CLARK COUNTY PLANNING COMMISSION
MINUTES OF PUBLIC HEARING
THURSDAY, APRIL 21, 2016

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

6:30 p.m.

CALL TO ORDER & ROLL CALL

MORASCH: All right. Well, good evening and welcome to the April 21, 2016, Planning Commission meeting. Can we have a roll call, please.

ROLL CALL

BARCA:	HERE
BLOM:	ABSENT
JOHNSON:	HERE
MORASCH:	HERE
QUIRING:	HERE
WRIGHT:	HERE
BENDER:	HERE

Staff Present: Jim Vandling County Forester; Jan Bazala, Planner; Chris Cook, Prosecuting Attorney; Jim Vandling, County Forester; Sonja Wiser, Administrative Assistant; Kathy Schroader, Office Assistant; and Cindy Holley, Court Reporter.

GENERAL & NEW BUSINESS

A. Approval of Agenda for April 21, 2016

MORASCH: All right. First matter, approval of the agenda. Can I get a motion to approve the agenda.

QUIRING: So moved.

JOHNSON: Second.

MORASCH: All in favor.

EVERYBODY: AYE

MORASCH: Opposed? Motion carries.

B. Approval of Minutes for February 18, 2016

MORASCH: Approval of the minutes. Has everyone had a chance to review the minutes? And if so, I would take a motion to approve the minutes.

JOHNSON: Motion to approve.

BENDER: Second.

MORASCH: All in favor.

EVERYBODY: AYE

MORASCH: Opposed? All right. The agenda and the minutes have been approved.

C. Communications from the Public

MORASCH: We'll move on to Item III.C on our agenda. This is communications from the public. This is the time if there's any member of the public that wishes to address the Planning Commission on a matter that's not on our agenda, please come forward.

Seeing no one, we will move on to our first public hearing item, Open Space & Timberland Applications. Jim Vandling, please present the staff report.

IV. PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION:

A. SUBJECT: OPEN SPACE & TIMBERLAND APPLICATIONS

Planning Commission will consider staff recommendations for approval or denial of Timberland or Open Space Applications for Current Use Assessment pursuant to Chapter 84.34 of the RCW. The criteria for Open Space or Timberland was established by Resolution No. 1977-10-32, adopted November 7, 1977 and Ordinance No. 1982-02-65 adopted March 17, 1982, and Ordinance No. 1996-02-30, adopted February 27, 1996.

Staff Contact: Jim Vandling, 397-2121, Ext. 4714
E-Mail: jim.vandling@clark.wa.gov

VANDLING: Good evening, Mr. Chair, fellow Commissioners.

I'm here for what is the County's 26th year of reviewing current use applications for the open space tax deferment program. And we're holding this hearing as part of our required duties to comply with RCW 84.34 as a growth management county. County Code which covers the subject tonight is found in Chapter 3.08 and this year we have 14 total requests. Of those 14, 4 were for soil conservation, 3 were for stream protection and 7 were for historic preservation.

As you see staff has recommended approval for all of them. And your role in this process will be to recommend forwarding these approvals on to the Board of County Councilors for a final decision and resolution of the process.

MORASCH: All right. Thank you.
Any questions from the members of the Planning Commission?

All right. Hearing none, I will open the public hearing on this matter and we have one person who has signed up, Kevin Brown. Would you like to come down and testify about this matter?

BROWN: I'm testifying on the code amendments.

MORASCH: On the code amendments. Okay. I think you signed the wrong sheet, but I will call you for the code amendments.

BROWN: Sorry.

MORASCH: Is there anyone else in the audience that wanted to testify on Open Space & Timberland Applications? No.

Okay. With that, I will close the public testimony on Open Space & Timberland Applications and turn it over to the Planning Commission for either deliberation or a motion.

BARCA: Before we get there, Jim, would you briefly explain what is the criteria for us accepting these open space applications.

VANDLING: If the application and the applicant meet the criteria found in 3.08 for each one of the classification sections, then it's approvable.

BARCA: Okay. So we have a review process for each application?

VANDLING: Correct.

BARCA: Is it a site visit? Is it a checklist? How do you go about doing that?

VANDLING: It's all of those.

BARCA: It's all of those things. Okay.

MORASCH: All right. Any other questions for staff? Any deliberations?

BARCA: Mr. Chair, **motion to approve** as recommended by staff.

WRIGHT: **Second.**

QUIRING: **Second.**

MORASCH: All right. It's been moved and seconded to approve the staff recommendation. Sonja, can we get a roll call, please.

ROLL CALL VOTE

JOHNSON: AYE
BARCA: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: Thank you, Jim, as always, we'll see you next year.

VANDLING: Next year you're going to be seeing a different face up here. We have just hired my understudy and, of course, this will be one of his functions and so I think you'll be very satisfied with him.

MORASCH: All right. Well, we'll miss you, but wish you the best of luck, thank you.

QUIRING: Thank you for your services.

VANDLING: Thank you.

MORASCH: Okay. Well, that brings us to the second item on our hearing agenda, Biannual Code Amendments. Jan.

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION, continued

B. BIANNUAL CODE AMENDMENTS

BI-ANNUAL CODE CHANGE ITEMS – SPRING 2016			
No.		Title/Chapter/Section	Description
Scrivener's Errors			
1		Table 40.350.030-3, Road standards	Correct footnote referring to minimum centerline radii
2		Table 40.210.010-1- Resource zones use table	Fix table to state that heliports are a Conditional use in the FR-40 zone
3		40.540.020.B.4.e, Land Divisions	Correct reference to binding site plan requirements
4		40.570.090.E.5, Non-applicable SEPA exemptions	Fix loophole which currently allows utility lines between 8 and 12 inches to be exempt from SEPA in critical areas, while requiring SEPA review for lines less than 8 inches
5		Appendix A, page 20, Mixed Use Design Standards	Correct reference to garage standards
Reference Updates			
6		Chapter 5.45, Adult Entertainment Enterprises-	Update "Department of Public Services" references to "Community Development"
7		Chapter 10.08A, Vehicle Load Limits	Update "Department of Public Services" references to "Community Development"
8		32.04.045, Enforcement Code	Update "Department of Public Services" reference to "Community Development"

9		40.570.080.C.3.c, SEPA and County Decisions-	Update references to sewer regulations
10		40.350.030.B.4.b.(1)(c), Road Standards	Update subsection regarding the number of lots that can obtain access from a shared driveway
11		40.500.010, Summary of Procedures and Processes	Update 5 year deadline reference to 7 years for extensions of final plat phases
12		40.520.020.D.8, Uses Subject to Review and Approval	Remove specific references to Special Use standards in the Review and Approval criteria section
13		40.540.120, Alteration and Vacation of Final Plats alterations	Update approval timeline between preliminary and final approval for plat alterations from 5 to 7 years
14		Appendix F, Highway 99 Overlay standards Section 7.5.2	Update reference to townhouse standards
15		Appendix F, Highway 99 Overlay standards Section 9.3.2 Trail Implementation	Clarify that Level II addition and remodel projects are not subject to trail requirements
Clarifications			
16		40.100.070, Corner Lot Definition	Clarify corner lot street side setback requirements
17		Tables 40.210.020-3, 40.210.030-3, 40.210.040-3, and 40.230.070-3	Clarify that fire regulations may require side and rear setbacks greater than 10 or 20 feet
18		40.260.055, Coffee and Food	Clarify that small coffee and food stands are

		Stands	exempt from traffic impact fees
19		40.350.030.B.4.d	Clarify that road taper specifications are not included in the County's standard plans
20		Table 40.510.050-1, application submittal requirements	Clarify that proof of submittal to DAHP includes a DAHP response of receipt of an archaeological pre-determination
21		40.520.030.I, Conditional Uses	Clarify the process to expand conditional uses
22		Appendix F, Highway 99 Overlay standards Section 7.4.4	Clarify that garden apartments are subject to multifamily design requirements
Minor Policy Items			
23		14.06.105.2, Clark County Residential Code	Adopt the International Residential Code standard to allow fences up to seven feet high without building permits
24		Table 40.230.085-1, Employment Districts Use Table	Prohibit wrecking yards and tire wholesalers in the Business Park zone
25		40.320.010.F, Landscaping Standards	Amend fence height and setback requirements for retaining walls and fences
26		Table 40.350.030-1, Rural Urban Classification table	Add C-2b ("Urban Collector with Bike Lanes") classification to the Rural to Urban Classification Conversion Table
27		40.560.010, Plan Amendment Procedures	Limit amendments to the Shorelines Master Program to once a year

28		40.570.090.D.1.b, SEPA Critical Areas	Eliminate SEPA review requirement for Shoreline Exemptions that are located within Flood Hazard Areas
29		Section 4.2, Highway 99 Overlay Standards	Process wireless communication facilities as Conditional Uses in the Highway 99 Overlay area

BAZALA: All right. Good evening. Jan Bazala, Community Development. We're here to review the spring biannual code amendments. The biannual code amendment process is aimed at fixing errors and ambiguities in the code as well as providing some minor policy type changes. We oftentimes do these a couple of times a year, but we've been really busy and we haven't done these since 2013.

So in your packet you should have an Attachment A, which was provided to you at the work session, and then based on some input that we received at the work session, I've amended about four of the items, No. 17, 19, 21 and 29, and so those were e-mailed to you this week and provided in hardcopy and should be on your desk.

So there's 29 items, 5 Scrivener's Errors, 9 Reference Updates, 8 Clarifications and 7 Minor Policy Items. SEPA notice of the proposed changes was published and sent to SEPA agencies on March 30th. SEPA comment period ended on April 13th and we have received no comments regarding these. The amendments have been reviewed by the Development and Engineering Advisory Board. Their verbal endorsement was provided in their March meeting.

Well, in the event that you find the Scrivener's Errors and Reference Updates pretty cut and dried, I will start with the Clarifications and policy items, if that's okay with you guys or did you want to go over them all?

MORASCH: All right. Well, let's start to see if any Planning Commissioner has any questions about the Scrivener's Errors or Reference Updates. No.

I had one question and that was on No. 2, fix the table to state heliports are a conditional use in the FR-40 zone. It looked to me like you had one section of code that said they were a conditional use and one section of code that said they were permitted, and we decided to make them a conditional and call it a scrivener's error. I was wondering, was there any consideration given to doing that in reverse and making it permitted rather than conditional?

