk. So with that, I will close the public hearing and I will return it to the Planning Commission if you have any follow-up questions of staff after the public testimony. No? Yes.

RETURN TO PLANNING COMMISSION

GRIMWADE: One thing that I've heard in several meetings now is this perception that things are being rushed or there's a lack of community engagement, and I was wondering if you just wanted to enlighten me a little bit from your perspective about the process and the timing and what might be the key drivers behind it.

ORJIAKO: I will say that I sympathize with that concern. I think that what we tried to do, and the Planning Commission have seen where this is like a plan update, it takes time. It takes some analysis, some work, some consideration. I went through the 13 goals of the GMA, and in there I mentioned citizen participation and coordination and the goal requires a continuous engagement. I believe that the public will have sufficient time to review the development regulation, which we will engage after this process.

It is true that the Railroad Advisory Board met once. It is true that we had only one open house, it was well attended, more than 50, and at that open house they shared concerns, they told us that we were rushing it and we weren't prepared. I sympathize with that and what is the rush you ask. As you know, amendment to the comp plan, and this is in statute, that requires both map and text is only done once a year. So we were in that window, what can we accomplish this year.

The Planning Commission will recall that you went through a public hearing on all the annual reviews and dockets which we bring to you once a year. So when we complete that process, it gets to the next cycle. So we are really about to close that and start a new one. So if we had followed that cycle, we will be doing this work in 2018 beginning in January after your work and the Council votes on your action on the 2017 process. So I think it's that window, and I may be wrong, but I think it's that window that we're trying our best to see what we can accomplish.

As I indicated earlier, this bill was passed this year and signed into law in summer. It didn't become effective until last month, October 19th to be exact, but we started the conversation with the Council, what can we do to begin the process to implement this. And the timeline, I agree, is very short and I don't want to continue, but that's really the time frame is the once a year and --

GRIMWADE: No, that answers it.

ORJIAKO: Yes.

GRIMWADE: I just think it's important for the public to understand that there is drivers beyond the County which is shaping the speed of which you go, and that you are taking a very thoughtful way through and setting your path in increments where it gives you the time to reflect, adjust and come back. That's all.

ORJIAKO: Yes. And thank you for that. And that's why we propose a Phase I, a Phase II and potentially a Phase III, who knows. But in the Phase I what we wanted to see if we can get right is the policy. That's why I talked about setting the foundation, are we getting it right. And if the public can help us articulate, yes, the policies that are before you it's consistent with the language in the bill, at least we can use that as a step as the framework to do much better work. To say now we have the foundation, we're building a house, let's get the foundation right before we start framing other uses and the appliances and all that, using that phrase. So we want to see if we can get the policies right.

I agree with you that, you know, we will have -- and that's essentially why the Railroad Advisory Board had a second thought on their previous language that they advanced, and that was what was put out to the public. So everyone is reacting to that and that is part of the, if you will, the take that we are rushing it. Upon second thought, they made some changes and recommended inclusion of this property now which I don't know what your take is going to be, but that's why we're here.

MORASCH: All right. Any other questions for staff?

JOHNSON: Yeah, I do. Jose, let's go back to the 500 feet. I like what you said, I just want to make sure I had it right though. So the 500 feet was a starting point.

ALVAREZ: Correct.

JOHNSON: So we look at the Lagler property and the other one, I mean this process, these phases, that would probably be looked at later on because it seems like there was some discussion, wherever, that this whole piece of property was in it. And I just want to make sure or clarify that we're really looking at Phase I and going, look, let's just start with 500 feet. We're not saying really yes or no. We're saying this is the standard, let's get some feedback and let's move forward and we could be adding continuous properties or whatever. Is that fair to say?

ALVAREZ: That's fair to say.

COOK: Can I embellish on that?

JOHNSON: Sure, why not.

COOK: One of the problems is that the bill does call for adjacency. Now, Mr. McDonald talked

about the definition of adjacent in a couple of court cases; however, Clark County code has its own definition of adjacent, and I would guess that that might be more applicable here and it includes abutting or close or near, so...

JOHNSON: But aren't those two different words? You just said two different -- abutting is next to, we looked it up here.

COOK: And isn't something that's abutting adjacent? Well, of course it is. The question is how limited is that term. And that is one of the things that I think is incumbent upon the Planning Commission and the Board at some point to figure out, what does it mean. Staff started with the most limited in part because as you said, they wanted to get it done, but one way or another, there has to be some kind of rule. Okay.

It's kind of the government of laws and not of who has the ear of, you know, somebody on the staff or somebody on the Council or somebody on the railroad advisory committee. It should be according to a rule that is generally and equally applicable to all property owners who might be interested in it, and, therefore, can be known by the public. So there needs to be some kind of rule in my view. They have a rule with this first proposal. Adding a lot of contiguous land no matter who it's owned by doesn't necessarily create a rule, and leaves one to question why is this land appropriate whereas some other land is not.

In addition, the bulk of the rural industrial land bank was not included on the public notice as potentially subject to the overlay. If that land is to be included, it's my opinion that this will have to be renoticed and come back to you so that the people who would be close to that property can know that they may have the effects of the freight rail dependent uses by them.

MORASCH: And you're referring to that area on the other side of --

ORJIAKO: Further to the east.

MORASCH: Yeah. Not the three parcels that Mr. Cotton talked about as far as the notice issues?

COOK: Well, if it's come into that as well.

ORJIAKO: If you include that, then we have to notice or include notifying the property owners abutting them. Our code, and I think this is where the 500 feet beginning point starts from, in the rural area, any change in the rural area requires notice within 500 feet, and, two, the beginning point, that's why I asked.

I made my point earlier that we have to be able to say where will this apply, where, and the map gives us that beginning point. And as Ms. Cook is saying, we have to, and I mentioned that in my opening remark, we have to be thoughtful in the language that we put in the code, i.e.,

the criteria which will come to you. What will be the criteria for expansion of the overlay and the criteria for exclusion. We haven't determined that.

You all participated in, when we went through the surface mining overlay, if you'll recall, we put in place, we said it should go to the hearing examiner and there was an objection that it should be a Type IV process for removing the overlay or for expanding the overlay, that will be the case here as well. We don't have that language or what the criteria will be. I don't have any opinion one way or the other whether the Planning Commission include or recommend that this property be included. As Ms. Cook indicated, we may have to renotice.

It is true that this property was considered as part of the rural industrial land bank. You all participated in that effort. It came to us as two applications. I'm not questioning the LLC or anything like that, but it came to us because the bill says two sites if you'll recall, and it came to us as Ackerland and Dennis Lagler. Things may have changed, I have no knowledge of that.

Secondly, you know, if you want to go, the Lagler property to the east, again while I have no position, it's almost I will say half a mile. If that's the criteria that the council want -- the Planning Commission wants to establish, we'll work with you on that.

MORASCH: All right. Thank you. Any other questions for staff?

BENDER: Ms. Cook, Mr. Weaver indicated that the Lagler property wanted to be brought into the boundaries. You indicated there were other owners perhaps of that property?

COOK: No. No. The property that is now in the hashmarks as being proposed to be included is owned by an LLC, Ackerland LLC, I believe, and Mr. Lagler has ownership I think, or it may be a different LLC owned by him of that eastern property. What we do not have, is we do not have a statement direct from Mr. Lagler as we generally ask for of owners of land saying this is what I want to have happen.

BENDER: That is disconcerting.

COOK: And it's easily remedied. I mean, all he needs to do is let us know.

MORASCH: And I asked for it. Any other questions of staff?

BARCA: I have a question concerning the choices to not include Rural 5. Since the county has property that is adjacent to urban growth boundaries for both Battle Ground and Vancouver on the railroad where we would be able to, in essence, extend industrial lands that are coming right off of the edge of the City of Vancouver from the south and the southern border of Battle Ground which is industrial now, why did we only go after resource land as our choice for the overlay? I heard you say that compatibility was an issue, but there are some houses that are already residential within the choices that were made, so...

ALVAREZ: Right. And we were just looking at it from the south. We didn't start this where it extends from the urban growth boundary, because there is an existing subdivision that we knew didn't want to be included in the urban growth boundary when we expanded in 2007, and we just felt to extend that made sense. One of the comments that was made at the open house was that these properties also have a rural industrial reserve overlay, that makes a lot of sense.

When we're looking to expand the urban growth boundary, we're looking at these to be probably industrial or not be residential. But given the time frame to create this, we just made the decision to not include it at this point in this initial phase of the overlay. Again, we also had some analysis about the compatibility of the uses in agriculture, forest land, there's no forest here, but maybe more intensive industrial uses would be allowed in the agricultural districts than would be allowed in rural residential. It allows for small scale agriculture. So that was kind of the thinking that we had in excluding it.

