

## **Revised Staff Report**

TO: Clark County Planning Commission  
FROM: Oliver Orjiako, Director  
PREPARED BY: Matt Hermen, AICP, Planner III  
DATE: February 21, 2019  
SUBJECT: CPZ2018-00021 AMENDMENT OF COMPREHENSIVE PLAN  
AND ZONING MAPS TO REMOVE URBAN HOLDING OVERLAY–  
PHASE 2

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### **PROPOSED ACTION**

Three property owners, represented by Holt Homes, are requesting the removal from the urban holding overlay on the comprehensive plan and zoning maps for six properties identified by account numbers 181581000, 181548000, 181466000, 181580000, 181701000, and 181702000; as shown in Exhibit 1. The urban holding removal is associated with a development agreement that will be required to be approved concurrently with any comprehensive plan and zoning map amendments.

The proposal to remove the comprehensive plan and zoning urban holding overlays was originally scheduled for a Planning Commission public hearing on November 15, 2018. The Planning Commission approved continuing the public hearing until February 21, 2019 to provide staff time to conduct an analysis of the proposal.

### **BACKGROUND**

Together, the properties that are subject to this proposal total approximately 143 acres. Holt Homes proposes to develop the six properties pursuant to the Mill Creek Planned Unit Development Master Plan. Two properties are currently vacant without any structures on the land. Properties 181581000, 181548000, 181466000, and 181701000 each have one existing single family residence on the land. The proposed development of the properties would include 606 single family homes and 99 townhomes, generating 657 vehicular trips in the PM peak hour.

The urban holding overlay plan designation is placed on property when it is brought into the urban growth boundary. It protects areas from premature land division and development that would preclude efficient transition to urban development or large-scale industrial development. The urban holding overlay designation is implemented on these properties by the Urban Holding-10 (UH-10) zoning overlay district. Removal of the urban holding overlay designation must be in accordance with the special implementation procedures provided for in Comprehensive Plan Chapter 14, Procedure Guidelines. Removal of the overlay is through a Type IV process.

The Comprehensive Plan identifies criteria that must be met in order to remove the urban holding overlays and authorize the implementation of the underlying urban zone. The county may remove the UH overlays from appropriate areas of sufficient size that the county can collect transportation related data, analyze the cumulative transportation impacts, and address

mitigation to these impacts. The urban holding overlay designation may be removed from the subject properties pursuant to Clark County Code 40.560.010(G) and upon satisfaction of the following:

- **West Fairgrounds and East Fairgrounds:** Determination that the completion of localized critical links and intersection improvements are reasonably funded as shown on the county 6 year Transportation Improvement Plan or through a development agreement.

The urban holding plan map and zoning overlays were applied to the West Fairgrounds and East Fairgrounds areas in 2004 and 2007 with the expansion of the Vancouver Urban Growth Area because transportation infrastructure in those areas lacked adequate capacity to accommodate urban level development. In 2008, the County approved a circulation plan for the areas that would distribute urban traffic efficiently to regional transportation facilities. In 2016, the Washington State Legislature awarded \$50 Million to the Washington Department of Transportation for improvements at the I-5/179<sup>th</sup> St. Interchange. The Legislature allocated the \$50 million for the state's biennial budget in 2023-25. The improvements needed on the Clark County's transportation system are identified in the 2015-2035 Comprehensive Plan [Page 296]. They include NE 179<sup>th</sup> St. from Delfel Rd. to NE 15<sup>th</sup> Ave., NE 15<sup>th</sup> Ave. from NE 179<sup>th</sup> St. to NE 10<sup>th</sup> Ave., NE 10<sup>th</sup> Ave. from NE 149<sup>th</sup> St. to NE 154<sup>th</sup> St. and the intersections of NE 29<sup>th</sup> Ave. and NE 50<sup>th</sup> Ave. at NE 179<sup>th</sup> St.