BAZALA: Right. Well, typically when there is a more elaborate code section that is more specific, we assume that that is the provision that was intended to apply and that it was just mislabeled in the use table.

MORASCH: Okay. But didn't actually give it any more thought than that it sounds like?

BAZALA: No.

MORASCH: Because that's what I read in the staff report. I was wondering, I mean, is there a policy reason to allow -- I mean, why do we allow them as permitted on the FR-80 in the first place?

BAZALA: I would expect the assumption is that they're generally larger pieces of property that you're going to, you know, have some more airspace around you, I would think, so...

MORASCH: Okay. Well, and that was my only question.
Any other questions or concerns on the first 15?

All right. Then I think you can move on to the item No. 16, the Clarifications.

BAZALA: Okay. And actually, I have a -- I've miscategorized Item 15. It should actually be a clarification. Right now it's in the reference update section, but it really should be a clarification. So I'll start --

MORASCH: All right. Then move on to Item 15.

BAZALA: All right. Okay. No. 15, this would be on Page 13 of the Attachment A. So this is to clarify which categories of projects are subject to trail requirements in the Highway 99 overlay area. In the Highway 99 code, there's three different levels of project review depending upon the scope of the project and there are three different corresponding levels of needed compliance with the Highway 99 code. The middle level of review applies to additions and remodels of existing buildings.

So trails are required under some circumstances and the code section that we're looking at requires trails to be provided for additions and remodels. Two other applicable references in the Highway 99 code do not require trail requirements for additions and remodels and they're only required for brand-new development projects.

So I spoke with Community Planning staff that was involved with the Highway 99 code adoption process and they noted that the early versions of the Highway 99 code did require trails for additions and remodels and it was later struck in the process, apparently deemed too much for relatively small type of project. So it's, you know, we're clarifying that they only apply to new

development.

MORASCH: Okay. And are you going to go through all these individually then?

BAZALA: I was thinking so. And if there are questions --

MORASCH: If we do that, we should probably have questions individually and then probably a vote individually. And if we do that, I'll need to open it up individually for public testimony. We don't have a large audience here, so if someone wanted to come up and testify on more than one, I think that might make the most sense.

So why don't we back up to Item 14 and take Items 1 through 14 as a group and I'll open it up now to public testimony. Is there anyone who wants to testify on Items 1 through 14? Now would be the time to come up on that. No one coming up on 1 through 14.

Okay. We'll close the public hearing Items 1 through 14 and open it up to the Planning Commission for a deliberation and/or a motion on the first 14 items.

WRIGHT: Mr. Chairman, I make a **motion that we approve** the first 14 items as presented to us by staff.

JOHNSON: **Second.**

MORASCH: Any discussion on the motion?
All right. It's been moved and seconded to approve the first 14 items. Sonja, would you call the roll, please.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
BENDER: AYE
QUIRING: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. That motion carries.

Now, moving on to Item 15, does any member of the Planning Commission have questions for staff on Item 15? All right.

Hearing none, I'll open that up to public testimony. Is there anyone in the audience that would

like to testify on Item No. 15? And seeing no one, I will close the public hearing on Item No. 15 and open it up to the Planning Commission for deliberation or a motion.

BARCA: Mr. Chair, I'd like to make a **motion to approve** as staff has recommended for Item 15.

BENDER: **Second.**

MORASCH: It's been moved and seconded. Any discussion? Hearing none, Sonja, can you give us the roll call, please.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. Item 15 passes. Item 16.

BAZALA: All right. This is to amend the definition of corner lot to remove unnecessarily large street side setbacks for garages in rural zones. This item applies -- this definition applies to corner lots that have garages on two street frontages. In this case, a corner lot -- I'm sorry -- in this case a front yard setback and a street yard setback is designated, and when a garage is proposed on both front and street sides, the code currently requires a front yard setback for the garage on both the front and the street side.

So this makes sense when the front yard setback is relatively small at 18 feet, but rural, some rural zones have front setbacks of 50 feet, so it effectively requires a 50-foot setback from both the front and the street side, and in those cases, all other types of structures other than garages would be allowed a 25-foot setback. 25 foot is clearly enough to park a car because our regular standard is 18 feet.

So the proposed language will allow garage fronts to use the normal street side setbacks of the zone as long as they are at least 18 feet. It still requires minimum 18-foot setback for garages that have street side setbacks that are less than 18 feet.

MORASCH: All right. Any questions of staff on Item 16?

I will then open it up to the public. Anyone in the audience wish to testify on Item 16? All right. Seeing no one, I will close the public hearing.

BARCA: You might want to go to No. 29. Are we going to go through this? We should just find out what he wants.

MORASCH: Well, there's someone else in the back too, so... Close the public testimony. Any deliberation? And, if not, I'd take a motion.

QUIRING: I **move** to pass this change in setbacks for rural, for side and front in the rural area.

MORASCH: All right. It has been moved to --

JOHNSON: **Second.**

BARCA: Thank you.

MORASCH: Moved and seconded. And, Jan, are we on 16?

BARCA: Yes.

BAZALA: That was No. 16, yes.

MORASCH: That was No. 16. All right. No. 16 has been moved and seconded for approval. Can we get a roll call please, Sonja.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. No. 16 passes. Jan, No. 17.

BAZALA: All right. No. 17 is to clarify that fire regulations might require side and rear setbacks greater than 10 or 20 feet and that we should update setbacks to surface mining overlay areas. At the work session, I provided a revision to the original Attachment A. I provided it again for your reference so you have it in your hands today.

So when I drafted the original Attachment A, I noted that there were some additional discrepancies that need to be addressed, so I provided the attachment at the work session.

This is the same attachment in front of you as you had last week or two weeks ago.

So basically there's four use tables that are listed in this section. They have two alternate side and rear setbacks which apply to the majority of circumstances. So a 20-foot setback applies to nonagricultural buildings that don't abut agri-forest property. But if the property is located in a Wildland Urban Interface/Intermix area or WUII as it's called or if fire flow is inadequate, the side, the 20-foot side and rear setbacks might not be enough. They might have to be increased to 30 feet to meet fire code requirements.

So this call out basically says, oh, by the way, you might have to have a larger setback. It's not a new requirement. It's always been there, but once in a while people will expect to use a 20-foot setback and then find out they've got to have larger setbacks without checking in regards to the fire flow. So that's one aspect of this.

An additional change is being made because in 2014, the surface mining overlay code was substantially revised and in that revision it requires 150-foot setbacks on properties adjacent to it. So the idea is that development should stay away from those surface mining overlay areas. So I've updated the footnote to require the 150-foot setbacks to surface mining overlay areas.

The regular 50-foot setback to ag and forest rezones is staying the same, so don't see this as being -- this isn't a policy item. It's just consistency and a clarification item.

Anyone in the audience wish to testify on Item 17? No. In that case, I will close the public hearing and turn it over to the Planning Commission for a motion.

JOHNSON: I make a **motion** that we accept No. 17 clarifying fire regulations may be required to be greater than 10 or 20 feet.

BARCA: **Second it.**

MORASCH: It's been moved and seconded. Any discussion? Sonja, can we get a roll call, please.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. Item 17 passes. Item 18.

BAZALA: 18 is back in the attachment Page 18, and this is to clarify that small coffee and food stands are exempt from traffic impact fees.

A few years ago when the Board adopted this special use standard for coffee carts and food carts, it was intended that these developments were supposed to be subject to limited requirements. Right now the code is silent on whether traffic impact fees apply and, you know, we have not been applying them; in fact, they probably wouldn't generate much in the way of impact fees because most of the trips are considered pass-by, but in any case, adding it here will clarify that, that they're not subject to traffic impact fees.

MORASCH: All right. Thank you. Any questions for Jan? Anyone in the audience wish to testify on this item? No.

All right. Can I have a motion then.

BENDER: Make a motion that coffee and food stands -- clarify that the small coffee and food stands are exempt from traffic impact fees.

QUIRING: Second.

MORASCH: It's been moved and seconded. Discussion? All right. Sonja, can we get a roll call, please.

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. 18 passes. 19.

BAZALA: All right. 19 is to clarify that road taper specifications are not included in the County standard plans. This code section deals with situation when roads that are less than 36-feet wide intersect with arterials. The narrower road has to be widened to 36 feet as it approaches the intersection for safety sake and the County has no standard plan for this. Instead, a number of other engineering practices and documents are used to come up with the appropriate taper in any given circumstance.

So at the work session, it was provided that some reference be made to the types of standards

that can be used, and so the text has been revised to include the supplemental standards in the transportation code that call out what sort of documents are adopted by reference. So it includes such documents as AASHTO documents and MUTCD, don't ask me what that means, but I do have it here someplace. I can find it if you need to know.

MORASCH: All right. Anybody want to ask Jan what AASHTO or MUTCD means?

WRIGHT: MUTCD is the Manual on Uniform Traffic Control Devices. It's a Federal manual.

MORASCH: And AASHTO?

WRIGHT: American Association of State Highway Transportation Officials.

MORASCH: Perfect. All right. Any other questions for Jan and/or Bill? All right. Anyone in the audience want to testify about this matter? No.

Okay. I will open it up for a motion then.

JOHNSON: Make a **motion** we accept staff recommendation on Item No. 19 clarifying road taper specifications.

WRIGHT: **Second.**

MORASCH: All right. It's been moved and seconded. Discussion? Roll call, Sonja, please.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. Item 19 passes. Item No. 20.

BAZALA: Okay. And just for - I forgot to mention it - but that No. 19 was in the addendum section that you received, so I'll try to remember which ones are and which ones are not as I go through them. No. 20 is back in the regular Attachment A and this is an item to clarify the application documentation requirements that are required when archeological predeterminations have to be reviewed by the Department of Archeology and Historic Preservation otherwise known as DAHP. So our archeological predeterminations are often

required prior to issuance of a preliminary land use decision.

Applicant hires an archeologist. They look at if there's potential for resources out there. They send their report to DAHP and DAHP looks at it when they can, and before staff will issue a preliminary decision, we almost always want to have that, quote, unquote, approval letter from DAHP to make sure that there aren't any further conditions.