BARCA: Okay. So my concern about the choice that's made right now is we have kind of a shaky history with this agricultural land here. We have had findings from the Western Growth Board on a couple of occasions coming back from 2007 to now, and it has the appearance that we're going after exclusively the resource land again.

And once we drive a wedge of industrial land between the agricultural uses which are all of the industrial, rural industrial land bank, and all that's orange on the map, we're isolating another component of AG-20 that's going to then become incompatible with the surrounding area which will be the reason why it's going to be asked for to be taken out of the resource zoning in the future. I think we're setting ourselves up for another one of these ag land confrontations by not including any other type of zoned land.

ORJIAKO: I agree, Commissioner Barca, but remember that the provision of this bill does not require a de-designation of resource, that's one component. Unlike the rural industrial land bank, 365 or 367, we have to go through a de-designation which is more of a challenge and a higher bar to cross. We have experience with that, you are correct that we have not been successful.

And I think the observation that the Rural 5, staff made a call not to include them. You may make the same observation that, are there no houses, for example, in the area that are currently zoned as agriculture, it's likely that there are homes. But if you look at the parcelization that are within that Rural 5 areas, I don't know the ownership pattern, and are there some really usable parcel within that, or are there opportunities if there are no homes there to aggregate,
I don't know.

But I think that when you really compare size, the current uses that are allowed and then these

uses on top of it, you may make a call that, a, it's not compatible, and that is the view that we have at least at this point. If we write a criteria that says, yeah, you can come in and ask to be expanded and make the case for it, that could be considered. We go through zone changes where the proponent make a case and whether it's a comp plan and a zone change, you consider that and recommend approval or denial based on the criteria and the circumstances on the ground.

I believe that some of these areas may have, because it's Rural 5, very expensive homes. Jose indicated the piece that is south of 119th, I'm familiar with that, that develop as a cluster and they objected being included in the urban growth boundary, talk alone about it applying rail dependent uses on existing single-family homes. You know, if that's your findings, we will take it, but we made the call that it will be really incompatible. I mention the rural element that talks about maintaining rural character, balancing the resource and minimizing impact, that's why we're trying to frame this policy to see if we have it right.

And then the other issue is as the Cottons indicated, if you include their property, we have to be able -- we may have already done adequate notice, I'm not saying, I don't know that, but the question will also be, how do we minimize impact to adjacent resource, you talk about it, because that is required, that section of the GMA. This bill didn't exempt or amend that section. So we still have to wrestle with, how do we minimize impact to the adjacent resource depending on where we put the overlay.

MORASCH: All right. Thank you. Any other questions? All right. With that, I will turn it back to the Planning Commission for deliberation. Does anyone want to start? Bill, you look like you want to start.

WRIGHT: Okay. Why don't we start, I'll make a **MOTION** that we approve this change as presented by staff.

GRIMWADE: I'll **second** that.

MORASCH: All right. It's been moved and seconded to approve the change as has been proposed by staff. Is there discussion on the motion?

WRIGHT: Well, I think there's been some very interesting discussion tonight on some possible reasons to enlarge the area, possible reasons to reduce the area, and I think staff has established a rule. It may not be perfect, it may not be what you're dealing with five or ten years from now, but it certainly is something that we could proceed with and feel our way through this process. So I think what we have is a good proposal, it was given a lot of thought and we should approve it.

JOHNSON: I concur. I like what Jose said, we're starting and feedback will rule this thing and it will drive it and I've heard great arguments for adding and taking away property, but I just think

we open Pandora's box when we do that. I'm sympathetic to the Cotton properties and the other property. I just think it's a good start and let's see where we land and keep the discussion and dialogue.

Which to the people who said it was rushed, I'm sensitive to that too because I felt the same way about some of the testimony in previous things that we've worked on, but I think it's not rushed because we're doing exactly, Jose, I'm assuming which this is the process, we're Phase I, let's look at it, let's talk about it. I'd like to see them, the 500 feet bigger, but I don't think that that does anything right now other than just muddy the water. So I concur and I'll probably be voting for staff's recommendation.

MORASCH: Well, I'll jump in now then, unless you want to, I'll jump in now.

BARCA: Jump in now.

MORASCH: Yeah, why not. I think the only two changes I would make is Section 3.9.2 on Page 1 says minimize impacts on adjacent rural and resource uses and then the implementing strategy it leaves out the word adjacent, and I would probably add that word adjacent to Page 2 the last bullet point; identify and minimize impacts that freight movements have on adjacent residential neighborhoods and resource lands so that it mirrors the policy language.

JOHNSON: Oh, I see what you're saying.

MORASCH: And then I probably would go ahead and bring in Mr. Cotton's land. It's, you know, it's under the same ownership. It would square off the map, it's a minor adjustment, you know. To the extent that our notice procedures don't provide enough notice for us to be able to make these minor adjustments, then I would recommend that we re-address the notice that goes out, because I think we should be able to make minor adjustments to these kinds of things.

And I can totally understand that property way to the east being beyond a notice, but I mean I think in the future I would hope we would maybe broaden the notice area, you know, a little bit to give the Planning Commission a little bit of flexibility on these sorts of things. But those are the only two changes I would make.

ALVAREZ: I'm sorry. Could you restate the 3.9.2, the change you want to make.

MORASCH: Well, the change is not to 3.9.2, but to the bullet point on Page 2, second to the last bullet point. I would make the language in that bullet point consistent with what you've got in 3.9.2 by adding the word adjacent in front of the word rural -- or excuse me -- in front of the word residential.

COOK: Is that an amendment?

JOHNSON: There's already been a motion.

MORASCH: There's been a motion. I guess it's up to Bill whether he amends his motion or not.

WRIGHT: I'd take those as a **friendly amendment**.

MORASCH: Is that just for the text change or also for Mr. Cotton's land?

WRIGHT: Just for the text.

MORASCH: All right. And what about the second?

GRIMWADE: I'll accept --

JOHNSON: There's already been a second.

GRIMWADE: -- the text change.

MORASCH: All right. **So the text it's been moved and seconded to amend the text.** Any other discussion?

BARCA: I'd like a clarification. We were given this Document 40.230.085, Employment Districts, and I'm assuming this was given to us in the idea that this would be the development regulations if the rural industrial land bank is in place?

ORJIAKO: If I may, I think when we went out at the open house, there was requests from the participants too. Because we did not come out with a use list and we said, you know, we have existing use districts, the rural industrial and then the light industrial that they can take a look at it, and we posted it on our website and we made it available today. Those two districts currently exist in terms of use list. In my remarks I mentioned that that will be a starting point that we will then use to perhaps come up with the list of what will qualify as freight rail dependent uses, that's just for your consumption and for the public consumption.

If you follow the definition of what freight rail dependent uses means, it says fabrication, storage and processing and then transport. Those are the type of uses we are -- that's the starting point, if you say, category, what then qualifies. That is just, folks, take a look at what we currently have, we use that as a starting point, a beginning point to begin to then with their help, narrow down what will qualify as freight rail dependent uses based on the definition. So it's really more of the public to see the type of uses that we currently have that will be helpful to us, rather than starting from scratch, if you will.

BARCA: Okay. That clarifies that for me. So I think under these circumstances this seems like a fairly straightforward lines on a map kind of exercise for us at Phase I, but the development

regulations that get crafted are going to be the real big one. And when we talk about compatibility with rural character, it's going to be very interesting to see how you take a section of land that's contiguous along the railroad for that extent and maintain rural character in it, and I'll be thrilled to be part of the Board when we go through that.

ORJIAKO: I have no comment. That's where buffering and setbacks and those type of bookends come into play.

MORASCH: Okay. Any other deliberation?

PUBLIC: I'd like to request the Chair to open up the public comment to at least one more person and that would be me.

BARCA: It's already been seconded.

MORASCH: What?

BARCA: It's already been seconded on the motion to approve.

MORASCH: Yeah, I'm sorry. It's too late to open up public comment at this point, but I would encourage you to go to the Board of County Councilors hearing, submit written --

PUBLIC: Been there, done that.

MORASCH: Yeah. Well, I would encourage you to go again because they're going to have --

PUBLIC: They told me to go back to the Planning Commission.

MORASCH: Well, I'm sorry, you should have come earlier tonight, but we've got a lot on our agenda and there's already a motion on the table that's been seconded, and, I'm sorry, it's too late to reopen public testimony at this time. So unless there's any further deliberation, I would entertain a roll call. Sonja, roll call, please.

ROLLC ALL VOTE

SWINDELL: AYE
JOHNSON: AYE
GRIMWADE: AYE
BENDER: AYE
BARCA: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. That concludes our public hearing on the freight rail dependent uses overlay.

BARCA: Take a break.

MORASCH: We will take a -- is five minutes or do you need ten?

HOLLEY: At least ten.

MORASCH: Pardon? Ten. All right. Well, I'm just looking at the rest of our agenda and I know everyone wants to leave by 10:00 or 10:30 tonight, so... All right. We will take a break for ten minutes and then come back. Thank you.

