

CLARK COUNTY PLANNING COMMISSION
THURSDAY, JANUARY 20, 2011

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

6:30 p.m.

CALL TO ORDER

DELEISSEGUES: Good evening everyone. I'll call the Clark County Planning Commission to order for January the 20th, 2011. Happy New Year. So may we have roll call, please.

VARTANIAN: HERE
BARCA: HERE
USKOSKI: HERE
ALLEN: PRESENT
WRISTON: ABSENT
DELEISSEGUES: HERE
MORASCH: ABSENT

Staff Present: Chris Cook, Prosecuting Attorney; Marty Snell, Community Development Director; Gordy Euler, Planner; Jan Bazala, Planner; Jose Alvarez, Planner; Alan Bogulawski, Planner; Marlia Jenkins, Program Manager; and Sonja Wiser, Administrative Assistant.

Other: Cindy Holley, Court Reporter.

GENERAL & NEW BUSINESS

A. Approval of Agenda for January 20, 2011

DELEISSEGUES: We'll have approval of the agenda for tonight and I understand there's a change in the order, we'll take Item C, adoption of changes to the Clark County code reflecting the County's ongoing effort at retooling our code first, and then we'll go back to A and B.

EULER: Actually that was going to be second.

DELEISSEGUES: What?

EULER: Second if you would. A, C, B.

DELEISSEGUES: A, C, B, yeah.

EULER: If that's all right.

DELEISSEGUES: With those changes, any other changes to the agenda?

VARTANIAN: I move that we accept the agenda as amended.

ALLEN: Second.

DELEISSEGUES: All in favor.

EVERYBODY: AYE

B. Approval of Minutes for November 18, 2010

DELEISSEGUES: Are there any additions or corrections to the minutes for November the 18th?

VARTANIAN: Move we accept the minutes as presented.

ALLEN: Second.

DELEISSEGUES: All in favor say aye.

EVERYBODY: AYE

C. Communications from the Public

DELEISSEGUES: Are there any communications from the public tonight on any issue that is not on our agenda? Okay, seeing none, we'll move, then, to A, is that correct, A first, which is amendment to special uses section on retirement housing. Staff report.

D. PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION:

AMENDMENT TO SPECIAL USES SECTION ON RETIREMENT HOUSING:

The Board of County Commissioners adopted a new special uses section of the code (CCC Section 40.260.190) on retirement housing in July, 2010. The proposed amendment would permit adult care facilities in any zone where residences are permitted, subject to the other provisions of Section 40.260.190.

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EULER: Thank you, Mr. Chairman. For the record I'm Gordy Euler from Community Planning. The hearing tonight is on code change items in the County's retooling our code

effort, these are Batch 2B items. You had a work session on these items two weeks ago and there are eight items on the agenda tonight and I'm going to turn it over to Alan to present the first one.

BOGUSLAWSKI: Good evening, Planning Commission. My name is Alan Boguslawski, I'm a planner with the Department of Community Development. And you will recall that in Batch 1 of our code changes, we updated the code provisions for retirement housing consisting of adult family homes, assisted living facilities and nursing homes and in their action on Batch 1 the Board of County Commissioners did adopt the changes as recommended by the Planning Commission with the exception that they added assisting living facilities as a permitted use in all of the commercial zones.

The additional changes to retirement housing being brought forward by staff at this time involve only the adult family home provisions. In the Batch 1 adoption "adult family homes" were defined and identified as a separate permitted use in specific residential zones. They were defined as follows: The adult family home means a single-family dwelling or duplex licensed as such by the State of Washington housing a maximum of six residents where staff assumes the responsibility for the safety and well-being of the residents.

Care is provided by staff and may include provision of meals, laundry and assistance with activities of daily living and may include nursing care. Staff may or may not reside in the same dwelling.

Prior to the adoption of these changes adult family homes were permitted in the county only through building permits, but were simply considered single-family residences in the development codes in Title 40. So in effect in calling out adult family homes as a separate distinct use, staff had to consider in which zones they would be most appropriately located and we expected that would be those residential zones where we wanted single-family housing to be located.

However, since adoption of the Batch 1 ordinance we've discovered that there is also demand for existing single-family residences in nonresidential zones to be licensed as adult family homes. So the question before you now is essentially is there any reason that any single-family dwelling regardless of where it exists would not be appropriate for licensing as a single-family home.

So the amendments before you for action this evening, proposed changes that would result in adult family homes being allowed anywhere a single-family dwelling would be allowed including agriculture, forest, rural center, urban reserve, commercial and urban holding zones. In the commercial zones they would be allowed in existing dwellings only because new single-family dwellings are not a permitted use in the commercial zones.

That concludes my presentation on that topic and I'm available for questions if you have any.

DELEISSEGUES: Questions?

VARTANIAN: I take it if we make a modification and whatever happens, they still have to meet the traffic requirements and all that good stuff?

BOGUSLAWSKI: The regulations that did pass regarding adult family homes, yes, that would apply in those additional zones as well.

VARTANIAN: Thank you.

DELEISSEGUES: Any other questions? Milada, do you have anything? It just seems like at the workshop we talked about whether or not it's appropriate to have an adult family home where there might be incapacitation, handicapped people and so forth that are prone to illness that are often put in these homes because people can't take care of them way out in the rural area that are so far away from any medical assistance or hospital.