The criterion for removing the urban holding overlays in the West and East Fairgrounds neighborhood provides two instruments for reasonably funding of localized critical links and intersections improvements: the 6-year Transportation Improvement Program (TIP) or a development agreement. On October 23, 2018, the Clark County Council adopted the 2019-2024 TIP. The TIP identifies prioritized transportation projects and proposed funding for design, property acquisition and construction during the next six years. Projects that are scheduled for completion of construction within the six year TIP are identified as reasonably funded. The projects, identified in the Comprehensive Plan and the previous paragraph, that build additional capacity for urban density development to occur through the removal of the urban holding overlays are not reasonably funded in the 2019-2024 TIP.

Because the TIP does not ensure reasonable funding for the critical links and intersection improvements, a development agreement (DA) providing that ensurance is necessary for urban holding to be lifted. The DA would need to obligate one or more developers and/or the County to either build or finance the critical links and intersection improvements for urban holding to be lifted and urban development to proceed. The sources of funding required to meet these obligations must be reasonably identified. The draft DA associated with this proposal seeks to remove the urban holding overlays, transportation capacity for the future development of the six specific parcels, contribute financially to Clark County transportation projects and to provide certain improvements to increase the transportation capacity in the immediate area of the six parcels.

## **Update**

Public Works has forecasted a total amount of \$66,408,000 required to improve the critical links at NE 179<sup>th</sup> St. from Delfel Rd. to NE 15<sup>th</sup> Ave., NE 15<sup>th</sup> Ave. from NE 179<sup>th</sup> St. to NE 10<sup>th</sup>

Ave., NE 10<sup>th</sup> Ave. from NE 149<sup>th</sup> St. to NE 154<sup>th</sup> St., and intersection improvements of NE 29<sup>th</sup> Ave. and NE 50<sup>th</sup> Ave. at NE 179<sup>th</sup> St.

On December 4, 2018, Clark County Council approved Resolution 2018-12-05, increasing the Road Fund levy by 1% from the previous year. The increase to the Road Fund is to be dedicated to improvements in the NE 179<sup>th</sup> St./I-5 Interchange Area. Prior to December 4, 2018, Clark County Public Works projected \$8,800,000 in Road Funds, \$7,500,000 in Traffic Impact Fees (TIF), \$3,400,000 in Real Estate Excise Fees (REET-2), and \$11,000,000 in potential grants to fund the necessary projects. Clark County Public Works has identified additional funding sources that might be dedicated to funding the critical links and intersection improvements needed for urban holding removal. Additional funding sources include a \$2,000,000 allocation from the road preservation funds in 2019 only, \$6,845,522 in developer contributions, \$12,000,000 in Real Estate Excise Fees (REET-2), and \$2,685,503 from the Road Fund levy increase approved on December 4, 2018. In total, Public Works has identified \$54,100,000 in potential funding sources for the necessary projects in the NE 179<sup>th</sup> St. urban holding area. Public Works identifies a total revenues at \$54,100,000, total expenses for the necessary projects at \$66,408,000; resulting in a shortfall of \$12,308,000.

The County Council has formed a committee whose charges are to recommend a funding strategy for meeting the \$12,308,000 shortfall and to create a public/private partnership for funding the necessary projects. The committee has scheduled weekly meetings throughout the month of February 2019 and will recommend a funding strategy to the County Council in March 2019. The committee is exploring the use of developer surcharges, bonding and utilizing the Road Fund levy banked capacity.

## **GENERAL INFORMATION**

Parcel Numbers: 181581000, 181548000, 181466000, 181580000, 181701000, and 181702000

Location: The 6 parcels are located west of NE 50<sup>th</sup> Avenue, north of NE 179<sup>th</sup> Street, south of NE 192<sup>th</sup> Street and west of Whipple Creek.