So right now the submittal requirements section of the code has language that says both that the archeological survey was submitted to the State Department of Archeology and later it says method of proof that DAHP has received the site-specific document. So we want to make sure that it's clear that DAHP has received the document.

Basically if we get an e-mail from DAHP saying they've received it, that's better indication that they at least have it in their hands and, hopefully, there won't be a delay until DAHP can actually review the project and come up with any conditions or just less conditions of, you know, no requirements. So that's that.

MORASCH: Any questions for Jan?

I have one question. What happens if DAHP is too busy and they don't e-mail you back? Is there another way the applicant can prove that it was submitted and/or received by DAHP in order to not have a delay?

BAZALA: Well, it says -- well, that's a good question. Typically, you know, they provide an e-mail and, yeah, they provide an e-mail. So if they don't provide it, then the applicant should be hounding them.

MORASCH: Should be. Right.

BAZALA: Which -- right.

MORASCH: But I mean, you know, what's an applicant going to do if DAHP is too busy and doesn't respond to e-mails in a timely fashion?

BAZALA: Well, they could always call staff and say, hey, can you get them to respond.

MORASCH: All right. Any other questions for Jan?

BARCA: Well, just I guess exploring that just a little bit further, the way that this wording is is "a DAHP response of receipt of an archeological pre-determination." So they could get something from them up at their own facility as well, couldn't they?

BAZALA: Well, the language in the introductory blurb on Lines 15 through 17 isn't the text amendment. The actual change is in the body of this.

BARCA: Okay. So we're saying only an e-mail receipt?

BAZALA: Yes. The language says, "proof that the archeological predetermination or archeological survey was received by the State Department of Archeology" is the proposed language. Right now it just says that the "survey was submitted to the State Department of Archeology."

So, you know, what we're trying to avoid is projects going under review and DAHP doesn't even really have it or it gets lost and then they don't have their DAHP review, they haven't looked at it and then they come in late in the game and they could find something and it puts the project on hold or really complicates it. So we're trying to make sure that DAHP knows they have it earlier on.

BARCA: But I believe Steve's question was the format in which the acknowledgment takes place.

BAZALA: Well, it says -- the current language says proof can be via in e-mail confirmation or other conclusive method or proof that DAHP's received it.

BARCA: So there are other methods available other than e-mail?

BAZALA: Yeah.

QUIRING: Yes.

BAZALA: Typically the standard is e-mail, but, you know.

BARCA: You can do a text message. Okay.

MORASCH: Any other discussion or questions for Jan? All right. Anyone in the audience want to talk about this item?

All right. Well, I'll turn it back over to the Planning Commission for discussions and deliberation. And I think I'm going to vote against this. I don't see the need to change "submitted to" to "received," and I think the existing language is fine. You know, sometimes agencies are busy and don't respond and I'd hate to see somebody get tied up, you know, just because an agency is not responding, and "submitted to" I think the applicant already has to prove that they, you know, provided it into DAHP's hand, so I think the existing language is adequate.

BENDER: What is DAHP's time frame to respond?

BAZALA: Typically if a project is subject to SEPA, they try to respond within the 14-day comment period.

BENDER: If they don't respond, it's understood that it's okay?

BAZALA: No. No. If the project review is going along and we don't hear from them, we'll call them or e-mail them and say, hey, you got this thing. It's getting close to our deadline, so we need to know and they typically respond pretty readily once we do that. But something --

BENDER: There's no mechanism for a drop-dead date?

BAZALA: No mechanism for what?

BENDER: For a drop dead.

BAZALA: Well, you know, if we don't have it, we can put a project on hold because we don't have the information we need to make a SEPA determination because the predetermination stuff is part of the SEPA code, and so we can't tell if there's going to be significant impacts to archeological resources until DAHP has looked at it. And if we don't -- if DAHP hasn't looked at it, we're out there guessing.

BENDER: Chris, is there an RCW for a time frame?

COOK: I'm sorry?

BENDER: In other words, DAHP, it sounds like DAHP can hold a project up indefinitely if they don't respond. I don't think that's fair to a developer. So is there an RCW that is applicable to this particular situation?

COOK: I wouldn't know, but I can look into that.

BENDER: I guess with my question not being answered, I'm going to vote no also.

BAZALA: I wonder if -- well, I don't know, but it could be possibly a SEPA issue if you miss your opportunity to comment, then you're out of luck. I really don't know.

QUIRING: Who's out of luck?

WRIGHT: I don't think you can get around them.

BARCA: Yeah.

QUIRING: Who is out of luck?

BAZALA: That the -- I was just opining and I don't know this.

QUIRING: Yeah, I understand.

BAZALA: Maybe that DAHP would miss their opportunity to comment, but I don't think that's the case. You know, if -- what I was saying is, perhaps, if it's a SEPA issue and if DAHP as a SEPA review agency misses their deadline comment period, then they can't, but I don't know if that's the case. I think there might be other empowerments that they may have.

BARCA: So as much as we're discussing the potential impacts, I don't think we really have information that says this is really a big problem. I think the bigger problem is not having the agency receive the documentation to start the process, and so the methodology in which we're asking the applicants to go ahead and send it to them is one-sided and I think what we're really just looking at is to make sure that as much as we concern ourselves with the developer spending the money, if they haven't had the review and it turns out that the review is required, they could find themselves having to undue a portion of their development that's already gone forward.

MORASCH: Well, it's not going to go forward because it has to get approval before it can go forward.

WRIGHT: Yeah. And I think Dave's raised an interesting point because by doing this, we're requiring an applicant to achieve something that they really don't have control over. They have control over their submittal, but they don't have any control over acknowledgment of the submittal.

BENDER: I agree too.

BAZALA: Well, you could also say the same thing about if they need a review from the Health Department, you know, the Health Department has to respond before they can move forward, so...

MORASCH: But we're not being asked to change the code for the Health Department right now.

BAZALA: No. No, we're not.

BARCA: Not yet.

BAZALA: We're not, so...

MORASCH: And as I understand it, this isn't going to change one way or another the review or the need for the review before they get the final approval. This just --

BAZALA: That's right.

MORASCH: -- may cause an initial delay while we're waiting for DAHP to respond, whether they even received it or not, and that that's my concern. And I'm not sure, I guess I don't see that big of a difference between "submitted to" and "received," so I'm not sure why we need the change in the first place.

BAZALA: Yeah. Well, sometimes an applicant will just provide a copy of the e-mail, here I sent it off to DAHP, you know, or a correspondence between the archeologist and the consultant -- or the applicant. Okay. Joe, I sent it to DAHP and that's all we get. We have no idea if it was really done, you know. It's -- it may not be a gigantic deal like, you know, the bottom line is DAHP has to approve, provide the approval letter, this is just intended to make sure that the intention is to make the process work more smoothly, although admittedly, if DAHP is slow to respond, it could slow them down.

MORASCH: Any other discussion or further questions?

BARCA: So I guess I look at this more like it's a data point. When we talk about the idea of asking the County permitting to be held to a tighter time frame, we need to understand when they're held responsible for not being able to meet that deadline or whether there's other circumstances that don't allow them to meet their deadline. If the applicant isn't doing their part correctly, it affects the deadline; if agencies that we interact with aren't able to do their part, then that's a data point as to why we aren't able to meet our deadline.

But the County's working really hard to try and shrink their response time. All of that has to be put into the context of everybody being able to go down the checklist and do their part. This idea about whether a document is truly submitted and whether the agency has it or not I think is part of accountability for that time frame. So that's the way I look at this.

MORASCH: Any other comment? All right. I guess I would take a motion at this point then.

BARCA: I make a **motion** to approve as staff recommended for Item No. 20.

JOHNSON: I **second** it.

MORASCH: Moved and seconded. Sonja, can you give us a roll call, please.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: NO
BENDER: NO
WRIGHT: NO
MORASCH: NO

WISER: **4/2.**

MORASCH: All right. Item No. 20 does not pass, **rejected 4/2.**
I would guess that takes us to Item 21.

BAZALA: Okay. And this is in the revision attachment document you received today. This is in regards to conditional uses. It's to clarify the process to expand a conditional use.

The current conditional use code states that a lawfully nonconforming conditional use, that is a conditional use that's grandfathered that doesn't have an official conditional use permit, it states that a lawfully nonconforming conditional use can be expanded using just site plan review process. However, in Subsection C of the existing code, it goes on to say, that an expansion of such use must obtain a conditional use permit in addition to site plan review, so it says two different things.

So at the work session some questions came up as to what level of expansion could occur without a new conditional use permit, and so this has been revised to basically require a new conditional use permit for an expansion that triggers a Type II level of site plan review.

So basically this will only pertain to, again, lawfully nonconforming, that is situations where they don't have a conditional use permit, and if they want to expand and the level of expansion triggers the Type II site plan review requirements, then they would need to get a conditional use permit to expand because they never got one. And it would be for, you know, if the site was illegally nonconforming, that is they are operating and they began operations when they needed a permit, that would be clearly an illegal situation, so they clearly would need to get one.

But the way this has been revised now, if a grandfathered conditional use wanted to come in, they could expand up to the level of a Type I site plan review without getting a CUP, but if they go beyond that, then they would need a conditional use permit.

The idea is that we would not have a way to ensure that negative impacts that might be

occurring on a site couldn't be mitigated for, and if you're going to make them bigger, you're going to make the site larger, it makes sense in our opinion that we have some ability to put unique conditions on them. Any questions?

MORASCH: Questions for Jan?

I have a question if no one else does. So as I'm reading this, if you had a nonconforming use for a use that was a conditional use in a zone, you'd be limited to this section for expansion and would not be able to go and apply under the nonconforming use section which also, I think, allows some limited expansions, or would you have the choice which route you wanted to go?

BAZALA: Well, it would be under the conditional use permit, because a nonconforming use is something that's not allowed, period. If it's conditional, then it is an allowed use conditionally, so it wouldn't qualify as a nonconforming use.

MORASCH: I understand that distinction, but at the same time it seems if someone has a nonconforming conditional use and they may not be able to expand as much as somebody who had a truly nonconforming use that was prohibited in the zone otherwise.

BAZALA: Well, those are pretty limited too. I mean, expansion of nonconforming uses are quite limited.

MORASCH: Pretty limited, but in some cases you might be able to get away with more than just the Type I site plan here.