I mean it seems like there ought to be some conditions on where you put them and not just permitted but --

BOGUSLAWSKI: Well, the question probably is in those rural areas, yes, there may be situations where they are more remote, but there are also situations where they are close to the rural centers or even satellite facilities, emergency care facilities and so forth, and so is regulating it by zone the appropriate way to do it.

It's part of the question I think you need to ask. If we do it as we did, and that's what we discovered, by just making them a permitted use only in the urban residential zones, it precluded them from being in any other zone and that's where we discovered that that's essentially a change in policy.

Because before when they were permitted anywhere where a single-family home could be allowed only through the building permit process and they weren't regulated as a separate use from that, they were allowed in these same places. And we currently have probably over 300 licensed single-family homes or licensed adult family homes in the county, in the cities as well as in the rural areas, I haven't done a study.

DELEISSEGUES: Are there a lot of them out in the rural area?

BOGUSLAWSKI: There are some in rural areas, I haven't done a study to determine how many are exactly where.

DELEISSEGUES: I would guess that the people that are looking for the conditions that they want met in a family home would take that into consideration and probably not put people way out where they might need emergency treatment or help.

BOGUSLAWSKI: Yeah. The concern that you bring up is very valid and it might be self-regulating.

DELEISSEGUES: Yeah, I think that's what it probably would be.

ALLEN: Now the adult family homes, those are the ones that are one to six people or one to six occupants per that dwelling unit; is that correct?

BOGUSLAWSKI: A maximum of six residents under care.

ALLEN: So that's why as the Commissioner just pointed out that he had that particular concern before, but I wasn't speaking up on that until I heard the fire marshal saying that when it's a single dwelling unit, they do not require sprinklers. And of course sprinklers do not save lives, they just buy you some extra minutes to get out of that house. But with the people in wheelchairs or those who cannot get out on their own in an adult family house, it's a little bit more difficult.

So I do share the concerns now with the Commissioner because that is a big consideration, especially out there in the outlying areas where the services are far away. But because it's only one to six people maybe, just maybe, it's okay, but if it would go above six, then we should look at it closer as far as the commercial or the industrial areas are concerned too.

BOGUSLAWSKI: If they were to exceed six, that puts them into the category of assisted living facility --

ALLEN: Facility, right.

BOGUSLAWSKI: -- and there are additional regulations and more limited zones that those can be allowed in.

DELEISSEGUES: Well, thank you for your testimony, appreciate it. So point of order, do we want to take these one at a time and approve them or batch them?

EULER: Yes, Mr. Chair, this was actually advertised as a separate hearing so you need to deal with this one first.

DELEISSEGUES: Okay. If there's no questions, any discussion amongst the Commissioners? Any testimony from the public? Our sign-up sheet is just "retooling the code" which was the only sign-up sheet we had and so I can't tell if anybody wanted to discuss this item or not. If you do, come forward; if not, we'll move ahead. Okay. Could you state your name and address for the record, please.

PUBLIC TESTIMONY

CRUMMETT: My name is Sam Crummett. I'm with the City of Battle Ground. And I submitted a letter into the record recently on behalf of the area cities and I apologize for the late submittal of that, the last signature just came in a few hours ago so it wasn't

intentional in any way.

DELEISSEGUES: Could you pull that microphone a little bit closer.

CRUMMETT: Sure.

DELEISSEGUES: Just move it closer to you.

BARCA: That was a lot better.

DELEISSEGUES: Thank you.

CRUMMETT: I'll provide just some brief testimony on behalf of the City of Battle Ground, the letter speaks for its own for the other jurisdictions. The primary concern on behalf of the City is the intensification of the rural centers through the introduction of new commercial uses and the increased density in residential. The introduction of these uses --

DELEISSEGUES: Excuse me. Just to be clear, are you talking about the issue that we're discussing right now, adult home?

CRUMMETT: No, this is on, and I apologize if this isn't the right time, but this would be under Item B on the agenda, specifically changes to rural center commercial uses.

DELEISSEGUES: Well, we're not on that one yet, but since you're there go ahead and we'll try to remember what you said when we get around to that one. Go ahead, I'm sorry.

CRUMMETT: Thank you. In respect to the introduction of some of the new commercial uses, the concerns that we pointed out was with the introduction of these new uses it does seem that this would change the character of these rural service centers. The County comprehensive plan is fairly clear, also State law is fairly clear, that these are to be limited in certain types of use and primarily serve the agricultural areas and provide that rural character. There is some concern that with these new uses it would compete with cities urban uses.

And then the larger issue, though, does come down to capital facility planning and comprehensive planning. With the incremental introduction of these new uses, it would create more of a demand for capital facilities in these areas and it's not clear whether some of these rural service centers can provide those necessary capital facilities such as water, sewer, transportation, stormwater.

And then to conclude, we feel like the best way to handle some of these uses are in terms of a vision for the rural service center is to open that up during the next comprehensive planning cycle which is scheduled for 2014. That way both the cities and the county could look at things like land capacity, a vision for these areas, how services could be provided, those types of questions, but there is concerns with kind of going in this fashion of

introducing uses without maybe not knowing how to serve those uses.

DELEISSEGUES: Questions?

BARCA: I'll wait until we actually get to B. You're sticking around, aren't you?

CRUMMETT: Sure.

DELEISSEGUES: Okay. Thank you. We've got copies of your letter so appreciate your testimony.