Area: Approximately 143 acres

Owners: Birchwood Farms LLC  
Zilke Wilfred & Zilke H Marjorie  
Zilke Wilfred N Trustee  
Webb Gary F Trustee

Exiting Land Use: 181581000, R1-7.5, Urban Low Density Residential, Developed - SFR  
181548000, R1-7.5, Urban Low Density Residential, Developed - SFR  
181466000, R1-7.5, Urban Low Density Residential, Developed - SFR  
181580000, R1-7.5, Urban Low Density Residential, Undeveloped  
181701000, R1-7.5, Urban Low Density Residential, Developed - SFR  
181702000, R1-7.5, Urban Low Density Residential, Undeveloped

## **SUMMARY OF PUBLIC INVOLVEMENT PROCESS**

A draft of the proposed changes to the Comprehensive Growth Management Plan 2015-2035 Map and zoning map was sent to the Department of Commerce on May 21, 2018 in compliance with RCW 36.70A.106. A Notice of Determination of Non-Significance and SEPA Environmental Checklist were published in the Columbian newspaper on October 18, 2018. Property owners within 300 feet of the proposal were mailed a notice of the planning commission public hearing on October 30, 2018 and February 6, 2019. A legal notice was published for the Planning Commission hearing on October 31, 2018 and February 6, 2019. Two signs were posted at the location of the proposal, informing the public of the proposal, date and time of the Planning Commission's public hearing and instructions for obtaining further information. All public comments are included in the Planning Commission Hearing binder.

## **APPLICABLE CRITERIA, EVALUATION AND FINDINGS**

### **CRITERIA FOR COMPREHENSIVE PLAN MAP CHANGES [CCC 40.560.010(G)]**

- A. ***The proponent shall demonstrate that the proposed amendment is consistent with the Growth Management Act (GMA) and requirements, the countywide planning policies, the Community Framework Plan, Clark County 20-Year Comprehensive Plan, city comprehensive plans, applicable capital facilities plans and official population growth forecasts.***

[CCC40.560.010(G)(1)].

### **Growth Management Act (GMA)**

The GMA goals set the general direction for the county in adopting its framework plan and comprehensive plan policies. The GMA lists thirteen overall goals in RCW 36.70A.020 plus the shoreline goal added in RCW 36.70A.480(1). The goals are not listed in order of priority. The GMA goal that applies to the proposed action is Goal 12.

Goal 12 speaks directly to public facilities and services to “ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below established minimum standards.” [RCW 36.70A.020(12)].

As part of the requirement to develop a comprehensive plan, jurisdictions are required to establish level-of-service standards (LOS) for arterials, transit service, and other facilities. [RCW 36.70A.070(6)(a)] This introduces the concept of concurrency in the GMA, which requires that needed public facilities and services be in place, or officially planned and scheduled to be put into place, concurrent with new development. This concept requires cities and counties to establish explicit levels of service, or minimum threshold measures, to determine if particular service is adequately provided.

GMA requires the County to adopt minimum level-of-service standards for transportation. The County may not approve new development applications which fail to meet the adopted minimum levels of service unless improvements are made to correct the deficiency or unless corrective measures are scheduled and funded to occur within a locally established time frame, up to a maximum of six years. The urban holding overlays were applied to the subject properties because the transportation infrastructure in the area lack

adequate capacity to accommodate urban level development; in other words, urban level development of the area, would cause failure to meet minimum level of service.

Finding: Adequate transportation infrastructure, water service and sewer utilities are direct services needed for urban level development. The proposed comprehensive plan and zoning map amendments to remove the urban holding designation for approximately 143 acres will allow for a greater demand on the public facilities that serve more intense urban development. Clark Public Utilities and Clark Regional Wastewater District have demonstrated in the adopted Comprehensive Growth Management Plan that they have sufficient capacity to provide water and sewer service to the 143 acre area. The draft DA, which is processed concurrently with the urban holding overlay removals, thoroughly assessed the transportation infrastructure needed to serve the contemplated development in a Transportation Impact Analysis. The draft DA states, “to increase the County’s ability to fund and construct certain transportation improvements in the area which will provide systematic benefits in excess of the impacts that will be created through implementation of the Master Plan, Holt agrees to accelerate the manner in which Holt or a successor in interest to the Property would pay Transportation Impact Fees (TIFs).” The draft DA requires the developer to pay TIFs prior to plat approval, in order to accelerate the funding necessary to construct the needed capacity infrastructure improvements. TIFs are normally paid at the time of building permits. The amount of TIFs estimate based on the conceptual Master Plan is \$2,890,468, which is approximately \$9 million less than the “cost to complete” the necessary improvements identified in the 2019-24 TIP. The advance payment of TIFs does not ensure that the critical links and intersection improvements are reasonably funded.