BAZALA: Possibly.

MORASCH: All right. Any other --

BAZALA: Well, just to back up, on the nonconforming use situation, it's the burden of proof of the applicant to demonstrate that whatever they're doing is not creating any larger impacts when they expand, so...

MORASCH: Any other questions? Anyone in the audience want to testify about this matter?

All right. I will turn it back to the Planning Commission. Any deliberation? I'd take a motion then.

JOHNSON: I'd make a **motion** to accept Item No. 21, staff's recommendation for clarifying the process to expand a commercial -- excuse me -- a conditional use.

BENDER: **Second.**

MORASCH: Moved and seconded. Any discussion? Roll call, please.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: NO, just so they're not all unanimous.

MORASCH: All right. Item 21 passes **5/1**. Item 22.

BAZALA: Okay. And we're back in the Attachment A document. We are now on Page 22, and this is to clarify that garden apartments in the Highway 99 overlay are subject to multi-family design requirements. The Highway 99 code has design requirements for different styles of multi-family buildings. This section addresses the design of garden apartments and has what's probably just a typo that can be read that they either should or they must comply with other design provisions.

Since all the other multi-family styles of buildings have to apply, it's assumed that that garden apartments must also have to comply because there's nothing that's specifically unique to garden apartments as opposed to other buildings that have to meet the design requirements.

MORASCH: Any questions for Jan?

WRIGHT: I'm wondering why we aren't using the term "will" or "shall"? Get back to a previous discussion, or does it make any difference?

BAZALA: We could. We could use shall instead. I was just, you know, using some of the language that's there and --

COOK: No, must is better.

BENDER: It's pretty specific must.

BAZALA: Must is okay?

COOK: Yes.

WRIGHT: Well, that's the word then.

BARCA: For now.

WRIGHT: Yeah.

BARCA: We'll see it soon.

WRIGHT: Maybe next year.

BARCA: Next year.

WRIGHT: Good.

MORASCH: Any other questions? Anyone in the audience want to testify about this item? No. All right. Any deliberation? All right.

I'm going to **vote against this one** only because I think the Highway 99 overlay standards need to be reined back in a little bit and I see this as kind of going the opposite direction, so I'm probably going to vote against it. But if anyone else has any deliberation, feel free to chime in; otherwise, I would be ready for a motion.

BARCA: Well, Mr. Chair, before we do that, do you want to propose alternative wording to this?

MORASCH: No. I like the existing "should" rather than "must" and I think some of the other standards that have "must" in the plan right now should be rolled back to "should."

BARCA: So even though this is only addressing garden apartments -- or is that what they're called? Garden apartments. Yes.

MORASCH: Yes.

BARCA: And they should but the rest of them are still subject to the higher level.

MORASCH: I would actually propose to re-ratchet the rest of them back too, but that's well beyond the scope of what we're doing here tonight.

BENDER: Steve, what's your rationale? What's your rationale?

MORASCH: Well, I voted against the Highway 99 code when it was adopted I don't remember how many years ago. I thought at that time that I voted in favor of the plan, but I thought the code was just too restrictive given all of the various constrained sites you have on Highway 99.

The development community, basically if you want to develop out there, you're going to be applying for numerous what they call departures, which departures are like variances but they're a little more loosey-goosey, and it just doesn't create enough certainty on behalf of applicants when trying to develop in that area, so... I guess my rationale goes back to the whole history of the plan.

WRIGHT: So what sort of obligation does the word "should" put on a developer? It doesn't sound --

MORASCH: Not much.

WRIGHT: Yeah.

BARCA: Now you did it.

COOK: Chris Cook, Deputy PA. This is a subject dear to my heart. So "should" is not an obligation at all. It's not mandatory. It says, oh, this will be a really good idea. Somebody ought to do it. Maybe sometime someone will.

To answer your prior question should this be "will" or "shall" instead of "must," will or shall, in my view, imply a duty. So you're saying the garden apartment has a duty. I don't think that development projects have duties. Applicants, developers, builders, whoever, those folks have duties, so they "shall" or "will" do things. But if you're talking about the project itself, it "must" be done in a particular way.

WRIGHT: Thank you.

COOK: Any time.

MORASCH: All right. Anyone else have anything they want to say on this item?

BENDER: I agree with Chris' logic, "must" is more like an order. It will be done.

WRIGHT: Well, I appreciate where Dave is coming from on this as a representative of developers. These could get so restrictive that, you know, you can hardly find a way to turn around on your site, yet you're given all these requirements. I think I'm persuaded.

MORASCH: Eileen, did you want to --

QUIRING: I fear I have been persuaded as well.

MORASCH: Well, and part of it is most of the sites out there are pretty constrained.

QUIRING: Yes, I know.

MORASCH: Yeah.

JOHNSON: Does that bring up any confusion so all these other facilities and then all of a sudden they look over at garden apartments and say why, why is there "shall," why are we "must" or whatever?

MORASCH: It might. And what I would like to see happen is a larger discussion about the Highway 99 code.

JOHNSON: Yeah, I would sit -- that's my feeling is I completely agree with you except it's almost like we're creating this, maybe ambiguity is too broad of a word, but, you know, this level of confusion where they all should be shifted. And so I don't -- I'm in total agreement with your ideology on what we did before, but now I look at this and say well.

MORASCH: If you're asking me to distinguish from garden apartments and other types of apartments --

JOHNSON: Yeah.

MORASCH: -- one distinguishment might be that the garden apartment has a garden and that would tend to satisfy the overall design goals of the Highway 99 area, which I think maybe why "should" was there in the first place as opposed to "must" when this thing was originally adopted.

JOHNSON: Okay. Yeah. True.

BARCA: So it appears as if we are launching a grand experiment by leaving it as "should." If this is truly an advantage for the development community, then we would see them going towards garden apartments and leaving the other ones on the table. We could go ahead and look at the statistical analysis two years from now when we get a chance to look at this again and see if garden apartments held sway in the development.

QUIRING: Well, I think that this actually, this wording has been existing so we should look now and see because this is a correction, so it's been there. So let's test it. Let's look and see. We're not launching anything. We're just not launching anything. I mean, we would be changing it. It's been launched. That ship has sailed.

BARCA: But now the secret's out.

MORASCH: Yeah. Thank you. All right. Any other comments on Item 22? Okay. I would take a motion then.

JOHNSON: I'll bite. I make a **motion we DENY Item No. 22** to clarify garden apartments are subject to multi-family design, staff's recommendation, that is against.

MORASCH: Against.

JOHNSON: Yes.

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

MORASCH: All right. It's been moved and seconded to deny Item 22. Is there any discussion on the motion? All right. Sonja, can you give us a roll call, please.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: NAY
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. The motion to **DENY No. 22 passes 5/1.**

That brings us to Item 23. Oh, and we're switching to Minor Policy Items. Do you want to remind us what the difference is between these and the Clarifications?

BAZALA: Oh, these are just a little bit, there's changes that aren't --

MORASCH: Just a little bigger than the Clarifications?

BAZALA: Yeah, I guess the simplistic thing, you know, or creation of words that aren't there now and changing a policy, and arguably a lot of these are kind of hard to classify.

So having said that, No. 23 is a proposal to adopt the International Residential Code standard to allow fences up to 7-feet high without building permits. So the County has adopted the 2012 International Residential Code for the most part and then the County's own building code has exceptions to that IRC. So currently in the County's code, it states that fences 6 feet or high or higher -- I'm sorry -- fences 6 feet or less don't require building permits, but the IRC has been

upgraded to allow 7-foot high fences and so the general consensus is that we should go with 7 feet.

I mean, that's not hasn't been before you, but the development community we like to keep things simple so we don't have two separate standards. So basically we're proposing to eliminate that one line item in our code which will by default go back to the IRC standard of 7 feet.

MORASCH: All right. I have a question. Title 14, is that a land use title that you're required to come to us on? That would be more of a question for Chris.

BAZALA: It's the building code.

COOK: Yeah. I don't believe that we generally come to the Planning Commission on Title 14.

BAZALA: Okay. Well, it's been, you know, I generally look at this as a simpler thing.

MORASCH: I'm not complaining.

BAZALA: Right. Right.

MORASCH: I'm just checking.

BAZALA: Right. Right.

MORASCH: All right. Any questions for Jan? Anyone in the audience want to talk about Item 23, fences heights? No.

All right. With that, I will turn it back to the Planning Commission for deliberation or a motion.

WRIGHT: I'd make a **motion** that Item 23 regarding the International Residential Code standard to allow fences up to 7 feet high be approved.

QUIRING: I **second** it.

MORASCH: Moved and seconded. Any discussion? All right. Roll call please, Sonja.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. Item 23 passes. Item 24.

BAZALA: Okay. Item 24 is to prohibit wrecking yards and tire wholesalers in the business park zone. We are actually proposing to remove this item from consideration. I started digging around in some of the other NAICS classifications and how they related to our codes and where a business park is, where the same use is allowed in business park as in light industrial and there are some others that are pretty impactive that might not be appropriate.

So we thought that instead of amending the code piecemeal with this item and then finding some other ones later, that we would just delay this item and take a bigger look at what else might be lurking. I mean, there's lots of different categories so it's going to take some time to go through, but...

MORASCH: All right. So that Item 24 is pulled.

BAZALA: Yes.

MORASCH: Any questions about Item 24?

BARCA: I have a comments about that. I appreciate you going ahead and doing that because there was other items that I was going to ask why were not excluded. I believe in our intention these business park zonings were really meant to be fairly high employment centers and there's many uses that I think are still left in them that are not necessarily going to yield us that type of result, and I can certainly say just like the idea of residential storage and personal items, similar to wrecking yards but they just haven't given up their car yet, they just park it. So in that fashion, I do think that we should really continue to try and focus on making sure that we give priority to uses that will generate the jobs that we've been talking about.

MORASCH: All right. Any other comments on Item 24? Anyone in the public want to comment on Item 24? No. All right. Well, Item 24 has been pulled.

So let's move to Item 25. Back to fences and fence heights.

BAZALA: Back to fences, yes.

BARCA: This is no easy one.