CRUMMETT: Thanks.

VARTANIAN: And all these mayors are in agreement?

CRUMMETT: All the mayors have signed and read the letter.

VARTANIAN: Thank you.

DELEISSEGUES: Okay, thanks. Does anyone in the audience wish to testify specifically about the adult homes? If none, we'll return it to the Commission. Discussion? Questions? Deliberation?

Return to Planning Commission

BARCA: Well, I thought we brought up a couple of points already that were more to the instruction of how the facility was sited rather than the context of in zoning. I mean I can see a care facility or adult home in a commercial setting and it be just fine, easy access, okay for the clients capable of walking to be walking and walking safely.

I can also see it being a nightmare based on what kind of transportation logistics is surrounding the commercial zone. The same holds true in a residential zone, you can be in a place with no sidewalks and it not be a good environment for people to move about, no good access for families to park.

So the way I'm kind of leaning on this is this really isn't a zoning issue for us as much as it's one on wondering how staff is going to go about the decision-making process for the siting of it and whether it's adequate or not or do we even put those safeguards in.

We could let the market decide. People put in an adult care facility that doesn't treat the clients with enough amenities and the families with enough comfort for them, they'll vote with their pocketbook and not go there, maybe, or maybe they lower their prices enough to make it acceptable for some people.

So I'm not looking at this right now from the standpoint of saying one zone is going to offer some sort of benefit over another. I kind of look at it from the standpoint that if we have an

existing home and somebody's going to invest the money to try and turn it into a business, we let the market forces and the will of however the Planning Department is now looking at it to try and make the determination.

DELEISSEGUES: It doesn't look like they'll look at it very long if it's permitted, it's not conditional.

BARCA: Yeah.

ALLEN: On the other hand the demand exceeds the supply and the foster adult homes and even though we have 303 licensed throughout the county, that is way below the need that's out there. So I can see why this is happening at this level very quickly to get it out there on the books, but we do need those.

And I believe that we already have those licensed homes in some of the commercial and industrial zones as well. They may be nonconforming but they're there. So to me that is a very big concern, but maybe that would be better addressed later on when we have some more time to look at this.

BARCA: How would we look at it later?

ALLEN: There are several different task forces that are working on the aging population databases as well as needs assessment, they are not ready to come forth with some of the numbers right now. So as it is right now I don't see any other option than what we have in front of us today, although I am concerned about some of the outlying areas and access for medical and other services or response time. Not access, response time.

Also I'm concerned about those not being sprinkler, but on the other hand because there is such a huge demand and a very low supply of those foster homes available right now, it would be cost prohibitive for them to go through a conditional use permit. And the level of review would be much quicker and much more efficient and faster for them to go through as is proposed today, but however, this issue does need to be addressed in the future.

VARTANIAN: I have a question of staff. In the process of licensing these facilities does the State have any requirements having to do with amenities and what have you?

SNELL: My understanding is that, yes, that's the case. Marty Snell with Community Development. This really is a result of an oversight in Batch 1 amendments where we did not take this issue up for the amendments related to retirement housing.

The adult family homes are limited to six or fewer unrelated adults, they are required to obtain some kind of operating permit from I believe it's Social and Health Services, they do refer applicants to the County for building and zoning compliance, and we do pick these up when people typically they are converting an existing single-family home and they have to make some exiting or access or parking modifications to the existing single-family dwelling to make the adult family home work.

So this doesn't I don't think overly burden our infrastructure system and certainly where we have this limited to certain rural centers with existing homes and not new homes and in other urban zones where we allow single-family, we would allow the adult family home as well. At a State licensure review and then through the building permit process, there is the State and then a local government review.

VARTANIAN: Yeah, I realized that portion of it, but I was thinking more in terms of the area like Commissioner Barca was mentioning, does the State licensing take into account the mobility of the people who are going to be living there and is there reasonable walking areas and can they get to the market if that's where they have to go to, you know, sidewalks and whatever else have you?

SNELL: I do not know that.

ALLEN: They do have classifications of Level 1, Level 2, Level 3 licensed homes and Level 3 of course is total incapacitation.

VARTANIAN: Well, yeah, but that has to do with the type of resident. All those have to do with the type of resident.

ALLEN: Correct. But some of them are not licensed to handle Level 3.

VARTANIAN: I understand that. But I'm not so much concerned about what's going on inside the building as much as I'm concerned about can people get from one place to another place out the front door.

SNELL: Oh, just in terms of on-site mobility and access?

VARTANIAN: Yeah. Well, not on-site. I mean if there's someone --

SNELL: Oh, to area amenities, sure.

VARTANIAN: -- who wants to go a block and a half to the Safeway are there sidewalks, that kind of stuff, is that part of the licensing?

SNELL: No. But I know of an adult family home on what used to be a rural county road, it's at the edge of the Vancouver area, and there's no sidewalks, it's a two-lane County road, it's on probably an acre. I imagine that they have with their own services or family assisting the folks in the home, they shuttle their trips.

VARTANIAN: Okay, thank you.

DELEISSEGUES: Any other discussion? Motion?

BARCA: I will make a **MOTION** to adopt the recommendation from staff.

USKOSKI: I'll second.

ALLEN: Second.

DELEISSEGUES: Moved and seconded. Any discussion on the motion? If none, can we have roll call, please.

