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## Clark County Planning Commission

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Matt Swindell

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### CLARK COUNTY PLANNING COMMISSION MINUTES OF PUBLIC HEARING THURSDAY, APRIL 20, 2017

Public Services Center  
BOCC Hearing Room, 6<sup>th</sup> Floor  
1300 Franklin Street  
Vancouver, Washington

6:30 p.m.

#### **CALL TO ORDER & ROLL CALL**

MORASCH: All right. Well, good evening, and welcome to the April 20, 2017, Planning Commission hearing. Could we get a roll call, please?

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

#### **GENERAL & NEW BUSINESS**

##### **A. Approval of Agenda for April 20, 2017**

MORASCH: All right. Moving on to approval of the agenda, does anyone have any changes to the agenda? If not, I'd take a motion to approve.

JOHNSON: Make a **motion** to approve the agenda as stated.

BENDER: **Second.**

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

EVERYBODY: AYE

MORASCH: Opposed?

**B. Communications from the Public**

MORASCH: All right. With that, we will move on to communications from the public. Is there anyone in the audience who wishes to speak to the Planning Commission this evening on a matter not on the agenda?

Seeing no one coming up, we will go ahead and move on to our first public hearing item of the evening, the open space timberland applications, and it looks like we have Hunter and Tyler or Hunter and Kevin Tyler. Which of you is going to take the lead?

**PUBLIC HEARING ITEMS**

**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: Kevin Tyler**

Email: kevin.tyler@clark.wa.gov

TYLER: -- members of the Planning Commission. I'm Kevin Tyler with Clark County Public Works, and I have here Hunter Decker also with Clark County Public Works.

And we have for you tonight a presentation for one application - next slide, please - for the current use open space designation. So one application covering several properties. They've asked for open space soil conservation. The total property acreage is 147.99 acres. It's located west of Clark County Fairgrounds and northeast of Whipple Creek Regional Park. It's currently managed as the Nye Ranch, and the comprehensive plan designation on the property is agricultural over a piece of it and rural residential over a majority of the property with urban designations just to the west of it, so...

Here I have an aerial photo showing an outline of the properties in question. There's, I believe, eight total properties within that red polygon, they're all managed as the Nye Ranch. Next slide, please.

There's the comprehensive plan designation showing you the rural designation. The agricultural is the orange. The urban designation to the west, that's the green slashes are an overlay, that's that area is in urban holding.

MORASCH: East, Tyler.

TYLER: I'm sorry. East. Yes, east. And then to the west and southwest is designated as parks and open space, and most of that property is currently managed as the Whipple Creek Regional Park.

Next slide, please.

So the approval criteria for open space designation soil conservation is that you have tracts of land containing at least or not less than 10 acres of Class I or Class II soil as identified by the local Soil Conservation Service. We know that the Soil Conservation Service no longer exists and it's now called the Natural Resource Conservation Service, the same principles apply, and at least 80 percent of the tract must be in production of food or fiber.

And Class I or II soils, there's different classifications of soils. What that basically means is the land capability classification, and classification as you go down, the classifications from I to, I think, they end around VII, it's the classification is based on soil erosion. So the higher the number, the more likely that the soil is going to erode. And so the thought being that Classification I and II are most appropriate for agricultural types of uses on the land, so that's why the I and II. So, oh, go back one slide, please.

So the property, based on that soil survey, the property includes 3.1 acres of Hillsboro silt loam on 0 to 3 percent slopes, and 57.5 acres of Hillsboro silt loam on 3 to 8 percent slope. So Hillsboro on -- Hillsboro silt loam on the gentler slopes is a Class I soil, and on the slightly steeper slopes, it's a Class IIe soil. I don't remember what the e means, but it still meets the design- -- it still meets the criteria of a Class II soil. So a total on the property is more than 60 acres out of the 147.99, so it meets that criteria of having at least not less than 10 acres of Class I or II soils. Next slide.