BAZALA: All right. Okay. This is an amendment to fence height and setback requirements for retaining walls and fences. The current code section in the landscaping code, it's intended to alleviate the impacts of tall retaining walls and fences that are immediately adjacent to a neighboring property line. The current code requires that retaining walls that are over 4 feet in height and fences that are over 6 feet in height to maintain the standard building setback for the zone.

It's not currently codified whether you measure the height of a fence on top of a retaining wall separately, you measure just the fence height and the retaining wall or if you measure from the ground to the top of the fence. Our policy has been that you measure from the ground to the top of the fence which can get rather restrictive.

So over the years the development community has had some issues with this because it can result in a situation where in some cases a setback is 20 feet, you know, in like multi-family zone, a rear setback is 20 feet, so if they need the tall retaining wall, they have to move that retaining wall 20 feet away, and so now you got this undeveloped strip of property that's 20-feet wide. Who's going to maintain it? Is it the neighbor maintaining it, nobody maintaining it?

And also they have noted that 4-feet high is sometimes not high enough and you'll have two separate subdivisions that can come in and they need to fill in one area and they're limited to the height of the wall, and then maybe a neighboring property develop, they need a retaining wall as well and they're lower and then so you got this dip that can occur, so it can be problematic.

And so we've attempted to loosen up the provisions such that one can exceed the limits, and these are just within the setbacks, so you could create a couple of series of walls that are 4-feet high separated and staggered. The idea is to try to get some shading, get some distance from the property line with a very tall wall, so... But in some cases it may not be necessary to apply such as when you are developing and the property next to you is industrial or commercial. Also if your neighbor agrees in writing that you can put that wall up as high as you want right on the property line.

So there's a number of outs in here that should make it more developer friendly and should be able to result in some common sense applications when applicable, so... The DEAB we ran through a few different versions of this with the DEAB and they were happy with, reasonably happy with what we came up with.

MORASCH: All right. Thank you. Any questions? Anyone in the public want to talk about this item?

Yes. Kevin, come on down. Please, give us your name for the record.

BROWN: Mr. Chair, members of the Planning Commission. Kevin Brown, 5909 NE 124th Street, Vancouver 98686.

MORASCH: All right. Welcome. Welcome to the Planning Commission.

BROWN: Thank you. Amending the current code removes significant protections for owners of abutting properties. The development community in requesting these amendments is the benefactor at the expense of owners of abutting properties.

Code 40.320.010.F.3.a, stepped walls -- pardon me -- proposed code, stepped walls in excess of 4-feet tall should not be permitted unless the second step meets the setback requirement of the underlying zone. This helps mitigate the visual impact of a tall retaining structure. Management of stormwater runoff is facilitated by a larger distance between steps in a retaining wall.

In walls constructed using mechanically stabilized fill, commonly referred to as geogrid, having a stepped wall create a situation where the second wall is constructed upon and supported by a component of the base wall. In this case, the upper wall cannot be considered a separate structure and is, in fact, an extension of the base wall. Allowing this may set a precedent that may have implications in other code sections.

Code Section 40.320.010.F.3.g could easily be utilized by the development community if a wall taller than 4 feet or a stepped wall in excess of 4 feet was desired to be placed within the setback distance with permission of the abutting landowner.

Code 40.320.010.F.3.f, distance to dwelling on an abutting property should not be a criteria in allowing walls taller than 4 feet within the setback distance. An abutting property owner may suffer diminished enjoyment or value of their property due to a tall wall located along their property line regardless of the distance to their dwelling.

Code 40.320.010.F.3.i, any fence constructed on top of a retaining wall should not exceed a combined total wall and fence height of 7 and one half feet. This helps mitigate the visual impact of a tall retaining structure and fence to abutting property owners. Allowing the retaining wall and fence combination as tall as 11 feet by the proposed amendment is excessive.

Code 40.320.010.F.4, the Community Development Director should be required to notify

owners of abutting properties prior to construction approval if variance of height and setback requirements are requested. This provides an opportunity for owners of abutting properties to learn about and be heard from regarding the proposed variance.

Code 40.320.010.F.4 should not be able to be employed as an alternative to the development community working with owners of abutting properties as provided for in 40.320.010.F.3.g.

Regarding the rationale for amending this code section, the development community's use of the no-man's land reasoning is poor at best. The potential for an unmaintained no-man's land is the same regardless of the setback distance. If such a situation occurs, the property owner of the setback area can be compelled to maintain the setback area through homeowner association rules or clauses, covenants and restrictions associated with the development. Should the abutting property owner choose to maintain the setback area, that's their choice to make. Both property owners could decide that a wild buffer strip works for both of them. This is an issue for property owners to address, not the development community. If the development community desires to reduce setbacks for walls or fences in a development, Code Section 40.320.010.F.3.g provides a method to allow that. That the DEAB has reviewed and --

MORASCH: Can I interrupt you for a second?

BROWN: Okay.

MORASCH: I just want to ask a clarifying question.

BROWN: Yes.

MORASCH: That Subsection g, you've referred to that a few times, that looks like a new section to me; is that correct, Jan?

BAZALA: Yes. Yes.

MORASCH: And are you in favor of that subsection?

BROWN: Yes.

MORASCH: Okay. And generally it sounds like disfavorable to the other provisions of the new section?

BROWN: Yes. Section g solves many problems by bringing communication between a developer and abutting property owners to come to a joint conclusion, a decision on what works best for both of them.

MORASCH: Okay. And I apologize for interrupting. I just wanted to make sure I understood the general gist of what you were saying. Please continue.

BROWN: Absolutely. Okay.

That the DEAB has reviewed and approved the proposed language of these code amendments is not comforting to owners of property abutting land development. All the members of the DEAB have a vested interest in code changes and amendments that ease their jobs or improve their profit margins on land development. Thank you for allowing me to testify. If there are any questions.

MORASCH: Any other questions?

WRIGHT: Yes, I had a question. You speak with some authority on this. I'm wondering what your experience is? It sounds like you've been there before and done that.

BROWN: So I'm in -- I'm still in the midst of a two-year running problem with code violations with retaining wall heights, stormwater runoff onto my property from a development. It's been huge. I've been working with people within the County. It's still -- it's still an open item. It has not been resolved, and I've had two consecutive years of stormwater runoff, the worst of which came within four inches of flooding my shop building on my property, so it's been a painful experience for the last couple of years.

WRIGHT: Thank you.

BROWN: Tall retaining walls allow a developer to affect the adjoining properties dramatically by bringing in huge amounts of fill and then they don't do an adequate job of controlling their runoff from those filled areas, and what used to be rolling contoured property now creates pockets of low-lying ground and the new, newly created high ground of the development runs off now into these new isolated pockets of low-lying ground, and that's essentially, in a nutshell, what's happened in my situation.

Anything else?

MORASCH: Yeah. Can you repeat what you said in the beginning about -- I'm trying to remember what you said about 3.a. that's the one where you get to step the retaining walls and can you just repeat your basic position on that one because I'm having trouble remembering exactly what you said.

BROWN: Yeah. The proposed code would allow a series of 4-foot tall, up to 4-foot tall steps within the setback zone. So in my particular case, the setback is 10 feet, so I could have a 10 -- or pardon me -- an 8-foot high wall with the first step at the property line and another 4-foot

step 4 feet back. Imagine an 8-foot tall wall with just that small of a step. There's very much a prison. You're looking at a prison wall kind of aesthetic in that situation.

I believe that the having the walls, if they're going to be stepped, the first step would be at or near the property line wherever the developer chooses to put it and the second step then comply with the setback requirement for structures in the underlying zone. So in the case of the property adjoining mine, a second step in the wall would have to be 10 feet from the property line rather than 4 feet as the proposed amendment would allow.

MORASCH: Okay. I understand now. Is there -- you know, because some properties have an even bigger setback, like 20, is there any other suggestion you might make that might accomplish a similar result but wouldn't, you know, require the second step to be 20 feet back if there's -- because I can see what you're saying when there's a 10-foot setback, but I'm not sure the same logic applies in the same way when the setback is 20 feet.

BROWN: Certainly. F.3.g could be applied there or F.4.

MORASCH: And your concern about F.4 was you wanted to make sure that the neighbors had notice and an opportunity to comment before some kind of variance.

BROWN: Yes.

MORASCH: Jan, can you comment on that. What's the intent of F.4 as far as what kind of process would that be.

BAZALA: It would be an internal. I mean, it wasn't intended to be an official variance, but that's your call.

MORASCH: What type of applications would this apply to? I mean, would this apply to things that would be generally less than a Type II?

BAZALA: You mean would you be -- yeah. I suppose you could get --

MORASCH: Because I'm thinking if it's --

BAZALA: -- even a building permit for a retaining wall.

MORASCH: Yeah. I mean, I'm thinking if it's a Type II, then, you know, there would be opportunity for public notice and comment as long as it was brought at the beginning and not the end of the process.

BAZALA: Well, even if it is just a building permit, you know, there could be a separate variance

process that could occur with a building permit.

WRIGHT: What about a grading plan? It seems like this necessarily would involve a grading plan or a disclosure in a grading plan.

BAZALA: Well, certain things certainly would, and I don't have building staff here to provide more information. Typically, I believe that many retaining walls if they're under 4 feet don't require a building permit, but then there could also be exceptions to that.

So I think if you're going to have a series of stepped walls, I believe -- and that's a very good question. I don't know that we considered that as to when a building permit or engineering would be required if you stepped the wall 4 feet. It may be that it would have to be engineered. And if it's -- if it were -- well, it would be if you're doing that much retaining, you would certainly be and have a grading permit review, so...

BARCA: Yeah, too much dirt.

BAZALA: And then building codes might get triggered as well. And unfortunately, I can't answer that. That's certainly a good question as to if that needs to be addressed.

BENDER: Isn't there currently codes that state that the uphill neighbor is responsible with the control of the runoff to his lower neighbor?

BAZALA: Yeah. There's a general requirement that you're not allowed to, I think, materially concentrate or, yeah, runoff, increase or materially concentrate I think is the term for property, so... I mean, even if you -- you know, you could if it's not designed right, then you could increase runoff even if you are working under today's code, so...

BENDER: And then with the retaining wall, you would create an uphill neighbor, more than likely; right?

BAZALA: Yeah.

BROWN: Anything else for me?

MORASCH: Any questions? Any other questions for Kevin?

BENDER: Yeah, I have one.