ROLL CALL VOTE

VARTANIAN: AYE
BARCA: AYE
USKOSKI: AYE
ALLEN: AYE
DELEISSEGUES: AYE

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION, continued

ADOPTION OF CHANGES TO THE CLARK COUNTY CODE REFLECTING THE COUNTY'S ONGOING EFFORT AT 'RETOOLING OUR CODE':

The county began a process in 2009 called 'Retooling Our Code', with the intent of streamlining the code and making it easier to use. Proposed code changes have been grouped into 'batches'. Batch 1 changes were adopted in July, 2010. Batch 2 proposed code changes have been split in to Batch 2A (heard by the Planning Commission in November 2010) and Batch 2B. This hearing is on narrow lot standards.

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DELEISSEGUES: Okay. With that we'll move to Item C which is part of the adoption in retooling our code left over from November and the issue I think is on narrow lot standards; is that correct?

EULER: That's correct, Mr. Chairman. And thank you again. Jan is going to give the staff report and make the presentation.

BAZALA: Okay, thank you. Jan Bazala, Development Services. I'll direct you to on board with me in the other staff report for the specific narrow lots issues hopefully. As you're aware County code allows for single-family development in the multi-family zones and this development can be either attached which are town homes or detached which is just a regular stand-alone single-family home.

In order to meet the densities that are required in these higher density zones, the lots are

basically required to be more narrow than a standard single-family lot would be and each lot typically has its own driveway so the closely spaced driveways can create problems with sidewalks and lack of parking among other things.

Now the issues regarding these narrow lots have been on the Board's radar screen since at least 2006 and although some of the focus of the current retooling our code work has been to simplify the code, these long-standing issues surrounding narrow lots aren't easily solved in a real simple way. So the approach we've taken is to eliminate the existing townhouse section which is Section 260 or 40.260.230 and create a new section that's entitled Narrow Lot Standards.

The new section would encompass all single-family development both attached and detached in basically all single-family development that's on lots of less than 40-feet wide. When we eliminated the townhouse section, there were some gaps in the code that were left and we've filled those gaps for the townhouse ordinance with some changes to the multi-family section.

One other more significant change that we've made in the multi-family section is to eliminate some density overlaps in the ranges for the various zones and we'll get to that a little bit later. Staff worked with the DEAB subcommittee to try to draft some language that will address some of the issues in regards to narrow lots.

Basically what we did we started with the City's code which addresses narrow lots as a starting point and then customized it and tried to remove aspects of it that appeared impractical or unnecessary. The DEAB has provided a letter and they suggest a few changes to the existing proposal in front of you today. So at that I'll try to summarize the high points of the new narrow lot standards code.

And the first few pages of the narrow lots section are basically the existing townhouse ordinance that's proposed to be repealed and then starting on Page 6, start with the applicability. As I stated before this section would apply to newly platted residential land divisions having one or more narrow lots and that would be defined as having width 40 feet or less. Now the standards would apply only to those lots in land division that are less than 40-feet wide. So if some lots are wider, then the standards wouldn't apply.

In order to review these it's proposed that a site plan is required and it would show the width of the streets, sidewalks and landscape buffers which is really nothing new from the existing townhouse ordinance. Parking spaces would need to be shown which is something new from the townhouse ordinance. Also street trees would be required and that would be something new.

Another aspect of the site plan would show solid waste and recycling areas. That would be only if there are some lots that don't have access directly onto the street which a garbage truck may not be able to get down like a driveway, a shared driveway, so solid waste areas would be shown designated for collection.

Location and width of driveways would be shown. Location and dimensions of ADA sidewalk ramps and landings for attached sidewalks at driveway crossings and ADA sidewalk ramps and landings at street intersections whether using attached or detached sidewalks. So that's something new from the existing townhouse ordinance.

Intersection sight distance and applicable traffic control measures would need to be indicated on the plan and the purpose of that is to address the problems with corner lots because oftentimes, well, usually, the lots are very narrow and that can create sight distance issues at corners when the buildings are placed too close to the corners to be able to see enough at the intersections, so we'd want to see how it's proposed to address either stop signs, yield signs, some sort of means to address safe sight distances.

I just noted that there are some issues with corner lots and the section on corner lots would state that the standard dimensions that are allowed in the zone wouldn't apply to corner lots. Corner lots would need to be sized so that they'll meet minimum sight distance requirements and minimum driveway spacing requirements.

Now realizing that the narrow lots have special requirements, it's proposed that the standard details manual be amended to create a new section for these types of narrow lots and basically these would be new technical documents that would consider street layouts and traffic and stop signs, yield signs, various traffic control methods that would control the traffic to a safe level given that the sight distance requirements may not be as large or the sight distance triangles may not be as large as they would be in a standard subdivision layout.

Something else new is that the parking standards would require two and a half spaces for every narrow lot in the development. These spaces can be located on the lot or on local access streets or in common off-street parking areas and the parking requirements would need to be met on a per lot basis. In other words if you had some extra spaces on one lot, you couldn't use those to address the minimum parking requirements for a lot somewhere else on the development.

We've defined what a minimum on-street parking length would be which would be 17 feet. And we've also noted that angled or head-in parking can be provided on local access streets which is something new and we've provided a detail further on in this section that shows how those would be accomplished.