So these are just some pictures that my colleague here, Hunter Decker, met with the property owner since our last meeting at the work session and he walked the property with the property owner and he showed him the livestock ranching that they're using the property for. You can see this oblique aerial photo shows the haying of the property, so a large chunk of the property is in hay production for those livestock and then grazing over a majority of the remainder of the property with plans to continue to manage blackberry infestations and create more grazing opportunity on the property.

So by based on Hunter's observation, it meets the 80 percent of the property is in food or fiber production, so livestock ranching and the production of hay, we feel, meets the food or fiber designation, so... Next slide.

Based on those criteria, we feel that the application meets the requirements in the code in Chapter 3.08.050 of the Clark County Code and, therefore, we recommend approval of the application. And we're asking you at this point to then recommended approval to the Board of County Councilors which would be the next step.

Since our work session, we also provided you with some additional information about the current use program, and I'm hoping that that has answered some of the questions that came up during the work session, but if not, Hunter and I are here to answer more of those questions, if you have them.

MORASCH: All right. Thank you.

### **PUBLIC TESTIMONY**

MORASCH: Before we open up the public hearing, does any of the Planning Commissioners have questions for staff? All right. Do we have a sign-in sheet?

While we're getting the sign-in sheet, if anyone wishes to testify that didn't get a chance to sign in, please come down to the microphone and this is the time when I'm opening the public hearing for public testimony on the 2016/2017 current use applications. No? All right. Nobody on the sign-in sheet and no one coming down to the podium.

### **RETURN TO PLANNING COMMISSION**

MORASCH: So with that, I will close the public testimony and turn it back to the Planning Commission. Did anyone have any final questions for staff? If not, I would entertain a motion.

BARCA: So I don't have a question, but I guess I do have a point I'd like to make considering the fairness of the application.

I appreciate the effort that was put in with the photos and explaining the different classes, following in the footsteps of Jim Vandling is a really big deal for the community and the county government itself, and I think we all really appreciated Jim's work and I appreciate the thoroughness of following in his footsteps, so thanks.

TYLER: You're very welcome. Next year you'll see Hunter up here.

MORASCH: All right.

BARCA: By himself, he's going to fly solo?

TYLER: Most likely, yes.

MORASCH: That's right. All right. Any other questions? All right. I agree with what Ron said, definitely a very good job. All right. A motion?

WRIGHT: I **MOVE** the approval of this application as presented.

JOHNSON: **Second.**

GRIMWADE: I'll Second.

MORASCH: It's been moved and seconded. Any further discussion of the motion?

BENDER: Yeah, I have a little bit. One of the things that bothers me is that the owner of the property is going to substantially benefit from a county tax reduction which the neighbors in the district, tax district, will have to pick up the difference. That seems like it's not a fair situation as far as who benefits and who loses on this. I know the County benefits from the standpoint that we get to keep land that's productive in its current state.

The second thing that I don't really feel good about is that some time down the road, they're going to want to develop their property and there will be penalties and interest and back taxes to be paid which go to the County coffers, and I feel that at least the principal taxes were paid by the surrounding taxpayers should benefit from that but they don't; therefore, I feel that there's an inadequacy here and I just wanted to put that on the record.

MORASCH: Any response from the members of the Planning Commission?

BARCA: I think the State, when they passed the law, was looking at the context of something for the greater public good, and I think we all acknowledge that there's a deferral of the costs based on what land is remaining to be taxed. But I think if we look at the idea of the benefits to the environment and to keeping in timberland in production, agriculture land in production, I think the intent of the law is working fairly well based on what we can look at for our historical records about how great Clark County's participation is.

So I think the benefit is there and every tax district has some of these, every tax district picks some of this up, and so I think the fairness is in the outcome.

MORASCH: Yeah. I agree with what Ron just said.

I would also add that I think to the extent there is an issue - and I'm not saying I think there is - but to the extent there is, I think the issue is with the legislature for adopting the statute, not with this particular application, because I think staff did an excellent job and it meets the criteria.