MORASCH: All right.

BENDER: Prior to the retaining wall, what was the elevation of your neighbor's property in

relationship to yours?

BROWN: Lower than mine.

BENDER: Lower?

BROWN: Yes.

BENDER: So he created an uphill situation?

BROWN: Yes.

MORASCH: Interesting.

QUIRING: I guess my question then would be if the prior question Richard asked about when an abutting property owner is creating a runoff onto the next property owner that they're supposed to mitigate, that the person creating the runoff has to mitigate that, why hasn't that been done in this case?

BROWN: In this particular case the, in the winter of 2013/2014 after the fourth flood and my slew of code violation complaints to the County, contact with the developer and the developer's engineer, the contractor finally dug in and built a dike essentially between his development and my property and excavated a temporary pond, retention pond. That took care of the problem for the rest of that winter, but that did not fix the overall problem, because that pond and dike could not be a feature of the finished development. So they regraded this land sloping it all back to my property again in the spring of 2015, and then in the winter of 2015 and 2016, I ended up with floodwater again down on my property.

The contractor has been very slow to respond with or the developer and his people have been very slow to respond. It's actually, and I hate to bag on the County in a big County meeting, but the County's been very, very sluggish to respond to help encourage the developer to address this problem and take care of it.

The developer finally, about three weeks ago, did install an additional drain system to try and take care of this problem. Sadly we're out of our rainy season and we won't know if it's functional until next winter. So I may end up going three years now before we find out really if this is going to take care of the problem.

MORASCH: All right. Any other questions? Well, I'm sorry to hear you're having all these problems. I think half your problems are the drainage, which I'm not sure is directly implicated by this section, but I think I understand your concern about sort of the light and air and that sort of an issue.

BROWN: Yeah. In summary, the allowing of tall retaining walls encourages developers to create these elevated properties adjacent to previously existing low-lying properties and create this reversal, in essence, of water flow from their newly elevated ground to these previous low-lying ground.

MORASCH: All right. Fair enough. Any other questions? Anything else?

BROWN: No.

MORASCH: All right. Well, thank you. Thank you for coming.

BROWN: Thank you very much. I didn't realize there was a ten copy request of this written testimony. Do you want a copy of it still?

MORASCH: If you want to hand it in, we'll keep it for the record, that would be fine, yeah.

BROWN: Thank you.

MORASCH: Thank you. Yeah. Or for the future, if you get us ten copies in advance, we'll try to read them, you know, before the hearing.

All right. Is there anyone else that wants to testify about Item No. 25? No.

All right. In that case, I will close the public hearing and turn it back over to the Planning Commission for deliberation.

WRIGHT: I had a question or a comment regarding Jan's comments towards the end of this discussion about stacking these walls too close together. I think there could be a problem by having two 4-foot walls only separated by 4 feet under some types of soil and hydrological conditions and a 4-foot wall doesn't require engineering.

BAZALA: So, yeah, we'd have to look into when you stack them like that at what point does it, and I don't know. I don't know the answer to that.

MORASCH: Do you know if you stacked them like that, would they require engineering at that point?

BAZALA: Well, that's -- I'm assuming it would, but I don't know that for a fact, but it's something that we should certainly. I mean, if it does -- if it does currently now would require engineering, you know, I think it would be good that we just put some sort of a notification in here to let everybody know that who might be considering doing this. If it doesn't require

engineering, I think that's something that we should also know because maybe it should. I mean, again, I'm not an engineer so I'm a little bit out of my league here, but it's something that I'll certainly take back to staff and raise these questions about.

BENDER: With that doubt about the engineering standards, I think we should pull this item.

MORASCH: If we pulled it, when could you bring it back to us and when would that delay it getting to the Board?

BAZALA: Well, we don't have a firm deadline for the biannuals this fall, but it -- you know, I don't know if --

MORASCH: Has there been a Board hearing scheduled yet for this?

BAZALA: There has been and it's the work session is May 11th with the hearing scheduled for the 24th.

MORASCH: Of May?

BAZALA: Of May, yeah.

MORASCH: Okay. Then there's no way we could hear this again before then given our upcoming schedule.

All right. Any other --

QUIRING: I would like to ask a question about on 3.d.2. It does say something about mitigating the impacts. Would that include impacts such as runoff, et cetera?

BAZALA: Well, generally when anybody's building anything, moving dirt, they're responsible to engineer it such that it's not running off on their neighbor. So it -- I think runoff is a given that you're not supposed to be doing it, you know, not materially increasing or whatever the stormwater code standard requires. And that particular section pertains to retaining walls or fences abutting a road right-of-way or road easement, so...

BARCA: Road easement.

MORASCH: And anything 12-feet in height is going to be engineered.

BAZALA: Right.

QUIRING: Yeah, 12.

BARCA: Well, I would say as I look at this right now, there are certainly components of this that are troublesome to me, and the concept of 3.g on the permission working with the abutting property owner to me has the appeal of being able to say then you come to an amiable agreement, but we're also aware that it's also a methodology used to postpone or delay a project. So it seems like at some point we'd have to have some form of binding arbitration to come to a final conclusion or we would need definitive rules to go into place if one was unable to come to an amiable agreement.

That being said, I don't think the rest of the ordinance as written is necessarily the rules to fall back on. It seems like on a case-by-case basis we may need certain components out of this. Richard's request to table this because of the complexity and the unknown about the engineering, I think, is important because if we just got down to the idea that you were discussing, Steve, if anything that caused it to become a Type II, then we'd have the neighbors involved and there would be the review of or the permitting required engineering up front and be able to see the design going ahead, but without that, it could very well be that without the requirement to get permission from the property owner, we could still be in the position of having the property owners find out about it when the work starts, and that is certainly a complication that I believe we would like to avoid.

WRIGHT: If this is pulled, does it still go to the Board as presented to us tonight?

BAZALA: Yeah. I think your recommendation would be that it would clearly be that we should pull it, but typically we have still let the Board know what the item is, so...

WRIGHT: Sure. Sure.

BAZALA: And one thing just to be clear is that this section doesn't really and currently now it doesn't limit the height of retaining walls if you meet building setbacks. So there's currently no code that deals with the height of retaining walls that do meet the setbacks, so... Just so this is in regards to having the walls within the setbacks so it's easy to get lost in that and --

BARCA: Yeah. But we're asking for the potential of a greater impact than the current code.

BAZALA: Possible.

BARCA: Yeah. And that is, I guess, truly my concern is without the component of what you put in there for 3.g, which I think is very, very admirable on our part to enforce the concept of dialogue between the two parties, without that being in place, I don't think I'd like to add any additional impacts.

WRIGHT: I believe what we have here is a pretty good effort. It may not be perfect. I think the

engineering concern I raised about the proximity of the 4-foot walls can be addressed in other manners than actually having something written in here. I'd be inclined to support it just to get this moving along recognizing if problems develop in the future, they could always come back in another biannual and be corrected.

MORASCH: I think I agree with Bill. I'm inclined to support it. You know, I could probably be convinced to increase the 4-foot minimum in the 3.a to some slightly larger number that would be less than 20 feet because, I mean, I'm receptive to the idea that if you only have a 10-foot setback, you know, maybe the second wall should be just a little further, so, I mean, I'd be receptive to doubling that minimum 4 feet maybe to 8 feet or something like that.

And I am receptive to the idea that maybe there should be some public involvement if there's going to be some kind of variance. I'd hate to kick it all the way over to -- I mean, I almost don't like the word variance here because there's sort of a stigma attached to variance and this should be more like one of those departures that we referred to from Highway 99, but I am sympathetic to the idea that there ought to be some public notice and comment on that.

Any other comments?

JOHNSON: I'm stuck on the stepped wall and the 4 feet between the two. I think that's problematic. I think that that lends itself to issues of responsibility and maintenance and just problems that you're going to get. So I'm, you know, I mean, I think we're on the right track to try to mitigate some relevant issues to the building community, but at the same time, you know, we have a real issue here that someone's saying, hey, I got water draining on my property and it's not been handled.

Once, again, when I see the County not responding, this is kind of similar to what I heard during the surface mining which was we had these problems. We asked about these problems. We talked about these problems and then they weren't addressed by a system that could help people. I think when we try to go, well, this will fix that, I think we're going down the wrong path. So I'm probably going to vote against this just because the check on the engineering and specifically the 4 feet difference between a stepped wall.

MORASCH: Any other comments?

BENDER: I'm still stuck on the engineering. That's a pretty serious question from the standpoint of the soil compaction. It's the untouched soil 99 point percent compaction, then you put fill on at a 4-foot, then you back up 4 feet, I'm with you, Steve, I'm on an 8-foot setback.

MORASCH: All right. Any other comments? In which case I'd take a motion. And if someone wants to move to pull it, I mean, that would be a motion someone would be -- I mean, I would entertain that or entertain a motion to approve or deny.

JOHNSON: I'll make that --

MORASCH: Or approve or deny with amendments.

JOHNSON: I'd like to make a **motion** that on No. 25 that we pull the amended fence height and setback, staff's recommendation for amending the fence height and setback requirements for retaining walls and fences.

BENDER: I'll **secon**d that with the proviso that Jan finds out about the engineering aspects.

JOHNSON: That would be the hope.

MORASCH: All right. It's been **moved and seconded to pull Item 25** until staff has time to look at the engineering issues and come back to us with some suggestions.

Is there any discussion on the motion?

BARCA: I guess I'd still like to see us somehow be able to put the communication between the two parties into a greater light where the written permission with the abutting property owner takes a precedent over the design standards so they could get what they need in an amicable fashion, if we'd like to --

MORASCH: As I read this, it allows that, but if you can't get it, then they come meet these other standards.

BARCA: Well, and it's not that they can't get it. It's one of the choices. They could choose to do that or they could choose to follow one of the other standards, and I'm thinking that they should --

MORASCH: You want them to demonstrate that they at least negotiated?

BARCA: Demonstrated that they haven't --

MORASCH: Because I don't think the County wants to get into any arbitration between neighbors on something like this. So I think at most we could do is require some type of negotiation as a good faith measure or something before going to the other standards.

BARCA: Yeah. And then the other standards would apply, yeah. But I am happy to ask that it be pulled in the majority if that passes.