(Pause in proceedings.)

PUBLIC HEARING ITEMS, continued

MORASCH: All right. Welcome back everyone. I'll give you just a second to take your seats. Hopefully Karl and Richard will be back here, and I need to find my agenda to see what is next. There it is.

MORASCH: Yep. I think we're starting with CPZ2017-17, Public Facility Zone. Laurie.

2017 Annual Plan Amendments amending the 20-Year Growth Management Comprehensive Plan Map and Zone Map:

- A. CPZ2017-00017 Public Facility Zone:** A proposal to amend the Public Facilities code language under CCC 40.230.090, correct a mapping error to remove the public facility comprehensive plan and zoning designation on 63 parcels (approximately 131.84 acres), and apply the comprehensive plan and zoning designations that existed immediately prior to adoption of the 2016 Comprehensive Plan to the following parcels:
274348000; 181696000; 181765000; 181766000; 181767000; 181764000; 181768000;
181769000; 181770000; 140879000; 209483000; 198094000; 120301000; 118257308;
118257306; 108033000; 175929001; 226094000; 278212000; 146239000; 223961000;
232962000; 235666005; 226727000; 235378000; 216472000; 121226000; 216457000;
192930000; 192906000; 204018000; 196286000; 197453000; 185464000; 198122000;
189054000; 189189000; 156238000; 189249000; 146239000; 189386000; 155126000;
104356000; 148164000; 144291000; 144742000; 159165000; 156957012; 187836000;
155118000; 199289000; 98131094; 189027000; 185207000; 148464000; 180593000;
189840000; 226078000; 200350000; 185766000; 236107000; 164502000; 204041000;
and

Apply the public facility comprehensive plan and zoning designation on eight parcels totaling approximately 30 acres to the following parcels: 184828000; 986027187; 986027186; 189301000; 105080000; 147697000; 189756000 and 189847000.

Staff Contact: Laurie.Lebowsky@clark.wa.gov or (360) 397-2280 x4544

LEBOWSKY: Yes. Thank you. Laurie Lebowsky, Clark County Community Planning. We've had work sessions on this item, and we had a hearing in, I believe, it was October. We're just bringing it back, this is a brand-new hearing. The purpose of this docket item is to do some cleanup as far as mapping issues and also with the development code for public facilities.

Just a quick background. I sent letters in March of this year to local public agencies that had properties that were zoned as public facilities to determine if they wanted to keep that zone or have it changed back to the comp plan designation prior to the 2016 comp plan update when we implemented the public facility zone.

Exhibit B of the staff report shows the agents-- shows it's a spreadsheet and shows the proposed zoning. They were the agencies that responded to the letters, the majority of them. The majority of the properties on the spreadsheet want to go to the zoning they had prior to the comp plan update. There's about, there's a few properties from Vancouver School District that actually want to have their properties changed to public facilities.

As I mentioned, the second part of this docket item is to make minor revisions to the Title 40 code to make the intent of the public facility zone clearer. The proposed language is in Exhibit C of the staff report. The proposed changes are in either strikeout or underline, and they're highlighted in yellow. As you recall, we received a letter from Clark Public Utilities dated October 19th. You can find that letter in Exhibit A of this binder. They were questioning about receiving notice of the public facility zoning.

I would remind the Planning Commission that as part of the 2016 comp plan update, the preferred alternative included adoption of the public facility zone. And if you recall, Planning Commission had a joint work session with the Board on the public facility zone. There were PC hearings as well as Board hearings, and it was all properly noticed.

And for the docket item this year, as I mentioned, we sent letters to the public agencies in March of this year, including Clark Public Utilities. Exhibit A of the staff report includes the letter that we sent to Clark Public Utilities. It also includes documentation of the mailing that I did earlier this year. I also included our e-mail exchanges with Clark Public Utilities regarding public facility zoning. We've received a letter, and I believe you all have a copy of it dated November 14th from Clark Public Utilities giving additional-- giving reasons why they want the zoning removed from all of their properties. They mention issues with easements and lot line adjustments.

It's staff's opinion that removing that zone will not address those issues; however, I do include

all of the CPU properties to be, revert to the zoning they had prior to the 2016 comp plan update and that's included in the spreadsheet that's in your binder.

I also want to add, and I included this in the staff report, it's been recommended that if you go with the staff recommendation, that we include language that any parcels released from the public facilities district will be subject to legal lot determination standards.

The Board hearing for this docket item is scheduled for December 12th. Staff recommends that the PC forward approval of this docket item as outlined in the staff report. Additionally, if the PC votes to adopt the staff recommendation, I am requesting that language, that a revision be made to the code language, and that would be on Page 1 of the code language, Exhibit C. Sonja has it up on the screen as well.

So Line 24, that we add a No. 5, and that No. 5 would state that any parcels released from the public facilities district will be subject to legal lot determination standards. And that concludes my staff report, and I turn it back over to the PC for questions of staff.

MORASCH: All right. Thank you. Does anyone have any questions of staff before we open the public hearing?

BARCA: I need a clarification on that last item that you said. So looking at Exhibit C.A, you're looking for an Item 5 to be --

LEBOWSKY: 5.

BARCA: -- to be added.

LEBOWSKY: Correct.

BARCA: And the wording for that.

LEBOWSKY: And the wording would be, any parcels released from the public facilities district will be subject to legal lot determination standards, and that's also included in the staff report.

ORJIAKO: That's on your staff report Page 3 of 4.

BARCA: Right. Just trying to get the clarification that that was the same wording that was on the staff report that you're looking to add into it. Thank you.

PUBLIC TESTIMONY

MORASCH: Okay. Any other questions? Okay. With that, I will open the public hearing. And is Kevin Jolma available from the Battle Ground School District?

JOLMA: Kevin Jolma, J-o-l-m-a, Director of Facilities, Battle Ground School District. Did you want me to speak on the matter or did you have questions?

MORASCH: If you have anything you'd like to say.

JOLMA: You bet. The property, our eight parcels, there's five eight -- eight five-acre parcels that we're looking to put back into -- to take out of PF. They were surplus right around the same time that the 2016 update went on. We determined that they were unsuitable to put a school site on, so we decided to surplus them and sell them, which we currently have.

We've sold them, four of them, and there's four more, the last four are also under contract. We're asking to just put it back to, so that we would be able to build single-family residences on five-acre parcels. They have been determined to be legal lots. So that's all we're asking to do is to put it back to before that determination.

MORASCH: All right. And these were in the original staff report?

LEBOWSKY: Yes, they are. And -- yes.

JOHNSON: So my question, why this came up in staff was, it's reverting back to R1-20; right?

LEBOWSKY: Correct. With an urban holding overlay.

JOLMA: With an urban holding overlay still.

JOHNSON: Overlay. Okay. So my concern, and I've talked to you before -- excuse me -- was that Battle Ground had asked for this to happen apparently, you just wanted to get rid of the property.

JOLMA: Yeah. We didn't really ask for it to be put into PF originally, and I think that occurred right around the same time that we surplus it. And then as we went into selling them or some of our buyers said, hey, it's PF, we're not going to be able to build a home on here, so that's when I contacted Laurie and made the request to go back to 2016.

MORASCH: All right. It makes sense. Any other questions? All right. Thank you so much for coming.

JOHNSON: Kevin, sorry for having you come last time and miss --

JOLMA: Oh, it's all right. I'm used to board meetings.

MORASCH: All right. Bruce, Bruce Rauch. Is Bruce still here? All right. Sue Rauch. Okay. Scott King.

KING: Yes.

MORASCH: Would you like to speak on this matter?

KING: No.

MORASCH: No. Okay. Thank you. I'm trying to read the last name here, Vera Bragin. Alex Kutsar.

KUTSAR: Kutsar.

MORASCH: Kutsar. All right. Please come on down and spell your last name and tell us what you'd like to tell us about the public facility zone.

KUTSAR: Good evening. Alex Kutsar, K-u-t-s-a-r. We're already on this property like 11 years, and two years ago we received a letter that says we're going to be developing. And I thought it was going to be developing, and when I hear even talk tonight, and then I understand it's not going to be developing now. I mean, I had plans also.

I mean, I understand everybody who's living in that area, everybody wants -- has, like, five acres, now we have ten acres, and it's not, still not -- it's not going to be dividable and it's not going to be soon to be dividable, that properties, and we would like to have the five-acre parcels. And I don't know how long now that going to take, I'm assuming probably another ten years. And we have big families and I thought I'm going to put houses for my kids, I mean.

MORASCH: Can you -- do you have your tax account number? Can we pull his property up on the map?

LEBOWSKY: Commissioner, I met with him before the meeting, they didn't have the property number. We were going through the maps and --

KUTSAR: It's right on the corner, it's 172nd and 152nd or 159th right next to this little corner.