Street trees, there's a provision that each lot would have one tree at least and the idea of that is that when we're encouraging or requiring a higher parking standard, then it's anticipated that we'll get wider driveways, maybe two-car garages on most developments, and in order to reduce some of the impacts of a lot more pavement along the street, we propose that one tree be provided per lot.

And if you can't fit them on a given lot because of utilities and driveway layouts and things like that, then we'll be flexible and work with the applicant to try to come up with a plan that works as long as it meets the intent.

DELEISSEGUES: Just require a bush.

BAZALA: Let's see. We've got some special provisions for alleys. We've got a detail that allows an alley within a narrower right-of-way. Currently the standard alley right-of-way width is 26 feet. We're proposing a 20 foot right-of-way with the 24 feet of cleared area between garages and fences. And if you're proposing that garbage collection be proposed from an alley, then you need to demonstrate that a garbage truck can safely maneuver through the alley.

There's provisions for shared driveways. Right now the code allows for only three lots be accessed off a shared driveway and under these provisions you'll be able to access four lots off a shared driveway. We've provided some new shared driveway details for abutting lots to share a driveway which are further back in the code.

And there was some concern that single-family detached developments would be hampered if we had to show a driveway for each lot because oftentimes it's a little bit more difficult to predict where the homes will be in a single-family detached development, so we've tried to provide some flexibility where the driveway locations would not need to be shown on the site plan.

But in order for staff to know that sidewalks will be ADA compliant, the applicant would have to agree to provide detached sidewalks which will get rid of most of the problems and also that parking requirements would be shown to be met.

Basically if we can't count on them being provided in the street necessarily, then a way of knowing whether the parking would be met would be to designate on-street parking areas that wouldn't be subject to future driveway placements or a provision of off-street parking areas, basically common parking areas that we know would accommodate the extra half space that each lot would need.

Or another way to do it would be to put a plat note that would require each unit to have a dwelling constructed with a two-car garage, that way there would be a total of four spaces, two in the garage and two in the driveway for each lot, clearly meeting the two and a half parking space standards.

There's a provision to deduct lot area needed for sight distance triangles from density calculations so basically if a lot needs to shift their buildings around, then they could get credit for the area that they can't use from their minimum density calculations.

There's some incentives for providing alleys. Basically if an alley is used then minimum lot area, dimensions and setbacks could be reduced provided the privacy between the residential units and the streets are not compromised and provided that they don't violate building and fire codes.

A minimum building setback of eight feet needs to be maintained between the new

structures and the side and rear setbacks around the perimeter development cannot be reduced, they need to maintain these setbacks in the code. Another incentive is to allow the maximum lot coverage to be increased by ten percent over that allowed in the zoning district and also to be able to include the area of the alley easement in the minimum required lot area and counted when calculating the maximum lot coverage.

So we've created some new special street and driveway details, and those are in Figures 40.260.195-1 through 5, and included in these are items I've already discussed, basically narrow street that allows for on or parking bulb-outs and also an alley cross-section and the shared driveway details, one for attached sidewalks and one for detached sidewalks.

So I'll move on to the changes in the multi-family zones that are required due to the elimination of the townhouse ordinance. And I'm on Page 13 now. The high points of this as I stated before are that the density overlaps that are existing in the code right now, this would be best shown on Page 18 and 19, shows that we're proposing to eliminate the density overlaps.

If you'll note in the R-43 zone currently there is an overlap of the density range for an R-43 zone runs between 20 and 43 and that's a huge disparity and we're proposing to get rid of the overlaps. That would be consistent with how the City measures their density and it's also going to resolve conflict with the comprehensive plan because these ranges of density don't give us any certainty as to whether density requirements are going to be met.

Another small change in this section is that the height requirements is proposed to be increased for multi-family buildings. That would be from 35 to 45 feet that is existing now up to 50 feet. And also we're reducing the front setback to be consistent with other changes that we made in other zones so basically the front setback could be 18 feet to a garage and 10 feet to a living space.

One other item we've proposed is that the width of townhouse lots can be 18 feet. So there used to be a range between 18 and 25 feet I believe and sometimes those didn't really make sense. By reducing them to 18 feet that will give the applicant the flexibility he needs to possibly have a wider corner lot if he needs to and he can make the, he or she I should say, can make the interior lots whatever width they would propose down to a minimum of 18 feet.

So I think I've hit the high points so I'm available for questions.

DELEISSEGUES: Questions of Jan?

BARCA: So, Jan, where do we build townhouses now?

BAZALA: They are allowed in the multi-family zones primarily. You can technically build them in the R-1 zones, the single-family zones under a PUD, I don't know that we've seen one, so they primarily show up in the R-12 through R-43 zones. There's been a few that have been able to meet the density requirements in the R-43 zones; however, with the

proposal to eliminate the density overlaps town homes would not be allowed in the R-43 zone any longer. They just wouldn't be able to make the higher density.

BARCA: Right.

ALLEN: Jan, speaking of the DEAB letter they're stating that the proposed narrow lots standards appear more complex, add some additional requirements and now apply to narrow detached single-family developments in addition to attached townhouse developments. Can you address that, please.

BAZALA: Well, a narrow lot is a narrow lot and I've looked at a lot of these developments and some of the developments that have the worst problems with sidewalks and parking are the detached developments. So even though clearly it is going to result in additional effort by the applicant to provide us a more elaborate site plan, it seems to be the only way that we can really know how these issues can be addressed.