## **Community Framework Plan**

The Community Framework Plan (Framework Plan) provides guidance to local jurisdictions on regional land use and service issues. The Framework Plan encourages growth in centers, urban and rural, with each center separate and distinct from the others. The centers are oriented and developed around neighborhoods to allow residents to easily move through and to feel comfortable within areas that create a distinct sense of place and community. The Community Framework Plan policies applicable to this proposal include the following:

Goal 6.0 notes “the need for capital facilities to accommodate expected growth and establish policies to ensure that these facilities are available when development is occupied and to provide for the extension of public utilities to new development in a timely manner.” [Framework Plan, page 18] The following capital facilities and utilities policies apply to the proposed action:

- 6.1.0 Major public and private expenditures on facilities and services (including libraries, schools, fire stations, police, parks and recreation) are to be encouraged first in urban and rural centers.
- 6.1.1 Establish level-of-service standards for capital facilities in urban and rural areas. [Framework Plan, page 18].

These framework plan policies are implemented by Clark County Code 40.350.020 Transportation Concurrency Management System. The purpose of this section is to - establish levels of service for arterial and transit routes and ensure that such standards are met or reasonably funded before new development is approved.

Finding: The standards implemented in the Transportation Concurrency Management System are used to forecast projects that will be needed to serve future population growth. The transportation projects are identified in Comprehensive Plan's Capital Facilities Plan (CFP). CFP projects that are associated with urban development in the urban holding overlay must be reasonably funded in the County's TIP or through a development agreement for the urban holding overlays to be removed. This requirement ensures that transportation facilities are available when development is occupied. Clark County's 2019-24 TIP does not demonstrate that the projects needed to serve urban development associated with this proposal are reasonably funded. The draft DA does not ensure that construction, or identified financing that reasonably funds the necessary improvements, are completed.

### **Countywide Planning Policies (CWPP)**

The GMA, under RCW 36.70A.210, requires counties and cities to collaboratively develop Countywide Planning Policies (CWPP) to govern the development of comprehensive plans. The WAC 365-196-305(1) states "the primary purpose of CWPP is to ensure consistency between comprehensive plans of counties and cities sharing a common border or related regional issues. Another purpose of the CWPP is to facilitate the transformation of local governance in the urban growth areas, typically through annexation to or incorporation of a city, so that urban governmental services are primarily provided by cities and rural and regional services are provided by counties."

Policy 6.0.3 states, "Public facilities and utility services shall be planned so that service provision maximizes efficiency and cost effectiveness and ensures concurrency."  
[Comprehensive Plan, page 182].

Policy 6.0.12 states, "The county shall work with the state, each municipality and special districts to identify future needs of regional and statewide public facilities. This will ensure countywide consistency and avoid duplications or deficiencies in proposed facilities."  
[Comprehensive Plan, page 183]

Finding: The public facilities needed to serve urban development have been coordinated with applicable state agencies, schools, service and utility providers. The public facilities needed to serve the urban development have been identified in the County's Comprehensive Plan and the service providers Capital Facility Plans. The proposed amendment is consistent with policies in the Community Framework Plan and the Countywide Planning Policies.

### **Comprehensive Growth Management Plan 2015-2035 (2016 Plan)**

The 20-year Comprehensive Growth Management Plan contains many policies that guide urban form and efficient land use patterns. The most relevant goals and policies applicable to this application are as follows:

"Goal: Ensure that necessary and adequate capital facilities and services are provided to all development in Clark County in a manner consistent with the 20-year Plan."