MORASCH: Is their property affected by the public facility zone?

ORJIAKO: That is private?

LEBOWSKY: No, it's a public property. They were noticed because they're within 500 feet.

MORASCH: Of the public facility zone.

LEBOWSKY: Right.

KUTSAR: We are on right on 172nd and 162nd.

MORASCH: Okay. Well, we're here to talk tonight about the public facility zone and it sounds like your issue may be a little different than that. So I'm not sure what we can do for you. You may want to follow up with staff after the hearing and, you know, and talk about, you know, what your property is zoned and whatnot, but we're only looking at the public facility zoned properties right now.

KUTSAR: Okay. Because two years ago we received a letter that says it's going to be developed, it's going to be next year, 2016, it will be developing and now again.

MORASCH: Who sent you that letter?

KUTSAR: It's from the City. It came from the City.

MORASCH: City.

KUTSAR: Yeah.

MORASCH: Okay. Well, you may want to follow up with the City on that. I don't know. Does anyone have any questions?

ORJIAKO: I would recommend if we can get your name and Laurie will call you so that we want to make sure that there is no confusion. If it is a property that is within the county where the County has jurisdiction, we'll work with you to clarify any potential miscommunication. Okay?

KUTSAR: Yeah.

ORJIAKO: So we'll get your name and Laurie will give you a call and follow up.

KUTSAR: Okay.

MORASCH: All right. Thank you. Thank you, Oliver. Let's see. We have a couple of more people on our sign-in sheet, Rob Porter. Is Rob Porter here? All right. John, John Eldridge. Is John Eldridge here?

ELDRIDGE: I am.

MORASCH: There you are.

ELDRIDGE: Good evening, Commissioners. John Eldridge, and that's E-l-d-r-i-d-g-e, I'm legal counsel with Clark PUD. And on behalf of the organization or the utility, I'd like to express our appreciation both to the Commission and to staff for expediting your review of our request to revert our properties back to their pre-2016 comp plan status or zoning classification.

In your packet you should find a letter that I sent to you guys earlier this week that addressed the questions that were asked during the last meeting, specifically whether or not there was a code restriction on creating a split zoned parcel as a result of a boundary line adjustment. And then the other question was regarding what specific properties or transactions have we seen that have been impaired by the public facility designation.

On the question of creating a, on the legality of creating a split zoned parcel through a BLA, I reached out to Chuck or Charles Mad- -- or excuse me -- Charles Maduell. He is an attorney with Davis Wright Tremaine out of Seattle, and he specializes in land use law. He drafted a memo to respond to that question which I've attached to my letter.

As pointed out in Mr. Maduell's memo, Clark County code does not explicitly restrict the creation of a split zoned parcel through a BLA, but it would create significant legal and practical consequences that action actually may result or prevent, may actually prevent the development of that parcel later on because the property would likely be subject to conflicting land use zoning regulations.

And keep in mind that the public facility zoning designation appears to be incompatible with any other zoning class as its restricted use is to governmental entities. And as the utilities is concerned, we can imagine that no property owner adjoining us would be interested in entering into a BLA if we had our property designated as public facilities.

The other question that was raised was regarding the what transaction the utility has seen being impaired by the public facilities designation. When we went back and looked at it, as I mentioned in the prior meeting, there actually were only two property sales that were halted as a result of the designation, so we did not find any other specific transaction since the PF zoning classification has been applied to our property.

We did look at some of the transactions that occurred in the last three years to get a sense of the volume that we're looking at. We discovered that in the last three years, we've entered into seven easements, we've got one pending, two land swaps, three BLA's and two property sales, plus we have two other sales that are pending that are now stopped as a result of the PF designation. But I don't know that these transactions would be a good indicator of what our future activity is given the growth that Clark County is currently experiencing. We really don't know what the volume's going to be, but we do see a lot of new home starts.

So I'd like to reiterate our concern that the public facilities designation would impair utility operations by restricting our ability to enter into property transactions that may be necessary

for a project. And while I still have time, I did have a question, and it was mentioned that in the staff report there was a recommendation that the following language should be included in your motion, any parcels released from the public facility district will be subject to a legal lot determination standards as all unplatted parcels in Clark County. Well, if the Commission approves our request, does this language create any additional obligation on the utility that we didn't have before the public facilities designation was applied to our property?

MORASCH: I don't think so, but I'll let staff -- Oliver's shaking his head no. No. This basically, it reverts it back to what it was before, and before all parcels in Clark County if they're not part of a platted subdivision, the County's got provisions in the code that says the property owner has to show that it was legally created.

ELDRIDGE: Oh, it wasn't clear because we do have some that are platted already and we didn't know if it applied to them as well.

MORASCH: No. It specifically says unplatted parcels.

ELDRIDGE: Okay. Thank you for the clarification. That's all I have unless you have any questions.

MORASCH: All right. Any questions? I only had one question. The current staff recommendation, does it include the removal of the PUD parcels?

LEBOWSKY: Yes.

MORASCH: It does.

LEBOWSKY: All of them.

MORASCH: Okay. Great. All of them. All right. Well, thank you very much.

ELDRIDGE: Great. Thank you.

MORASCH: Is there anyone that didn't get a chance to sign the sheet that wants to talk about public facility zone, now is the time to come forward? All right. Seeing no one, we will now close the public testimony on the public facility zone and I'll return it to the Planning Commission for any follow-up questions of staff or deliberation or a motion.

RETURN TO PLANNING COMMISSION

JOHNSON: How do you want to do this? Do you want to break them up or all at once?

MORASCH: I would just -- unless someone wants to make a motion to break them up, I would

take them all at once.

JOHNSON: I make a **MOTION** we accept staff's recommendation regarding public facility zoning classifications.

MORASCH: It's been moved to accept the staff recommendation on public facility classifications and the public facility zone. Is there a second?

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

MORASCH: It's been moved and seconded. Is there any discussion on the motion?

BARCA: I have a question. Does the motion include the staff recommendation for Exhibit C which is 40.230.090 to add Items 1 through 5 as described in both the staff report and Exhibit C?

JOHNSON: Yes.

MORASCH: I believe it does because that is part of the staff recommendation.

JOHNSON: That's part of the recommendation, correct.

MORASCH: That's been confirmed. Any other questions or discussion? I guess I have a comment and that is that I think, I want to thank staff first, for all the work and for getting the new notice out. Personally I think this concept of a public facility zoning is something that we may want to look at in the future at some point. I think it's got -- I think there's some, definitely some good ideas around the public facility zoning. I think it could use a lot more work, and maybe we'd have more of our public entities more excited about having their land designated public facilities if we kind of work through some of the issues we're hearing. And maybe in the future comp plan update, I would encourage staff to look at further revisions down the road, but I do support the motion, and unless there's any other discussion, I would take a roll call.

ROLL CALL VOTE

WRIGHT: AYE
BARCA: AYE
SWINDELL: AYE
JOHNSON: AYE
GRIMWADE: AYE
BENDER: AYE
MORASCH: AYE

MORASCH: All right. Motion carries. Another unanimous one. That moves us to the next item

on our agenda. Thank you, Laurie. Jan Bazala, amendments to County Code Section 40.540.070 to allow administrative approval of final plats as allowed under Senate Bill 5674. Please, give us the staff report.

PUBLIC HEARING ITEMS, continued

- C. Amend Clark County Code Section 40.540.070 to allow administrative approval of final plats, as allowed under Senate Bill 5674.

Staff Contact: Jan Bazala, 397-2375, Ext. 4499

Email: jan.bazala@clark.wa.gov

BAZALA: All right. Good evening. Jan Bazala, Community Development. This item is a late addition to the biannual code amendment process. It is going to, the rest of the amendments are going to the Board December 12th, and we're hopefully hoping that this will catch up and be added into the biannual list.

So this is a proposed amendment to give the County Manager the authority to approve final plats. Currently the Board of County Councilors are delegated this authority; however, some RCW's have recently been changed to allow administrative approval of final plats.

Under the current final plat process, staff reviews the proposed final plats to make sure that they're consistent with any conditions of preliminary approval and that the plat meets technical requirements. Staff then forwards the plat along with the staff report to the Board for final approval on the Board's consent agenda. Getting the plat to the Board and getting the reports done and all that can take at least two weeks, sometimes a little bit longer.

Councilors rarely remove a plat from the consent agenda to ask questions about the proposal, and so we're of the opinion that the County, having the County Manager being able to sign the final plat instead of the Board, is going to streamline the process significantly. There won't really be any other change involved with the final plat process except for who signs it, so we're hoping that this will speed things up. Any questions on that?

MORASCH: All right. Any questions for Jan?

BARCA: Can I get a clarification on, you're saying this is going to speed it up, is that because of the sequencing, the cadence of when a consent agenda takes place at a County Councilor meeting?