ALLEN: Thank you.

DELEISSEGUES: Valerie, do you have any questions?

USKOSKI: Just regarding DEAB's comment for the 50-foot driveway spacing, the recommendation that they made to change that wording that you would meet for reduced driveway standards, did you consider that?

BAZALA: Yes. I talked to people in Transportation and they feel that that would be acceptable to eliminate that 50-foot language for the driveway spacing so I think we can do that in the final draft to the Board.

USKOSKI: Oh, okay.

DELEISSEGUES: Anything else?

ALLEN: I think during the workshop we had expressed some concern with the narrow lots and access of emergency response vehicles to those structures and one of the concerns that was raised was that vehicles would be parked right in front of the hydrant where the fire department cannot get to it.

And of course the fire department can drive right over those trucks and push them out of the way which has happened before; however, I think that we had discussed the possibility of posting "no parking" signs close to those areas and making sure that those lines are drawn on that street. Has that been addressed yet?

BAZALA: Not specifically. I'm not sure if -- are you speaking to the alleys or the streets also?

ALLEN: Yeah, when we were talking about items on Page 8 and 9, we said maybe the

alleys themselves and also the incentives to providing alleys.

BAZALA: Okay.

ALLEN: And those were the ones that had raised most of the concerns because the alleys are a little bit more constricted space.

BAZALA: Okay. We can --

DELEISSEGUES: George.

VARTANIAN: Yeah, maybe to dredge up a little bit of history, why did we have overlapping densities?

BAZALA: Jose Alvarez has done some --

VARTANIAN: Oh, it's his fault.

BAZALA: -- research on that. No. No. I don't know that it's a clear answer, but he's done some research anyway.

VARTANIAN: Well, my point being that we're doing away with something that's been in code all this time.

BAZALA: Yes.

VARTANIAN: Hopefully there was a reason for it to be in code.

ALLEN: And also that DEAB had a problem with because doing away with the flexibility.

BAZALA: Yes.

ALVAREZ: Jose Alvarez, Community Planning. The research I did looked back historically how we have densities in the multi-family zones and the way we had it was an A-4 and AX zone which allowed up to a certain number and so that would just kind of carry forward so you could do up to 20 units an acre in A-4 zone or AX zone. So within that you could do 10, 15 so you had that range of flexibility.

The other rationale for this is that consistency with the comprehensive plan. In the community framework plan it calls for a split 75/25, no more than 75 percent single-family housing with a minimum of 25 percent multi-family. Right now we have approximately 85 percent of the land in the urbanized portion of the county in single-family. What was added in 2007 was about 91 percent single-family. If you continue to allow the single-family in the multi-family zones, you're not going to hit your targets.

Also in the description of the urban medium density in the comp plan, it doesn't mention

single-family detached, it specifically mentions single-family attached apartments, duplexes and townhouses. Does that answer your question?

VARTANIAN: I don't know. I may have just nodded off here, but I'm not sure that that's responsive.

ALVAREZ: So historically we've had this range prior to the Growth Management Act being adopted and what I found is essentially we haven't changed anything since adoption of the Growth Management Act and there appears to be a conflict between what's in the comprehensive plan and what's allowed in the zoning code and that's what we're trying to adjust.

VARTANIAN: Well, I understand zoning that goes from like one lot per acre to five lots per acre, but when we start the next upgrade, if you will, or downgrade, depending on how you look at it, that starts at four lots per acre and goes to ten. I guess I don't understand why we would ever have had an overlap.

ALVAREZ: Well, as an example, in the single-family zone there aren't overlaps between zones, that's the idea of, but historically here there's been that overlap. I don't know why specifically that --

VARTANIAN: It just sort of happened?

ALVAREZ: Yes.

VARTANIAN: Thank you.

ALLEN: So you're tightening up what we already have on the books basically?

ALVAREZ: Correct.

ALLEN: You're not making too many changes to overlap allowances?

ALVAREZ: Right.

ALLEN: Thank you.

DELEISSEGUES: Well, Jan, I'd just repeat some of the concerns I had at the workshop and one of them is that this type of housing is always lacking in storage so the storage goes into the garage so even though the plan shows two-car garage or one-car garage, it's usually a no car garage with two cars if it's a two person working family. You're not going to park on the street because of the narrow lot situation. I mean it's very difficult for everybody who can't park in the driveway or the garage to park in the street.

And usually the problem really comes down to visitor parking. If somebody wants to come over and watch a ball game with somebody, there's no place to park and most of these

developments that I've seen have an area for visitor parking that's required in the development and I don't see that provision here.

Then when you don't have the parking on the street or in the driveway anymore or if you do, then they go into this alley you're talking about and the garbage trucks and so forth and so on can't get in there. There's not going to be any enforcement. You can put all the "no parking" signs up you want, but usually the police or somebody has better things to do than run around enforcing no parking.

So that's my concern. I just think we're really short on the parking and I think it's a contentious problem when you get some Joe X, Mr. X parking in Mr. Y's in front of his house and Mr. Y thinks that's where he ought to park and it can cause a lot of trouble and I'd like to see that really taken a hard look at and addressed before those kinds of problems occur.

ALLEN: And especially if their dwelling happens to be right in front of the fire hydrant.

DELEISSEGUES: Well, yeah, that's enough said I think.