WRIGHT: I guess I would agree as well recognizing it will be put back to the next biannual, I

would expect, or semiannually or semiyearly.

BAZALA: Yeah. Well, when we can make time.

WRIGHT: Yeah, whenever you can get to it. But I would expect it would be some time before this would be changed at all.

MORASCH: Yeah. I guess I'll ask a question. When would it come back to us? Is it going to come back to us sometime in the next few months or is it not going to be until we see the next round of biannual code amendments?

BAZALA: Well, I would have to ask Marty what he wants to do. Yeah. I don't know the answer to that. Again, we don't have a fall round specifically scheduled. My understanding is that he would like to continue but, you know, if nothing else rises to the forefront.

MORASCH: All right. Well, and that affects my vote. If I knew it was coming back sometime in the next three months or so, I would probably support the motion. Not knowing that, I think I'm probably not going to support the motion, but thank you for your honest answer.

Any other discussion?

WRIGHT: Well, I don't think we should be in a position of rewriting it here right now. I think, you know, we either take it or we pull.

MORASCH: Yeah.

BARCA: The motion is to pull, yeah.

MORASCH: All right. Unless there's any other discussion, we'll take a roll call on the motion.

BENDER: The motion **is to pull;** correct?

MORASCH: The motion is to pull it, that is correct.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: NO
MORASCH: NO

MORASCH: All right. Did I count that right, 4/2 in favor of the motion? All right. Item 25 is therefore pulled. That moves us on to No. 26.

BAZALA: All right. And we are now on Page 26 of Attachment A. This is a proposal to add an additional urban collector road classification to the rural to urban classification conversion table. When properties brought into the urban growth boundary for development, you've got rural roads that have to be upgraded to urban standards, and this table tells the County or tells everybody what sort of -- well, when you convert a rural classification to what applicable urban classification of road and currently for a rural minor collector that gets converted in the code now to a collector with two lanes and it's proposed that we also add an additional option which would be a C-2b which is has the same right-of-way width, but it trades the parking lanes of a C-2 for bike lanes. So this gives staff added flexibility that when it's appropriate to have a bike lane, then we can convert it and use that classification. That's that.

MORASCH: All right. Any questions for staff?

QUIRING: I have a question. Is this just a classification issue or is it does it mean that if it's classified that way, it has to change, it isn't that?

BAZALA: Well, it gives everybody the option when you're - and Bill probably knows more about this than I do - but so currently, as I understand it, we're kind of stuck using a collector with two lanes with parking on both sides. And so if there's a bike lane that's planned for going through in this area, then I'm not actually sure if there's no way we can use a different class- -- urban classification and make the developer build this other configuration with bike lanes instead of parking lanes, but this is clearly there to provide another option. It doesn't require any greater paved width, as I understand it. It's just a different design, instead of having parking you'd have bike lanes.

WRIGHT: Well, this could prevent, for instance, if in the urban area it was already or the connecting road was a C-2b, then when the rural road comes in, it would make sense to make it the same designation rather than a C-2. But at some point as an arterial atlas change, it would come back to the Planning Commission and the Board as well, wouldn't it?

BAZALA: I would think, but I don't know that -- I don't know if this is - again not my, really not my area of expertise - I don't know if this table applies to changes to the arterial atlas. I don't know if that's the case.

BENDER: Bill.

WRIGHT: Yeah, I would think it would have to.

BENDER: On the changing to a C-2cb, that's a turn lane, two normal traffic lanes, sidewalks; is that correct?

WRIGHT: I don't believe there's a turn lane in that, no.

BAZALA: No, I don't believe so.

QUIRING: It says right-of-way width but trades the parking lanes for the bike lanes.

BAZALA: Because I looked into this before I wrote this and to see what it --

BENDER: Is that a 60-foot right-of-way?

WRIGHT: I don't know.

BAZALA: Yeah, I don't know. Yeah, and this wouldn't require us to use a C-2b. It wouldn't require us to use bike lanes instead of parking. It just gives the option.

QUIRING: It would allow you to.

BAZALA: Yes.

QUIRING: Okay. That actually that was the gist of my question. Sorry for not articulating it right. Are you required to make these changes?

BAZALA: No.

QUIRING: No, you are allowed to.

BAZALA: Well, I guess that if development engineering and County planning staff said --

QUIRING: Right. This is what this section will --

BAZALA: -- this is what you will use, then this you will do, that instead of parking on both sides, you'll have bike lanes, if that's part of the bike and pedestrian plan or something like that.

BENDER: Jan, is it the responsibility of the abutting developers to do this change to the roads to actually build them?

BAZALA: Yes. Yeah. It's -- I think, yeah.

BENDER: If one develop --

BAZALA: I suppose in some cases of the County with their own County road projects, the County could use this as well. But typically if development happens, the developer is responsible for frontage improvements. There's always exceptions to that.

BENDER: Both sides of the center line, so he's only really abutting one side?

BAZALA: Usually -- well, again, I'm not an engineer, but typically we don't require applicants to build two sides of a street. I guess there could be some circumstances, but it's very rare. So basically they'd build a half-width.

MORASCH: All right. Any other questions for Jan? And I can't remember, did we ask, does anyone in the audience want to testify about this item? No. All right. Are we ready for a motion then?

JOHNSON: I make a **motio**n to take staff recommendations on Item No. 26 adding the urban collector option classification to rural conversion table.

WRIGHT: **Second.**

MORASCH: Moved and seconded. Any further discussion? All right. Can we get a roll call, please.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. No. 26 passes.

Are you okay to keep going with three more? All right. We will continue then with Item 27.

BAZALA: Okay. This is a proposal to limit amendments to the shoreline master program to once a year. State regulations outline the process as to preparing limited amendments to the shoreline plan, but they don't indicate a timeline or how often it's supposed to occur. So the proposal is to limit these types of amendments to once a year saving staff time and providing some certainty as to when these occur. Department of Ecology and staff are in support of streamlining this and providing some certainty. So that's the proposal on that.

MORASCH: Just are there applicant-driven amendments to the shoreline master program or is this just County? You're nodding. There are applicant. And if so, would this set up, like, the same type of annual review type process where you've got to file them all and do your pre-app before the year and how is that all going to work?

COOK: Well, that's a good question and I don't think it sets forth the same code-mandated procedure as with annual reviews for comp plan changes. One of the developer-driven exemptions -- or shoreline permits -- shoreline changes came in just this past year when somebody wanted to increase the amount of space or either decrease a buffer or increase the encroachment on a buffer that they were allowed to set up, I think, an outdoor patio on a restaurant establishment of some sort, so that was developer-driven.

We've also had some that had to do with exemptions for filling and dredging. It also came from development proposals where there was more hassle than people thought there should be, so it's varied.

MORASCH: Okay. Has this gone to the DEAB?

BAZALA: Yes.

MORASCH: And what did the DEAB say?

BAZALA: They were okay with it.

MORASCH: Oh, all right. Well, what would the process be? I mean, how is an applicant going to know when they can file by and -- I mean, if I file in January and mine gets reviewed, does that mean nobody else in the rest of the year can file one?

COOK: Window.

MORASCH: I mean, it seems like there should be a process where they all get bunched together and everybody knows in advance these are kind of what the rules are and I'm not seeing that in this code.

BAZALA: Well, there's reference to the Type IV application pursuant to Section 40.510.040, so I'm not sure if the timeline is spelled out in that.

MORASCH: Okay. I don't have that section in front of me. What does that section say?

BAZALA: I don't have it in front of me either.

COOK: Type IV's in general are legislative changes.

BAZALA: So you would like to know the schedule for something like that?

MORASCH: Yeah. The schedule and where it's spelled out so, you know, so we make sure that applicants know what, you know, when these are going to be heard, because with annual review, it's pretty clear in the code. You've got to submit your pre-app before the end of the year and you've got till so, you know, and there's a schedule and I'm concerned you might have a situation where somebody comes in the first half of the year, gets theirs approved and then nobody else can do them for the rest of the year. That doesn't sound fair to me to somebody that comes in in June. I mean, I think there needs to be a schedule in advance so everybody knows what the schedule is. I guess that's my --

BAZALA: Right. So if we were to add this language, I mean are you -- I guess the question is, are you okay with doing this once a year, because they sound like they are rather time consuming?

MORASCH: Well, I'd like to hear from the rest of the Commission. I would be okay with it if there was a schedule that was fair and set forth in advance. I guess I'll open it up to other --

BAZALA: Right. Right. If there's something --

MORASCH: I don't want to dominate the conversation, but...

BAZALA: But something that's already in place that we could just say use the same process as we do for --

QUIRING: And only do it once a year, no more than that.

BAZALA: Yes.

QUIRING: So you're limiting this rather than making any expansion. You're just saying, no, nobody can -- I mean, we'll do it once a year, and you if you miss it this year, it will be a year before you can do it again.

COOK: Yeah.

MORASCH: That's what they're saying and that's currently the way it is with a --

QUIRING: With other --

MORASCH: Well, if you want to do a comp plan amendment, that's the way it is, but that's mandated by State statute that it be that way.

COOK: Be aware that with these shoreline amendments or -- is that what we're talking about?

BAZALA: Yes, shoreline master plan.

COOK: Yeah, amendments, they have to be approved by the Department of Ecology, so it's not just County process that happens here. It's DOE process, and when we have had a couple going somewhat serially, it has been confused shall I say. They don't have, as far as I can tell, much of a time frame when they need to respond and if they're supporting this --

MORASCH: This is the DAHP issue all over again.

COOK: Hmm?

MORASCH: This is the DAHP issue all over again.

QUIRING: Yeah.

BARCA: So I guess I need a little clarification because just looking at the text that we had from the bottom of Page 26 where it says for the purpose of and then on the top of 27, establishing review procedures, criteria and timelines, amendments shall be distinguished as the following. So even in the context of these amendments, if we're talking about procedures, criteria or timelines in the shoreline master program, I don't think that I gathered from that that we were talking about people applying for some type of development inside the shoreline plan that they're actually asking us to change our criteria.

I thought that the way that this is worded is we were talking about how we, as the County entity, went about doing the reviewing procedure, doing the criteria and those timelines about when we would update or change that. So I'm a little bit confused based on how you asked your question and then staff responded.