BAZALA: Right. Right. Yeah. They have to be done at a Board hearing and so you're stuck into the timelines when the Board's actually going to have a hearing, so that's one of them. A formal report goes out with it and it's anticipated that, you know, this could be a formalized process. I mean, all the reviews that are currently being done by staff would still be done, but you wouldn't have to get it on the docket and go through the Board's office.

BARCA: So we have to get it on the docket, it has to be noticed and then it comes up on a consent agenda.

BAZALA: Right.

BARCA: So we're talking at least two weeks, if not, longer.

BAZALA: Right.

ORJIAKO: Right. And if the Council is out, it waits. So I think this will probably streamline a part of -- streamlining of the permitting process, so those are the some of the reasons.

MORASCH: And final plat is more of a technical thing anyway.

ORJIAKO: Yeah. All the work have been done, it's more technical.

BARCA: I recognize that. I'm just thinking that when we use terminology such as streamlining, it's really nice to put some sort of actual boundary about what we expect in the way of either savings or time frame because it's a very common term which can mean a lot of things.

ORJIAKO: I agree with you.

SWINDELL: Do the final plats still go to the County Council, are they still notified of it or is it just signed by the manager and done?

ORJIAKO: I don't know.

BAZALA: I don't know how -- I haven't -- I don't know if that's been considered at this point, I mean.

SWINDELL: Is the thought that the manager would just sign and then it's done and it wouldn't need to go to consent agenda?

BAZALA: Right. It would not have to go, no.

SWINDELL: It wouldn't have to. Okay.

BAZALA: It would avoid the Board's approval. I would anticipate there would be some sort of posting website, but I don't really have a good answer on that.

MORASCH: All right. Any other questions? All right. I don't have a sign-in sheet on this item, but does anyone in the audience want to testify about final plats and the amendment that

would allow staff to sign the final plat? All right. Seeing no one, I will close the public testimony and return to the Planning Commission for a motion.

GRIMWADE: I make a **MOTION** that the staff recommendation be approved.

JOHNSON: **Second.**

MORASCH: It's been moved and seconded to approve the staff recommendation. Is there any discussion on the motion? All right. Hearing none, can we get a roll call, please, Sonja.

ROLL CALL VOTE

WRIGHT: AYE
BARCA: AYE
SWINDELL: AYE
JOHNSON: AYE
GRIMWADE: AYE
BENDER: AYE
MORASCH: AYE

PUBLIC HEARING ITEMS, continued

D. CPZ2017-00016 Clark County Unified Development Code (Title 40) Amendments:

No.	Title/Chapter/Section	Description
1	40.100.070	Amend. Single-family dwelling definition to include tiny homes.
2	40.100.070	Amend. Accessory dwelling unit definition to remove bedroom restrictions and add clarification between urban and rural accessory dwelling units.
3	40.260.073	Amend. Cottage Housing to reduce the minimum size from 500 sq. ft. to 150 sq. ft.
4	40.260.020	Amend. Accessory Dwelling Units – Urban to allow a full basement ADU, establish a 150 sq. ft. minimum, remove the one bedroom restriction and minimum lot size of 5,000 sq. ft.
5	40.260.022	New. Accessory Dwelling Units – Rural to allow attached ADUs in RC-1, RC-2.5, R-5, R-10, R-20, AG-20, FR-40, FR-80 and AG-WL zones.

**Staff Contact: Colete.Anderson@clark.wa.gov or (360) 397-2280 ext. 4516
Jose.Alvarez@clark.wa.gov or (360) 397-2280 ext. 4898**

MORASCH: That moves us on to Item CPZ2017-16, Clark County Unified Development Code Title 14 Amendments. Jose Alvarez, are you going to give us the staff report on this one?

ALVAREZ: I will.

MORASCH: All right. Thank you. Please proceed.

ALVAREZ: So this is Tab 3 in your binders, and this is a proposal to amend the County Unified Development Code to support diversity of housing choices and increase the variety of housing types within the county. There's a summary of the amendments provided that are attached to this document, attachment Exhibit A.

The Council held two work sessions in August and September, August 9th and September 6th, to discuss the potential for providing additional housing affordability. The proposals were taken out to the public. We had two community open houses October 25th and 26th. It was attended by approximately 100 citizens. The comments from the open house are summarized in Attachment B. We had a work session with the Planning Commission November 2nd, and the SEPA determination of nonsignificance was published in the Columbian newspaper November 1st, 2017, that's Attachment A, and the legal notice of this hearing was published on November 1st.

I'll just give you a summary of the proposed changes that are part of this, part of these code changes. We're proposing to amend Title 40, Chapter 100.070, that's the single-family dwelling definition to include tiny homes. There's an amendment 40.100.070 to amend the definition section again for accessory dwelling unit definition to remove the bedroom restriction, and add clarification between the urban and rural accessory dwelling units. We're proposing a new rural accessory dwelling units, so we wanted to clarify the differences between those.

An amendment on 40.260.073 which is cottage housing section which would reduce the minimum size from 500-square feet to 150-square feet.

And then in 40.260.020 there's a proposal to amend the ADU section to allow for full basement ADU's. Establish 150 foot square foot minimum and remove the one bedroom restriction, and the minimum lot size of 5,000-square feet.

And then there's 40.260.022 which is the new section for rural accessory dwelling units that would be allowed in the RC-1, RC-2.5, R-5, R-10, R-20, AG-20, FR-40, FR-80 and AG wildlife zones.

Do you have any questions?

MORASCH: What's the minimum square footage for the rural attached ADU's?

ALVAREZ: I believe that's 150 as well.

MORASCH: 150 as well.

JOHNSON: You said the minimum?

BARCA: Minimum.

MORASCH: The minimum for the rural because it says in 40.260.020, it says allow -- establish 150-square foot minimum, and that looks like it's referring to urban so, I just wanted to clarify whether the rural was also 150.

ORJIAKO: I believe on --

ALVAREZ: Yes, it's Item 6 --

ORJIAKO: -- Item 6.

ALVAREZ: -- on Page 11 of 13 --

BARCA: The last line.

ALVAREZ: -- the last line.

MORASCH: Okay. I was just looking at your summary in the agenda.

JOHNSON: Yeah, I did the same.

MORASCH: All right. That clarifies it. Thank you. Any other questions? All right. No questions? I will open up the public testimony. And the first person on the sign-up sheet for the Unified Development Code Title 40 matter is Sue, Sue Lintz.

PUBLIC TESTIMONY

LINTZ: Is there anybody else?

MORASCH: There are.

LINTZ: My knee doesn't want to work so I'll go --

MORASCH: You want to go later in the agenda?

LINTZ: Yeah.

MORASCH: Shall I call you again? All right. We'll go to the next person and I'll come back to you. Chris Kelsey.

KELSEY: That was not intended for a comment. I apologize. I misfilled out the line.

MORASCH: Okay. No problem. Dan Thomas. No? Okay. Ramona Lupo.

LUPU: Thank you. Ramona Lupo, L-u-p-o, and mine is really just a very quick question. It's not designated in the paperwork that we received tonight what the size restrictions are for the manufactured or modular.

ALVAREZ: It would be the same.

LUPU: Is there a maximum size?

ALVAREZ: So for the urban areas --

LUPU: For urban, yes, for urban ADU.

JOHNSON: It has to be attached.

ALVAREZ: So it would be dependent on the zone, but the allowable size is, shall not exceed 800-square feet or 40 percent of the area, the primary dwelling. The exception -- well, it wouldn't apply for the basement. In the R1-10 zone, that would be 1,000-square feet or 40 percent of the primary dwelling area whichever is less, and then zoned. A lot zoned R1-20, that goes up to 1500-square feet or 40 percent.

LUPU: I believe mine is R1-7.5, is that --

ALVAREZ: Yes. So that would be the 800.

LUPU: 800 is the maximum?

BARCA: Maximum.

ALVAREZ: Maximum. It's 800-square feet or 40 percent, whichever is less.

LUPU: Okay. Okay. Great. Thank you.

MORASCH: All right. Any questions? All right. Thank you very much. Tony Morrell. All right. Nick and Lonnie Platt.

PLATT: Nick Platt, P-I-a-t-t. I've been living with my wife in Hazel Dell since 1983. Just a couple of points, none of which were brought up in Jose's summary. One is parking. It talks about on-site parking, and then it goes on to say on-site parking includes up to one parking space on the street.

We currently, on our block that has eight houses on it, already have one house that has an ADU (sic). Tonight on our way to this meeting, I counted ten cars parked in front of their house, four in the driveway, six on the street. Obviously if everybody on the block did the same thing as our neighbor with the ADU (sic), there would be 42 cars parked on the street. I foresee some issues with that. I don't see that there's any sort of enforcement with the idea of one car parked on the street per ADU (sic) or ADU.

The next thing is that in Section 9 where it talks about 75 percent reduction in transportation and park development, what you're potentially talking about here is doubling the population density of our neighborhoods, and at the same time removing the funds to provide any sort of resources to move all those people around.