So, you know, the issues, you know, about fairness to the other taxpayers and, you know, an overall fairness, it seems to me like that is more of an issue for the legislature arguing that the statute should be amended, as opposed to an issue pertaining to this particular application.

Does anyone else have any comments?

WRIGHT: Well, I probably shouldn't say this, but fair is irrelevant. It's legal and it's policy and fair is a very intangible term. It depends on whose ox is being gored and whose perspective is looking at it, so I say let's stick with the legality.

MORASCH: Kevin, did you want to respond to any of the comments you've heard? I'll give you that opportunity if you do.

TYLER: Not really, no.

MORASCH: I didn't think so, but I just wanted to make sure that you had an opportunity.

TYLER: I would say that, you know, we've provided you with the report from I think it was 2012 that shows the statistics of the program and I know that I've talked with Community Planning and, you know, I think we all agree that it's probably time to look at the program again and see, you know, what are the statistics and what is the benefit to the County, but, you know, that's not up to us to decide if we're going to do that or not, so we'll see what the Council has to say.

MORASCH: All right. Any other comments from the members of the Planning Commission? All right.

Sonja, could we get a roll call on the motion, please.

**ROLL CALL VOTE**

BARCA: AYE

SWINDELL: AYE

JOHNSON: AYE

GRIMWADE: AYE

BENDER: AYE

WRIGHT: AYE

MORASCH: AYE

MORASCH: All right. Well, passed unanimously. Thank you very much for your work. And I guess, Hunter, we'll look forward to seeing you again next year.

DECKER: Yeah, and you will.

TYLER: Thank you for your time.

MORASCH: Thank you.

**PUBLIC HEARING ITEMS, continued**

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

**CPZ2017-00005 Shoreline Master Program:** The proposed amendments would revise the composition of the Shoreline Management Committee, create a substantial development permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act, and add new state requirements for dock construction and floating on-water residences.

**Staff Contact: Gary.Albrecht@clark.wa.gov or (360) 397-2280 x4318**

MORASCH: Moving on, the next public hearing on our agenda is the 2017 annual amendments amending the 20-year growth management comprehensive plan and zoning map and it's amendments to the Shoreline Master Program. We have Gary Albrecht, would you like to give us a staff presentation.

ALBRECHT: Thank you, Chair. Good evening members of the Planning Commission. For the record this is Gary Albrecht, Clark County Community Planning.

I'm here tonight to discuss CPZ2017-00005, Shoreline Master Program Limited Amendment. Just to give a quick background, Clark County adopted an updated Shoreline Master Program in July 2012. It was approved by Washington State Department of Ecology in August 2012. SMP policies are included in Chapter 13 of the comprehensive plan. SMP regulations are included in Clark County Code Chapter 40.460.

The proposed limited amendments would revise the composition of the Shoreline Management Committee, create a substantial development permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act, add new State requirements for dock construction and add a new class of floating on-water residence.

During our work session on April 6th, 2017, the Planning Commission wanted more information about floating on-water residence. And the question was is could a sailboat be a floating on-water residence? So I had some conversations with Department of Ecology about that question and a sailboat is considered a live-aboard, and floating on-water residences are those things other than a floating -- a live-aboard, it's more like a floating home, a barge is an example they gave me. We received one SEPA comment from the Friends of Columbia Gorge.

And just to wrap this up, based upon the information in the findings presented in the staff report in Exhibit 1, staff recommends the Planning Commission forward to the Board of Clark County Councilors a recommendation of approval on the limited amendment to the Shoreline Master Program. And that's it for my presentation. I'm here to answer questions.

MORASCH: All right. Thank you. Anyone have any questions?

BARCA: Gary, I never saw a County rebuttal to the Friends of the Columbia Gorge. Was that something that was put out and I missed it?