- 6.1.1 Continue to plan for and provide capital facilities and services as necessary to support development consistent with the 20-year Plan and coordinate and facilitate the planning and provision of such facilities and services by other public or private entities.

6.1.5 Assist and facilitate the siting of capital facility and service infrastructure in a manner consistent with the 20-year Plan, through appropriate land use planning and development review policies and procedures.” [2016 Plan, page 184].

Finding: The Comprehensive Plan identifies criteria that must be met in order to remove urban holding zoning and authorize the implementation of the underlying urban zone. The county may remove the UH overlay from appropriate areas of sufficient size that the county can collect transportation related data, analyze the cumulative transportation impacts, and address mitigation to these impacts. The urban holding overlay designation may be removed from the subject properties upon a determination that the completion of localized critical links and intersection improvements are reasonably funded as shown on the county 6 year Transportation Improvement Plan or through a DA. The DA associated with these proposed map amendments requires the identification of financing to fund off site mitigation. The estimated TIFs to be collected from the development of the subject properties total \$2,890,468, and the DA identifies no other source of funding for the required transportation infrastructure. Clark County Public Works estimates the cost to complete the necessary improvements at \$12,308,000. The associated draft DA does not ensure that the necessary transportation improvements will be reasonably funded, but rather proposed that Council approval be subject to a finding that funding sources are identified and fund the necessary improvements.

Conclusion: The proposed amendment does not meet Goal 12 of the Growth Management Act, the Community Framework Plan, Countywide Planning Policies and the Comprehensive Plan. The DA associated with this map amendment does not ensure that public facilities will be in place to serve development at the time the development is available for occupancy and use without decreasing current service levels below established minimum standards, as required by the GMA in RCW 36.70A.070(6)(a).

**B. The proponent shall demonstrate that the designation is in conformance with the appropriate locational criteria identified in the Clark County Comprehensive Plan and the purpose statement of the zoning district. (See 40.560.010G(2)and 40.560.020G(2).)**

Finding: The urban holding overlay protects areas from premature land division and development that would preclude efficient transition to urban development or large-scale industrial development. The urban holding overlay is implemented by Urban Holding-10 (UH-10) and Urban Holding-20 (UH-20) zoning overlay districts. The removal of the urban holding Comprehensive Plan and Zoning overlays is located within the Vancouver Urban Growth Area. The urban holding overlays were placed on the properties due to the inadequate capacity of the transportation infrastructure to accommodate urban level development. The locational criterion applies to land use and zoning amendment proposals. The criterion evaluates whether the proposed land use would complement surrounding properties. The removal of urban holding would not introduce land uses that are abnormal from the surrounding properties.

Conclusion: The Comprehensive Plan designations and zoning is not proposed to be amended. The location criterion for removing the Comprehensive Plan and Zoning overlays does not apply to this proposal.

**C. The map amendment or site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity. (See 40.560.010.G(3))**

Finding: The map amendment proposes to remove the urban holding overlays. The underlying Comprehensive Plan designations and zoning, that have been in place since 2007, are not proposed to be amended.

Conclusion: The proposal to remove the Comprehensive Plan and zoning overlays will not change the underlying land uses or zoning. The proposal does not propose amending the land use designation therefore Criterion C does not apply.

**D. The plan map amendment either; (a) responds to a substantial change in conditions applicable to the area within which the subject property lies; (b) better implements applicable comprehensive plan policies than the current map designation; or (c) corrects an obvious mapping error. (See 40.560.010G(4) and 40.560.020H(3).)**

Finding: The 20-year Comprehensive Plan policies require the provision of capital facilities to support development. The associated draft DA, which is concurrently processed with this map amendment, requires the improvement of transportation infrastructure. The infrastructure improvements that are needed to serve the urban development are not reasonably funded through the associated draft DA. The draft DA is conditioned to only occur upon, but not sooner than, the County Council declaration that the improvements needed to create transportation capacity are reasonably funded.