This last election Fire District 6 asked for a levy lift because they're getting so many calls they don't have the resources to respond. How are we going to provide the infrastructure for all these additional people?

And then the last thing is I understand the motivation behind wanting to do this. I have grandchildren. I understand that it's going to be harder and harder for people to afford affordable housing. I grew up in Southern California. I'm the last generation of Southern Californians that were members of the paradise that California once was. And basically we were driven out, my whole family basically. I was a fourth generation Californian. We all moved north because we're kind of used to living in paradise and we live in paradise now. I would hate to see us rush to solve one problem in affordable housing and destroy the standard of living for everybody that currently lives here.

Traffic is already becoming a nightmare. At the last public meeting that I attended, we went through the intersection of 78th Street and Highway 99, it took three signal changes for the people coming home from work to get through that intersection. What's it going to be like if we double that population but we don't have any money for roads?

I would suggest that maybe a better way or something even additionally to be considered instead of that incentive. When Clark County PUD came out with the solar incentives for putting solar panels on roofs, they limited the number of participants because they didn't want to overly disrupt the system. I would suggest that any sort of changes like this that are made, there would be a limit on what neighborhoods or how heavily a neighborhood could be affected by this ordinance.

The neighborhood I live in are fairly big lots. Our, for instance, our lot's four-tenths of an acre, so there's a lot of room to add ADU's (sic). It's really conceivable that everybody in the neighborhood could, if they wanted to, that has lots of space to add ADU's (sic). So you're going to really change our standard of living if you just allow everybody to do it.

And my last point would be that there will be people that because of the Airbnb craze, build these ADU's (sic) with the thought of running it as an Airbnb. That's a business. There needs to be a distinction made that they are not allowed to run a business out of their auxiliary housing. And that's everything I had.

MORASCH: All right. Does anyone have any questions? All right. Well, thank you very much for coming. Does your wife Lonnie, Lonnie do you want to --

PLATT: No. We actually thought it was just a sign-in sheet and not necessarily a sign-up sheet. I do have one more kind of comment. When we went to the open house and the comments, there were like 35 comments made, I noticed that really it didn't change anything about the proposal, and so it kind of makes me wonder, you know, why do we do this, you know, is there a purpose. It didn't fill me with a lot of hope coming up here tonight to talk to you, but that's just a comment.

MORASCH: Well, we appreciate you coming nonetheless.

PLATT: Thank you.

MORASCH: Let's see. So Sue, Sue Lintz, are your knees feeling up to coming forward?

LINTZ: I think so.

MORASCH: All right. Because you're the last person unless there's anyone that didn't get a chance to sign up.

LINTZ: Thank you.

JOHNSON: We need a portable mic.

MORASCH: Yeah, that's a good idea. I'll talk to Sonja about that in a minute. We're going to talk later about getting a portable mic maybe or something for --

LINTZ: That's a good idea.

MORASCH: -- for you next time.

LINTZ: That's a good idea.

MORASCH: I'm glad you made it.

LINTZ: My name is Sue Lintz, S-u-e, L-i-n-t-z. I live on 65th Court and East Minnehaha. And I actually support the ADU's. I have, currently have a large house, 3,080-square feet on almost a quarter acre and my 50-year-old son has moved in with me, and my grandchildren, high school age and college age, have moved in. The older one, I have a great grandchild coming, and I want to be gone before it does, and don't want to be gone very far though. I want to be close. I want to walk across the patio and visit. I want to live in the ADU and let them have the house.

And that's things, you know, multi-family generational. It's not a thing of the past, it's going to be become more of a thing of the future, and it's coming fast because I've noticed that kids are not getting married as quick as they used to, they're not leaving home as quick as they used to, they're staying, and I'm not just talking about my kids, I'm talking about a lot of friends that I have whose kids are still in the home or moving back after they leave.

And so I think this helps with the multigenerational family and I think there needs to be other ways of promoting multigenerational households and other maybe some other zoning factors or something to help with that, but this is a start as far as I'm concerned.

And the parking, I understand the parking issue with ADU's. Maybe saying they can't park on the street, they actually have to have room on the lot for a parking spot also. And if they have a lot more cars than that, it's not because of the ADU, because an ADU is just going to add one car probably, because they're not going to be that big. So, yeah, basically that's what I wanted to say.

Also as far as land - I've noticed in this community - is there a new law with the county that says that if land is zoned more than R-1 and it's vacant, it has to have multiple units put on it? Someone that wants to build a house can't just build a house on it?

MORASCH: Oliver's shaking his head no.

LINTZ: Okay. Because I think the City, I've been told, has gone that way, and I'm hoping not because there's not enough land to build houses as it is for people that are wanting to build.

ALVAREZ: I think you have to meet the density requirements of the zone. So if it's R-12 and you'd have to meet the density requirements, you may be able to put one single-family home, but if you have a single-family home already on it --

LINTZ: I'm not necessarily talking about me, I'm involved with the neighborhood association so I'm concerned about this as well. For instance, in our neighborhood we have, this is just an example, we have a lot that is zoned R-4, or for duplexes.

ALVAREZ: That's the City zoning, R-4.

LINTZ: Okay. So it's zoned R-4. It's one of the new annexed areas that was in our neighborhood now --

MORASCH: Yeah. And now it's in the City if it's been annexed, so it's out of our jurisdiction unfortunately.

LITZ: Yeah. They're saying somebody that wants to buy it, they're saying they can't buy it, they have to build a four-plex or four units on it --

MORASCH: Right.

LITZ: -- and I've been told that the County's going that way too. Is that --

MORASCH: I haven't heard the County's doing that, but the City, that's not our -- that's out of our hands now because it's in the City, you'd have to go to their meeting and talk to them.

LITZ: Okay. Okay.

MORASCH: So any questions?

BARCA: Yeah, can I just get a clarification then. Are you indeed outside of the city limits?

LITZ: No, I'm still in the county, but I was doing -- I was involved with the neighborhood association and half of our neighborhood was annexed and the other half wasn't.

BARCA: Okay. I just wanted to clarify that.

LITZ: I currently live in the part that's not.

BARCA: Yeah. Because they have their own ADU requirements, so...

LITZ: Yeah. Right.

MORASCH: Any other questions? All right. Well, thank you.

LITZ: Thank you.

MORASCH: Is there anyone else that wants to talk about the ADU amendments to Title 40? All right. Seeing no one, I will close the public testimony and return it to the Planning Commission for questions or deliberation.

RETURN TO PLANNING COMMISSION

And I actually had two questions from the testimony. The first one is, what's the parking require- -- is there any additional parking requirement if someone wants to build an ADU?

ALVAREZ: So the existing, we're not proposing any changes to the existing parking requirements. The first requirement is that it be on-site, and then there's a provision that allows for on-street parking provided that the parking space is legally available. I haven't worked with that, so I'm not sure what the property owner or developer would have to show to claim that an on-street parking space is legally available, but I don't think it's a -- you just show that there's a space in front of your property and that's sufficient.

MORASCH: Okay. And that's part of the existing ADU that's already there, we're not proposing to change that?

ALVAREZ: Correct. We're not making any changes to that.

MORASCH: Okay. And my second question is, how does the County regulate someone who wants to do travelers accommodations in their residential zone either with an ADU or without an ADU?

ALVAREZ: We've had, I know we had a conversation internally in planners meeting about, we don't have a specific, the County doesn't have a specific policy regarding the Airbnb's, but there is I think a provision, and I think the gentleman alluded to it, that it's a business, and so we get at it from that angle because it's similar to a bed and breakfast. But there's enough of a difference that we think we can hang our hat on precluding it based on that business type, and I think that's what the internal conversations we've had about that. But we know we don't explicitly address the issues with the Airbnb, and I know that that's something that might be a task.

MORASCH: It sounds like a topic for a future amendment.

ALVAREZ: Yes. Yes.

MORASCH: All right. Any other questions?

WRIGHT: Yes, I had a question. Is there any technical basis for recommending a reduction in impact fees, or is it just some idea to promote the concept?

ALVAREZ: So the idea is to try to promote, to encourage more ADU's. We've had the ADU code on the books since '94 maybe, and we've had less than 50. And so one of the barriers that we've heard is the cost of impact fees. These are usually in existing urban neighborhoods where the development, well, the infrastructure should be in place, and that's why when the

State encouraged all jurisdictions to adopt accessory dwelling units, to encourage in-fill or increase density, is to try to take advantage and leverage the existing infrastructure that was in place. So that's why we think we can justify the reduction of the impact fees.

And the two that we're proposing reducing are the transportation and the park impact fees. We are working with the school districts to try to see if they are willing to also reduce the fees, but I think that might come at the Board level.

WRIGHT: Thank you.

SWINDELL: So -- I'm sorry. Go ahead.