COOK: Christine Cook for the Prosecuting Attorney's Office. I received a copy of the letter from Friends of the Columbia Gorge and was a little puzzled by it because it didn't have any specific criticism of the County's -- of the responsible official's decision to issue a DNS, a Determination of Nonsignificance, in this case, and it wasn't an appeal.

So I was curious as to what they were about and I gave the author of the letter a phone call and asked, and he said, well, we just wanted to make sure that the responsible official had considered whether there is -- was it more than a moderate probability or something or more than a reasonable probability that this would have more than a moderate effect, adverse effect on the environment. So I said, okay, I believe the responsible official did consider whether there would be adverse impacts and concluded that there would not be adverse impacts by reason of adopting this legislation, which most of which is simply to implement State law.

So I don't regard this as anything that needs to be rebutted. Mostly it is a general statement of 40-year-old case law and really doesn't speak to the matter before you at all.

BARCA: Well, if that's their final outcome after the conversation, I'll accept that. The letter itself seemed like they were really saying the designation of nonsignificance is not what they thought should have been appropriate, that was the way I kind of read it. But they also didn't appeal.

COOK: Well, if you'll scroll down to the last paragraph of the letter, there it says the legal trigger is more than a moderate effect on the quality of the environment. Proposed amendments would change the composition of the Shoreline Management Committee. I said, well, how does that have an adverse impact? Create an exception to allow retrofits for the ADA. I said -- anyway I went through the whole thing. I said, which of those do you contend or are you saying creates an impact, because in this letter here, it doesn't say that anything actually would have more than a moderate effect on the quality of the environment.

BARCA: Okay.

COOK: So, you know, they need to be a little more explicit than that, if they are going to critique the action.

BARCA: That's fair. I mean, the way that it's written compared to as you describe the outcome of the phone call I think kind of puts it in perspective. No follow-on action is to be expected and nothing is pointedly out-of-line.

COOK: That's my conclusion.

MORASCH: And we're as a Planning Commission are not called upon to make a SEPA determination here, are we?

BARCA: No.

COOK: No. The responsible official is Dr. Orjiako. He's made the SEPA determination. If the Friends of the Gorge wants to appeal the DNS, then that would go before the Board of County Councilors, but so far they've said that they don't, because I asked.

MORASCH: Okay. All right. Any other questions? Thank you. All right.

### **PUBLIC TESTIMONY**

MORASCH: Well, with that, I'll open up the public hearing. Is there anybody on this sign-in sheet? No one signed our sign-in sheet. Does anyone in the audience want to come down and give testimony?

### **RETURN TO PLANNING COMMISSION**

MORASCH: Seeing no one, we will now close the public hearing, and I will turn it back to the Planning Commission for any further questions or deliberation. Hearing none, I would entertain a motion.

JOHNSON: I **MOVE** that we accept staff recommendation on the Shoreline Master Plan Limited Amendment.

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

MORASCH: It's been moved and seconded to accept the staff recommendation. Is there any discussion on the motion? All right. Could we get a roll call, please?

### **ROLL CALL VOTE**

BARCA: AYE

SWINDELL: AYE

JOHNSON: AYE

GRIMWADE: AYE

BENDER: AYE

WRIGHT: AYE

MORASCH: AYE

MORASCH: All right. That motion passes unanimously. Thank you, Gary. That brings us to old business, and it looks like our approval of the minutes did not get on to our agenda. So I'm going to ask, does anyone have any changes to the minutes from the March 16 hearing?

MORASCH: And, if not, I would take a motion to approve the minutes.

BENDER: I make a **motion** that we approve the minutes of March 16th.

BARCA: **Second.**

MORASCH: Moved and seconded. All in favor?

EVERYBODY: AYE

MORASCH: Opposed? All right. The minutes from our March 16, 2017, hearing have now been approved.

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

None.

### **COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION**

None.

### **ADJOURNMENT**

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

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

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

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

*Minutes Transcribed by:*

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