MORASCH: I heard the answer was that these types of amendments are sometimes frequently, occasionally applied for by applicants, and the concern is they don't want to have one coming in early and one coming in late and then they're doing two and they want to have them all done at once, which I'm okay with, but I'd like to see a set schedule in advance so everybody knows when they're going to happen.

COOK: I should clarify that. I don't believe the amendment is ever applied for by a private party, but is it sometimes driven by a private party? You bet. You know, it's something that the County applies for, writes up, presents to DOE and then argues about with DOE, if necessary, but they are --

MORASCH: So technically the County --

COOK: -- frequently --

MORASCH: -- is the applicant. There's not an applicant like with a --

COOK: Oh, no.

MORASCH: -- like with an annual review?

COOK: Oh, no.

MORASCH: All right. I still think we need a schedule that everybody knows in advance that this is when you come in to get these things done so we don't have an issue with --

JOHNSON: It would have to be once a year they're going to have to say.

COOK: Yeah.

MORASCH: Well, but as I'm reading this right now, somebody could come in and the County could decide in January, hey, we're going to make this amendment because it's needed now and they do it and that would preclude them from doing any other amendments --

JOHNSON: Later.

MORASCH: -- that year until the following January, and that's really not providing certainty to the development community because you never know when it's going to happen because, you know, this year maybe somebody decides to push the County in January. Next year maybe nobody decides until December to try to get something done. I think there needs to be a set schedule that everybody knows what it is so that people aren't surprised.

BAZALA: Yeah. And it's not written here, but my understanding when this was brought to me is that that was the intention, to have a set schedule, like this is when we do it, something like that.

MORASCH: And I would like to see it codified. I would like to see it written in the code.

BAZALA: I think that's a --

MORASCH: So that anybody that wants to know what it is looks up the code and sees that this is the schedule.

BAZALA: That is absolutely a good idea.

COOK: Yeah. There's nothing in the reference code section here that provides the schedule beyond, you know, notice and staff reports and so forth, so...

BARCA: And so it's not in here, but I think that's the way they handle it.

MORASCH: And I guess I would be supportive of this if there's an amendment that adds a schedule, and I don't think we need to say what the schedule is here. That's for the Board to decide. But I think they need to adopt a schedule and put it in their code if they're going to limit themselves to doing this type of thing once a year.

BARCA: It sounds like a motion.

JOHNSON: Let me try. On No. 27, I **move** that we accept staff recommendation to limit amendments to the shoreline master program to once a year plus a date-specific schedule added to that, some type of date-specific schedule.

BARCA: **Second**.

MORASCH: All right. It's been moved and seconded. Any discussion? Hearing none, we'll take the roll call.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. 27 passes. Now we're on to 28.

BAZALA: All right. This is a proposal to eliminate SEPA review requirements for shorelines exemptions that are located within flood hazard areas. Development within shorelines requires review under the County shorelines code. Certain types of development require actual shorelines permit or a conditional use, other developments still have to go through review, but if they're exempt from obtaining a substantial development permit or a conditional use permit, they are granted an exemption that still requires review and we still apply the shorelines code as necessary or as applicable.

The submittal requirements are generally less stringent for those types of shorelines exemptions. And so a few years ago, the code was changed to exempt shorelines exemptions from SEPA review and the intention at the time was to exempt all exemptions, all shorelines exemptions from SEPA, but there's still remaining language in the floodplain section that catches shorelines exemptions that are located within the floodplain.

So it seems to staff that there's little to -- well, very little purpose that SEPA serves, because the development still has to go through the shorelines review and there's a lot of criteria in the shorelines so we have lots of looking at it from lots of different angles. And if they're in the floodplain area, they still have to get a floodplain permit, so... Well, they have to go through a floodplain review. They may or may not need a permit.

So at the work session, Gordy thought that FEMA had some heartburn over this a few years ago. I contacted them and they said that they did not have heartburn over it. They said as long as we're requiring floodplain review when we're supposed to, that they were fine with this, so that's where it sits.

MORASCH: All right. Any other questions or any questions for Jan on Item 28? Anyone in the audience wish to testify on Item 28? No.

All right. Well, if there's no questions and no one wants to testify, does someone want to make a motion?

WRIGHT: I'd **move** that Item 28 eliminating SEPA requirement -- review requirements for shorelines exemptions located in flood hazard areas be approved.

BENDER: **Second**.

MORASCH: All right. Moved and seconded. Can we have a roll call, please.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. 28 passes. That brings us to the last, Item No. 29.

BAZALA: Okay. This is a proposal to process cell tower applications as conditional uses in the

Highway 99 overlay area. This item has also been revised and it's in your amendment today. So wireless communication facilities - let's just call them cell towers - they're conditional uses in all urban single-family, multi-family and commercial zones when they're outside of the Highway 99 overlay area; however, the Highway 99 overlay standards allow a large number of -- well, it allows most uses that are listed as conditional to be permitted uses.

I think the idea is to facilitate, you know, to facilitate some uses given the fact that they've got Highway 99 overlay stuff that they have to deal with. So there are some conditional uses that are still listed as conditional uses, and I've also provided a list of conditional uses in residential zones and commercial zones, so some uses are still conditional in Highway 99, but cell towers are not in that list.

So basically as it reads now, Highway 99 you can go through cell tower review and arguably not have to have a public hearing for it. So it seems to staff that they should be. So it was revised because my initial proposal under Attachment A, I thought this code reference was only in activity centers, but it is true through all portions of Highway 99, so all of them exempts most conditional uses, including cell towers, from going through a conditional use permit.

MORASCH: All right. And how did this issue come to staff's attention?

BAZALA: I think somebody had an inquiry about a cell tower, and it wasn't me but it came to my attention, and it was, like, look at Highway 99 appears to exempt all these conditional uses including cell towers from conditional use permit requirements and everywhere else in the County you've got to go get a conditional use permit for it and would be subject to a public hearing.

MORASCH: Has anybody sited any cell towers in Highway 99?

BAZALA: We have not.

MORASCH: Because, I mean, my recollection was Highway 99 was sort of form-based code which we were going to allow all the uses, but you had to meet all the very restrictive development standards or get your departures, so I'm not sure that the cell tower was an oversight because, I mean, I remember when that was adopted. Well, any other -- anyone else have questions?

All right. Well, then we -- did you have a question or should I open it up to the --

BARCA: No, please open it up.

MORASCH: Okay. Then we will open it up to the public hearing for Item 29. Is there anyone in the audience that wishes to speak on Item 29? No one?

Okay. Well, then I will close the public hearing and bring it back to the Planning Commission for deliberation.

WRIGHT: Well, I think the point you raised is very interesting about the form-based code seeking to depart from the stringent, you know, definition of what can and cannot occur. It would appear it is not an oversight that it wasn't included in the original Highway 99 overlay ordinance and right now, I'm not seeing a forest of towers out there and is there any pressing need really to change this? Probably not.

MORASCH: I would tend to agree with that. I mean, if Highway 99 was reopened to look at, you know, broader issues, I might be more willing to support making it a conditional use in exchange for relaxing some of the development standards, but I'm probably not supportive of just making it a conditional use without that broader discussion.

QUIRING: I tend to agree with that.

MORASCH: Is there any other discussion or are we ready for a motion?

BARCA: I'm sorry. I'm looking at the last sheet of the Attachment A and it has two lists that says: List of conditional use permits in residential zones exempt from conditional use requirements, and then it's got a list of conditional use permits in commercial and mixed use exempt from conditional use permits requirements and these are both in the Highway 99 overlay and should I be expecting to see cell towers on this? The wording is catching me a little --

BAZALA: No. That list was created just so you could see the types of things of conditional uses that Highway 99 does not require.

BARCA: Allows.

BAZALA: Allows permitted without a conditional use permit.

BARCA: Okay. Okay. So is this a full and comprehensive list or is this just examples?

BAZALA: Pretty much, yeah. I went through all the tables and listed all the conditional uses in those chapters.

BARCA: Oh. And on the very back page where it says private use heliports.

BAZALA: Yeah. So, you know.

BARCA: It's bolded for some reason.

BAZALA: Well, yeah, I was kind of like, oh, my goodness. Wow, you can get a private use heliport on Highway 99.

(EVERYBODY TALKING AT THE SAME TIME.)

MORASCH: Well, because it was supposed to be form-based zoning. It was supposed -- you were supposed to meet the form and then you could do whatever use you wanted as long as you met the fairly stringent development standards.

BARCA: Well, and I think that's cool. It's just that cell towers don't seem to be that big of a deal after the private use heliports.

QUIRING: That's right.

WRIGHT: But you wouldn't want them close together, I wouldn't think.

BARCA: Yeah, it might be the same facility.

BAZALA: Although I don't -- I'm not sure how we would apply Highway 99 standards to a cell tower. It's like we don't know what we would do with them, you know what I mean?

QUIRING: Could look with a palm tree or an Evergreen tree, believe me, those are standards elsewhere.

BENDER: And Jan --

QUIRING: They look pretty good.

MORASCH: That's probably the most commonly requested condition, I think, by the public when someone does build a cell tower. If it has to be there, I mean, at first they don't want it there, but if it has to be there, make it look like a tree or something natural.

QUIRING: The Space Needle.

BENDER: Jan, how far back does this exemption go as far as when it was put into effect?

BAZALA: As far as I -- I think it was in the original Highway 99 code which was adopted in 2009.

BENDER: It's kind of a -- Highway 99 is kind of an open shooting gallery out there then because, I mean --

QUIRING: Not really. Because of their very stringent requirements when you do put anything there, that's why you have to abide by all of these others.

BARCA: Did we address to the public already?

MORASCH: Yes, and we did and we closed it. Nobody wanted to talk on it.

BARCA: Right on. I'd like to make a **MOTION** that we **deny** staff recommendation for No. 29.

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

MORASCH: Moved and seconded. Any further discussion? Hearing none, Sonja, can you give us a roll call.

ROLL CALL VOTE

BARCA: AYE
JOHNSON: AYE
QUIRING: AYE
BENDER: AYE
WRIGHT: AYE
MORASCH: AYE

MORASCH: All right. Thank you very much. That concludes our public hearing.

OLD BUSINESS

None.

NEW BUSINESS

None

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

None.

ADJOURNMENT

MORASCH: Thank you. I will thank everyone, and 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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