MORASCH: Any other questions?

SWINDELL: Yeah. I want clarification on that. So what you're saying is, is that if we allow this unit to go in, we want to reduce the impact fees to our parks and our streets, the impact fees for the parks and the streets?

ALVAREZ: The assumption is that they're already built in those areas.

SWINDELL: Okay. But there are -- but they actually will -- those are the two things they're going to impact because you're going to bring more people in, using the parks more, using the streets more, so we're not going to have the funds to do the improvements for this added burden on it. It tends to go a little backwards.

ALVAREZ: Right.

SWINDELL: I guess I can see reducing maybe sewer, water, not even those, I don't even know those, because you're still going to impact water. So what you're asking the citizens to do is to subsidize these little houses that are actually going to deteriorate our communities in my opinion. Is that correct?

ALVAREZ: Well, so I would put it to you this way, is that we, what we're seeing also is existing homes that have three to four bedrooms but people are living in them by themselves. You could rent out those rooms, you're not going to pay any impact fees, you're going to have impacts to -- so when you're transitioning -- so you --

SWINDELL: You pay the impact fees when you built the house to make up for those three or four bedrooms.

ALVAREZ: Right. Right. So I'm just saying the capacity would be the same. You can either -- once your kids are no longer living with you, you're not going to the schools, right, you're still paying those taxes.

But my point is that you're creating the capacity, you can have people come in to live in that house to take up those bedrooms and you're having an impact on the parks and the streets. Yes, it's already paid for, and that's what I'm saying is that those things are already there.

If we do get to the point where we're seeing a large increase in people building ADU's, we still have the ability to come back and say this is going to be, this is really impactful and we should look at increasing this. But the fact that we've gotten less than two a year, and we're not making really substantial changes, until we see that impact, we're saying let's take a shot at trying to see if we can increase this, the capacity of the housing.

SWINDELL: And we want to do that why?

ALVAREZ: To provide more housing.

SWINDELL: To provide more affordable housing.

ALVAREZ: Yes.

SWINDELL: Subsidized affordable housing off other people who paid the impact fees. Okay.

ORJIAKO: Planning Commission member, you're right, and I -- it is weighing the balance. Who knows if this will make a dent in affordable housing. It is what tools can we use in place to encourage it. One is whether you call it granny flat, tiny home, it is a much, much smaller home and it might be one person. Our history is it could be for a disabled kid that may not be driving, we don't know. This is, as Jose has indicating, this is just can we give -- what are the tools that we can use to encourage, and the suggestion here is to look at our fees.

If we are hearing that the impediment is the cost of doing this and that is on the impact fee side, why not take a look at that and see whether some adjustment can be made. Will there be impacts? Of course, and we will review that, and this is a policy, and we can review that and make adjustment. That's why we also are reaching out to the school district to see if they can consider a similar reduction in impact fees.

The cost of housing, people will tell you is land, is materials and so forth. Some will say, well, it's also the cost of going through the application process, and this is one option that the Council wants to consider. And they can, if you recommend that they do so, they can also monitor and see what is happening and make adjustment.

As Jose indicated, in the last five, ten years, we haven't seen that many, who knows whether we'll see an increase or not. But would this make a difference, perhaps, we don't know, it's just an attempt to make a difference, if you will.

PUBLIC: Can I make an additional comment then, is that allowed?

MORASCH: No, we've already closed the public testimony.

SWINDELL: I understand exactly. And please understand, I understand there's a need for affordable housing. But with that thinking in line, then we just should just reduce the impact fees across the board for every house built, then we'd have more affordable housing, but there's an impact when we build a home, so we need those fees. So I understand it, I really do, and I empathize that we do need affordable housing. Please don't misunderstand me, but I don't want -- I want us to really be watching that if we do have a massive inflow of these types of things, that what is the impact that it's going to have to our communities.

I agree with Mr. Platt, how many people are living in that little 150-square foot little house that's going to be built. You can put ten people in that thing with ten cars and who's going to, you know, there's a lot of worms that are getting let out of the can, I believe. And I'm very concerned what we're going to make our communities look like in the future if this thing does go like I think it will. If we're going to subsidize all the fees, why wouldn't people do it and rent them out and make some money.

GRIMWADE: Can I just jump in here. I think --

MORASCH: Yes, we're in deliberations so please do jump in.

GRIMWADE: It's important for the Commissioner to be aware of the strategy that the County are using is a strategy that is used by many, many government, local government authorities, across the U.S. No one has, from the research that I've seen today, actually demonstrated a significant financial impact to the detriment of a parks and recreation agency around.

What the challenge is, is, is that an appropriate way of leveraging money for park and recreation agencies? And I think down the line there's a need for a better financial formula to be put in place because it's not necessarily at the time of development that the real impact and the benefit for parks is derived, it comes from, in some cases, 10 to 15 years later, and at that time the money base is not there for them.

But it is a strategy, it was one that we did use in the City of Portland, and it had minimal financial impact, and we had certainly a lot more than two or three applications around. And I think if I was grabbing numbers out of the sky, I'd probably say we probably only lost about 10 million out of 300 million for affordable housing, but we didn't see any material thing, and that was one that I closely monitored. And I think as long as the County monitors the stats and looks at a needs base recreation system, they can manage the two quite well.

JOHNSON: If I can jump in also. Robin kind of came from a global. I'm more with you, and I hate doing this, but I have the personal story. They're already there, so it's not subsidized. I

have a 35-year-old severely disabled child living in my house. I have ten children, three are over the age, they're adults. One works at the casino. They're doing life. One's at Clark. I mean, they can't afford it and we do what we got, we're already there.

So what we're saying is you got to flip it backwards, and subsidize is a pretty harsh word, Matt. I mean, we're not subsidizing anything, I pay lots of taxes and mine is (inaudible). I get it, okay, but what we're trying to do is find a solution that balances. I am very sympathetic about the ten car thing because I'm always walking around going, we have neighbors and I'm rural, but I love your testimony which is kids and grandkids, it is changing.

The flavor of the month may be tiny homes, that's what we call them, but the snowball is here and it's rolling fast and, so... I think I like the other thing, keeping good track of the stats, making sure that this thing doesn't, but I think it's a very creative way to try to do something to a very difficult problem.

Just walk right outside of this building every night and you see the worst of it and that is the hard part to say, look, those of us that can pay these fees, if that happens, well, okay, we have to do that. But I'm telling you that this problem is, probably hides itself better than any problem in Clark County, that you don't have people on the street, I mean you do, but I'm saying my kids aren't on the street, they're in my house and they're trying to do that.

So I'm more inclined to look at this thing completely 180 degrees, Matt, of what you're saying, which is these people are coming and we're just giving them some sort of free ride. They're here and we don't have a place for people to go because you can't afford it. At every area we turn the corner with affordable housing, we hit a wall, so why not try something. I had never heard of this, and, Robin, in Portland, I guess they're so cosmopolitan or whatever they are.

Then I look at it and go, okay, when I saw that, that's a pretty cool idea because frankly I'm kind of doing that already. But it would be nice to add 1,000-square feet to my house to put my disabled son in a room that, and I know we have other ways to do that, but I don't want to put another dwelling. So, anyways, I'll shut up.

WRIGHT: You know, a thought came to me along as we were going through this discussion, it seems a bit of an experiment to cut the impact fees. Could we put a sunset on it, three years or five years or --

ALVAREZ: Sure.

ORJIAKO: We are asking the school district to consider that as an option and we monitor it, but, again, this is just to see what tools, this is one that we are looking at like I said, it may not change the land of course -- the land cost or building materials, but just this is one tool that could be explored. If the Planning Commission like, you can make a recommendation that this be monitored or whether you put a sunset clause in it, your call. It is just one attempt to see

whether it will make a difference.

BARCA: And that was actually where I was hoping we would go with this, is that the two components of this that I think are valuable for us to say that the community is actually benefiting. One is on Page 12 of 13 in the Item 9, Owner Occupancy. It shows where we're asking the owners to agree to maintain residency, and also there is some sort of sworn statement that says that they're going to continue that.

I'm not sure that I'm opposed to a ADU being used as Airbnb, but I believe it needs to be declared and created as a business, and so if they want to put a small dwelling on their house and create a business, they need to declare that intent; otherwise, they're swearing that it wouldn't be.

And then the other part was, from what I heard in this discussion, is if we're doing this as an incentive tool to help drive affordable housing, let's come back with an annual report that also addresses something that Mr. Platt said. That it would say we could start to map out the areas that are actually taking the additional density and see if we're getting regional impacts or whether we're getting very localized impacts based on lot size, and I think that would help then address the consideration about whether particular facilities are being impacted more than other areas.

The one item that I would like to see addressed in also some sort of notification for the owner is in the context of parking in the urban area. I know we say that there's two -- provide one space, but we also say the one space can be on the street. I think we should make sure that the wording is such that no more than one of the residential vehicles takes up the space then as one space.