BAZALA: Right. Well, the plan should show where the hydrants are and we would not be counting an area near a fire hydrant as a parking space. So hopefully, I mean, we're trying to get there and being able to designate, but by the use of shared driveways the intent is to be able to get some on-street parking. And whether it fully solves the issue remains to be seen, but we feel it's a step in the right direction.

DELEISSEGUES: Did we get the letter that DEAB talks about here that they were expected to provide a letter regarding the narrow lot development standards?

ALLEN: Yeah, it's this one right here.

DELEISSEGUES: Oh, okay. Yeah. Go ahead, George.

VARTANIAN: Do I understand correctly that narrow lot developments can also have adult foster homes in them?

BAZALA: Yes. I mean --

VARTANIAN: I would think.

BAZALA: -- I'm not the expert on it, yeah, we wouldn't have any different requirements for that.

VARTANIAN: And does the fire marshal make it clear that thou shalt not have roads or streets too narrow that if you park on both sides an emergency vehicle can't get in there?

BAZALA: Well, the fire marshal would look at each development as it comes in and they

would also look at alleys. Yeah, there's always a tension between providing narrow streets and parking and access. We haven't really reduced the widths of right-of-ways or anything like that.

VARTANIAN: No. But there's a number of developments, actually some of which are right near where I live, that people park on both sides of the street and you'd be lucky to get a bicycle down in between.

BAZALA: Yeah. And there's no doubt illegal parking occurs where it shouldn't and as we stated before we can only do what we can do.

VARTANIAN: Well, no, I understand that. It's just a matter of given the real world either you have an enforcement of the laws where you provide you don't rely on enforcement, you just say this is what the regulation is and this is how wide you have to make the street, period. Just more of a comment than anything else, I'm sorry.

DELEISSEGUES: It sounds easy.

VARTANIAN: Oh, of course it sounds easy.

DELEISSEGUES: Any other questions of Jan?

ALLEN: On Page 9.8(1) on designated on-street parking areas that will not be subject to future driveway placement, and then you said that those two on-street parking has to be 17 foot each if you have a 40 foot narrow lot, 17 plus 17 plus you need some backing in and back out space. Where are you going to place your driveway?

BAZALA: Well, that would be -- that section isn't intended to be -- well, those parking areas might be on a different street where there maybe would be a stormwater facility or something like that. We're trying to give them flexibility. I don't know exactly how that would be accomplished or maybe there was a street in a development that, I don't know, had driveway access on a different section of it.

It's basically there. I mean like I say I don't know exactly what those scenarios would be, but it's there in the event that the applicant can come up with a way to use it.

ALLEN: On Page 8.4.a, one, two, three, four, five, six line down you're talking about street trees located in the right of. Did you mean it to say right-of-way?

BARCA: Yeah.

BAZALA: Yes.

ALLEN: So you're missing some verbiage.

BAZALA: Exactly. Thank you for that. Good catch.

DELEISSEGUES: Any other questions? Okay. Thanks, Jose, thanks, Jan, appreciate it. Now going to the sign-up sheet, like I say it's all on one sheet. What I'm going to do is we'll ask if anybody wants to discuss or testify on the narrow lot standard and then when we go to B we're going to break it down into three, there's the rural center which is 1, 2, 3 on the Item 1 and 2, 3 under B and then 4 is the rural kennels, 5 is right to farm and log and 6 master planning for energy parks.

So what I'm going to do is go down the sign-up sheet and if you want to testify on this narrow lot standard, then come up and testify. If you don't, just say so. And the next issue that comes up I'll go down it again with the people that haven't testified and that way we can sort it out I think. We'll give that a try. If it doesn't work, we'll try something else.

So anyone wishing to testify on the narrow lot standard, please come forward and state your name and address. Wait, wait. You were up first, come ahead.

PUBLIC TESTIMONY

REISBICK: I'm Sydney Reisbick, P.O. Box 339, Ridgefield, Washington. I'm representing Friends of Clark County. Friends of Clark County believes that quality of life including physical and mental health is important to citizens of the county and data tells us that population is becoming ever more diverse. Family units are evolving with changes in demographics and the population is aging.

There's insecurity of income for a lot of people while other people are becoming increasingly rich. A lot of people are moving from home, are working from home rather than going to work, all of these are trends that you know quite well already.

To me this increasing diversity and also to maintain quality of life we need long-term cost effective and sustainable development that includes diversity, diverse businesses, housing, transportation, education, recreation and services to meet the increasing worldwide competition for energy, food and natural resources. We need to protect our local resources and this is partly introduction to some other stuff later.

But narrow lots, trees, staff has proposed a tree for each lot in narrow lot developments and we support diversity in the use of these required trees for the following use: Children need places to play even if their parents cannot afford large yards. The new reality is that many parents are now working minimum wage jobs with irregular hours.

These sleep deprived and financially stressed parents need affordable homes such as narrow lots; however, their irregular hours mean that they cannot take their children to formal scheduled sports and dance classes and events. Their children need small places close to home in their developments that are always available.

Flexible disposal of the trees would allow a narrow lot developer to use any small hard to use spaces for creative diversity. Developers must have the option to put trees and

bushes in groups here and there to make a little grove, copse or thicket or protect the small dip or pond or spring that would attract insects and dragonflies and snakes and frogs and birds.