Conclusion: The plan map amendment does implement the applicable comprehensive plan policies with the concurrent approval of the draft DA. The draft DA will apply after the County Council declares the critical links and infrastructure improvements necessary to serve the proposed development are reasonably funded. The urban holding overlays will be applied to the subject properties until the County Council's declaration of reasonable funding occurs. Criterion D is met when the County Council adopt a formal finding that the critical links and intersection improvements needed to create transportation capacity sufficient to accommodate the trips generated by the proposal are reasonably funded.

**E. Where applicable, the proponent shall demonstrate that the full range of urban public facilities and services can be adequately provided in an efficient and timely manner to serve the proposed designation. Such services may include water, sewage, storm drainage, transportation, fire protection and schools. Adequacy of services applies only to the specific change site. (See 40.560.010G(5) and 40.560.020H(4).)**

Finding: The urban holding overlays are in effect due to the lack of adequate public facilities to serve urban development on the subject site. Water, sewage, storm drainage, fire protection and school facilities to serve the subject properties have been identified in the Comprehensive Plan's Capital Facilities Plan. The applicant's traffic study demonstrates that offsite infrastructure would be necessary to mitigate the direct impacts of the contemplated development. The applicant proposes, through a DA, to make advance payment of TIFs to

reasonably fund the critical links and infrastructure improvements necessary to serve the proposed urban development. The contribution of advanced payment of TIFs does not provide enough financial capital to reasonably fund the needed public facilities.

Conclusion: The applicant has identified the necessary transportation improvements necessary to serve the proposed development. The same transportation improvements are identified in the County's 20-year Capital Facilities Plan and the 6-year Transportation Improvement Program (TIP). The estimated TIFs collected from the development of the subject properties is \$2,890,468. Clark County Public Works estimates the unfunded cost to complete the necessary improvements at \$12,308,000. The proponent has not demonstrated that the full range of urban public facilities, especially transportation infrastructure, can be adequately provided to remove the urban holding overlays. Criterion E has not been met.

## RECOMMENDATION AND CONCLUSIONS

In order to deem the critical links and intersection improvements reasonably funded, the Clark County Council has to officially make financial decisions that fund the necessary projects. The committee has met twice and is likely to make a recommendation to the County Council in the next meeting or two. Upon consideration of the committee recommendation, the County Council is likely to make a finding that the critical links and intersection improvements can be reasonably funded. Until, those official decisions are made by Council, staff cannot recommend that the urban holding overlays be removed from the Comprehensive Plan and Zoning maps. The proposal to remove the urban holding overlays includes a DA that offers financial contributions from the developer. Those financial contributions are necessary for the county to reasonable fund the necessary transportation projects.

Based on the information presented in this report, staff recommends that the Planning Commission forward a recommendation of **CONDITIONAL APPROVAL** of the proposal to remove urban holding overlays on the subject properties; subject to the County Councilors adopting a formal finding that the critical links and intersection improvements needed to create transportation capacity sufficient to accommodate the trips generated by the proposal are reasonably funded, in addition to approving the DA.

The following table lists the applicable criterion and summarizes the findings of the staff report for CPZ2018-00021. The Planning Commission findings will be added to the table after public deliberation at the Planning Commission hearing scheduled for this application.

<b>COMPLIANCE WITH APPLICABLE CRITERIA</b>		
<b>Criterion for Policy/Text Amendments</b>	<b>Criteria Met?</b>	
	<b>Staff Report</b>	<b>Planning Commission Findings</b>
A. Consistency with GMA, Countywide Policies, Community Framework Plan, & Comprehensive Plan	No	
B. Conformance with Locational Criteria	N/A	
C. Site Suitability and Lack of Appropriately Designated Alternative Sites	N/A	
D. Amendment Responds to Substantial Change in Conditions, Better Implements Policy, or Corrects Mapping Error	Conditionally Met	
E. Adequacy/Timeliness of Urban Public Facilities and Services	No	
<b>Recommendation:</b>	<b>Conditional Approval</b>	



# **EXHIBIT 2**

## **DEVELOPMENT AGREEMENT**