If we're talking about a household that has five or six vehicles, and we want to say one spills out onto the street. Because if you have the current home that has room for four vehicles, and they have four vehicles, and now you put a small additional dwelling on there and they show up with two vehicles, yeah, maybe their cars get to park on the property, but somebody else's spills out onto the street. So I don't think it would be that difficult to also just put them on notice that required parking is such that they should be showing what the requirements really are.

MORASCH: Any other comments?

BENDER: Yeah, I do. This is approaching in my mind social engineering, but let's put that aside. If you subsidize a small dwelling, it's a one time shot. What's the long-term cost? One person living in that small, or maybe two people, live in that small affordable dwelling still put the same amount of wear and tear on the infrastructure, yet their tax bill is going to be minimal compared to somebody that has a 3,000-square foot house who's paying a much higher tax bill. He's subsidizing their lower tax bill on that small dwelling.

The second thing that Oliver mentioned, which I have a great concern for, is the impact to local schools. Right now Evergreen School District is asking for in February, \$680 million bond. I mean it's astronomical, but we're going to go ahead and densify our neighborhoods and put even a heavier load on our schools. I just don't think it's right.

MORASCH: All right. Anyone else?

SWINDELL: I just, one thing that just, what's the enforcement on these things? What's the burden on the County for enforcement? What do we have in the budget for enforcement of parking and, you know, what they're doing with these dwellings? What's the impacts to the County?

ALVAREZ: Well, so in terms of parking requirements, we only require one parking space. If you show that on the site plan, that's the only enforcement. In terms of the requirement that one of the units be, one of the units has to be occupied by the owner, and the language is from our existing language, that you record a deed restriction, essentially that you're going to comply with it.

SWINDELL: Okay. And do we have any restrictions on how many people can live in a certain square footage? So if you have a 150-square foot, one person can live in it, or 500-square feet, three people can live in it or anything like that in this?

ALVAREZ: I don't think we have any restriction for that, and I don't think we have anything family or number of people in any housing.

SWINDELL: Well, this is a new thing so we're, you know, I mean, since we're looking at --

ALVAREZ: Right. But there's no, we have no limits currently.

SWINDELL: No limits currently. Okay. Okay.

ALVAREZ: Sometimes 10 to 13 people.

SWINDELL: Okay. Sorry, I'm beating this dead horse here.

MORASCH: You quickly run into fair housing issues when you try to regulate --

SWINDELL: Well, no, I mean.

BENDER: That is social engineering.

SWINDELL: Well, I'm just thinking of the impacts to the neighborhoods, and we've already said

through our zoning how many homes we wanted to have in a certain area, and now we're saying, oh, throw that out the window, we're going to double it potentially. And I --

BARCA: Let's see it happen.

SWINDELL: No, I understand. I understand.

BARCA: Yeah. Before we worry about it, let's see it happen.

MORASCH: All right. Anyone else or does someone want to make a motion?

BARCA: I'll make a motion. I'd like to make a motion that we accept staff's recommendation with some additional wording, and I'm going to put it into the development standards, that talk about notifying the owners of the business model not being applicable for rent, a short-term rental, and asking for --

ALVAREZ: So for either of these in the urban or the rural area, the owner has to be occupying one of the units.

BARCA: One of the two.

ALVAREZ: Right.

BARCA: And what I think I'm trying to avoid is short-term rental of the other unit.

ALVAREZ: So you want it to be -- okay. Gotcha. So you don't want the other rental to be a short-term rental, it's got to be occupied like any other rental.

BARCA: Yes.

MORASCH: Month-to-month or greater.

BARCA: Yes. And then I would like to see staff bring forward some type of an annual report on the genuine impact to the quantity produced and the area in which they were located. That's my motion.

MORASCH: All right. Been moved.

JOHNSON: Second it.

MORASCH: It's been moved and seconded. Is there any discussion on the motion?

WRIGHT: Would you accept a friendly amendment to put a five-year limitation on the waiver of

the impact fees?

BARCA: I think, Bill, at this time if we get an annual report, I think we'll be able to see whether a limitation is necessary. And if we find it so, we might be choosing to eliminate it sooner than five years. So I'd like to take it and just see how it actually develops rather than put a time specific limit on it.

WRIGHT: I can understand that. I mean, I'm just concerned that the annual reports may get lost or delayed or, you know, other things rise to the floor.

BARCA: No. No. I have full confidence.

WRIGHT: I'm not saying anything against our fine staff, but that stuff happens.

BARCA: Ow. That would, I guess, I would not.

JOHNSON: If I could just add to that. I think the heart of it is sooner than later. I wouldn't want to wait five years, Bill. And I'm assuming if you found out that something's going sideways, someone's going to go, wait, we need to bring this back for review.

ALVAREZ: I think it would be.

JOHNSON: I have faith in you.

ORJIAKO: I'm sure the Council will reconsider.

SWINDELL: I'd just like to make a comment that I know staff put a lot of time and effort in this and I really appreciate all of your hard work. And I do understand that there's a need for affordable housing, and I just, I think we might be addressing the wrong thing and that is we need more jobs in this county and that's what we need, so...

MORASCH: All right. I think we're ready for a roll call.

ROLL CALL VOTE

WRIGHT: **NAY**
BARCA: AYE
SWINDELL: **NAY**
JOHNSON: AYE
GRIMWADE: AYE
BENDER: **NAY**
MORASCH: AYE

MORASCH: All right. Well, finally one that's not unanimous. The motion carries 4 to 3. Thank you, Jose. That concludes that item. And I think we have one --

ORJIAKO: Yes, one more.

PUBLIC HEARING ITEMS, continued

- E. **Proposed** draft amendment to update Clark County Code (CCC) 40.410 Critical Aquifer Recharge Areas (CARAs). This is a procedural update and is a GMA requirement. .

Proposed draft amendment to include best available science for Clark County Code 40.420 Flood Hazard Areas that would adopt FEMA's recent Flood Hazard Insurance (FIRM) and Flood Insurance Study (FIS) that becomes effective January 19, 2018.

Staff Contact: Gary.Albrecht@clark.wa.gov or (360) 397-2280 ext. 4318

MORASCH: -- one more item, Gary Albrecht, please come down for the proposed draft amendments to the critical aquifer recharge areas and proposed GMA update.

ALBRECHT: Thank you, Chair. Good evening, Planning Commission members. For the record, Gary Albrecht, Clark County Community Planning. So I'm here to discuss Case No. CPZ2017-00025, Critical Areas Update. I just want to give a brief background. This is a proposal to amend two critical areas ordinances. Clark County Code, CCC Chapter 40.410, critical area aquifer recharge area, and CCC Chapter 40.420, flood hazard areas.

So Chapter 40.410 is a procedural update. This update is a GMA requirement as a periodic review. Chapter 40.420 is an update required by the Federal Emergency Management Agency, FEMA, since they have updated the flood insurance map for the Washougal River.

So the proposed action this evening is to amend critical areas code Chapter 40.410, it's in Exhibit 1, and proposed to add best available science to Clark County Code 40.420, the flood hazard areas adopting the Flood Emergency Management FEMA flood insurance study that was produced to update the flood insurance map. So the staff recommends the proposal, these proposed changes and that's all I have. Are there any questions?

MORASCH: Any questions for Gary? All right. I have a sign-in sheet. Sue Lintz signed up but she I think just left. Is there anyone in the audience that wishes to testify about the proposed amendment to the CCC 40.410, critical aquifer recharge area, come down now. All right. Seeing no one, I will now close the public testimony, return to the Planning Commission for any further questions, deliberations or a motion.

JOHNSON: Make a **MOTION** we accept the proposal, staff proposal as written.

BENDER: **Second.**

MORASCH: It's been moved and seconded. Any discussion? All right. Sonja, roll call, please.

ROLL CALL VOTE

WRIGHT:	AYE
BARCA:	AYE
SWINDELL:	AYE
JOHNSON:	AYE
GRIMWADE:	AYE
BENDER:	AYE
MORASCH:	AYE

MORASCH: All right. Unanimous. Thank you, Gary. Good job. Thanks for staying to the end.

ALBRECHT: You're welcome.

MORASCH: So that concludes our last public hearing and we have no old business or new business. Any comments from the Planning Commission?

JOHNSON: Are we meeting in December?

MORASCH: Do we have a December meeting, Oliver?

ORJIAKO: Right now I believe your calendar is free.

WISER: Yes.

ORJIAKO: Typically you don't like us scheduling hearings in December like any other group, so we respect that and, no, your calendar is free.

OLD BUSINESS

None.

NEW BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

None.

ADJOURNMENT

MORASCH: All right. Well, thank you. Any other comments? All right. Well, thank you everyone for staying so late, and with that, we are adjourned.

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>

Proceedings can be viewed on CVTV on the following web page link:

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

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