And if these places exist, the children will find them. The places should be safe which means not in the middle of a parking lot. These tiny site-unique areas would define and differentiate developments more sharply than a single tree for each house or by each house and would provide unique, diverse and much needed recreation spaces.

DELEISSEGUES: Is that a written statement you've got?

REISBICK: Yes.

DELEISSEGUES: Would you mind leaving it with us?

REISBICK: Here are the copies.

DELEISSEGUES: Yeah, thank you.

REISBICK: And while I'm here can I do my other two?

DELEISSEGUES: Sure.

REISBICK: Okay. That's the longest one. And to protect our natural resources, energy, food and natural resources we would like to support, this is on the right to farm and practice forestry, we support the strongest proposed protections for the right to farm and practice forestry, not just log, but all forestry practices, on all lands within Clark County where it's allowed. End of statement.

And increase density in rural centers and including mixed use, we strongly support increased density in rural centers provided that the rural character is maintained between centers and new centers are not created. In other words, we don't want massive center to center. Increasing density within rural centers supports local businesses and allows development of increased diversity of services within the centers.

Increasing density also supports public transport between centers and between centers and cities. We support building higher buildings provided that higher buildings have common green areas for diverse recreational objects. The mixed use makes a lot of sense when you have a lot of people working from homes because it's already mixed. So dense rural centers surrounded by rural lands will support and protect local food sources. Thank you for letting us testify.

DELEISSEGUES: Anything else? Wait a minute, we may have some questions. Any questions?

BARCA: No, I'm good.

DELEISSEGUES: Questions?

VARTANIAN: Not from me.

DELEISSEGUES: Well, thank you very much.

REISBICK: Thank you.

DELEISSEGUES: Anyone else? Okay. Mr. Howsley and company, you're on.

HOWSLEY: Yes, thank you, Chairman Deleissegues. For the record James Howsley, 500 East Broadway, Suite 400, Vancouver, Washington 98660. And with me is --

ODREN: Mike Odren, Olson Engineering, 1111 Broadway, Vancouver, Washington 98660.

HOWSLEY: And we're here to testify on behalf of the Development and Engineering Advisory Board. I think that you received a letter from us stating our position on the narrow lots and I apologize if you didn't get it tonight, it was supposed to have been sent last week.

BARCA: We got it.

HOWSLEY: You did, okay. I just briefly want to touch on some highlights in the letter and where we do differ from the staff recommendation, and then I think Mr. Odren's got an additional point that he'd like to raise.

Our first concern generally is through the process of retooling our code, the whole process is geared towards making it faster, more efficient and better and we have some general concerns that in fact this code is making things a little bit more complex. It's adding some additional requirements and taking some flexibility away.

And to that end if the intent is to correct some of the problems, DEAB is supportive of that, but we have to bear in mind that it does have these additional consequences. So as far as that's concerned DEAB is supportive of the transportation standards that were proposed and we did make a formal motion in support of that.

Moving to the issues of concern. The first issue would be revolving around the density overlap. DEAB feels pretty strongly that the range of overlap that we've had in the past created a lot more flexibility in terms of the product type that a developer could move and put on a particularly zoned piece of property.

By narrowing that density range and taking out some of that flexibility that that zone really starts to become more of an apartment type of site, particularly in the R-22, R-30 and R-43 zoning districts. You take away that flexibility to do attached multi-family product and

move it more towards an apartment-type use. And so we just want to bring that to this body's attention that instead of creating flexibility, creating more efficient use of the process, we may be in fact doing the opposite.

The second issue would be we need to have some better criteria for when a site plan would be required along with some of these narrow lot developments. The proposed code would require a site plan review in conjunction with a plat if there's only one lot that's less than 40 feet in width. That's another onerous process and again sort of cuts against the whole theory behind this retooling the code process to make it more efficient and quicker to get to a project.

DEAB proposed that we establish some other criteria such as when the number of lots under 40, and I think there's some language there in that Paragraph 2, yeah, such as when the number of lots that are 40 feet in width is 25 percent of the total number of lots proposed so you're not just forcing it when there's just one unit in this larger development, you have to reach a certain number before a site plan review is also triggered. In the cases of the just one lot in a subdivision with this, staff is going to put their magnifying glass on that anyway so why add an additional process and fee.

The third issue revolved around the driveways of 50 feet and intersecting property lines and it sounded like staff was supportive of DEAB's recommendation on that issue so I won't go into that. DEAB also believes that we need to have some clarification on the methodology for density calculations and I think there's a good explanation for why that is contained in our recommendation.

And then just finally, DEAB didn't take a formal position on this but again we had a general discussion of this and I think it's reflected in our last two paragraphs, that again the whole point of the retooling our code is to make it better, faster, more efficient and some of the requirements of this code would require for instance when you would do a single-family detached lot in it, you would have to come up with an elevation or a design for that unit.

That's not necessarily how developers think of the world, we like to design the subdivision and then we go out and we market that subdivision to a builder or a contractor without an exact product in mind. This code would tend to do the opposite of that and force us to pick what the development would look like before we got the approval.

And so it sort of cuts against that creating flexibility, creating more efficient use of the code and creating a better product. And we understand why staff is doing that, we think that they're trying to use the narrow lot standards here to regulate to a product. And to that end I suppose it's good, but then again it does take away from that flexibility of that that the Board is trying to create in this process. And with that I think Mike has one other issue.

ODREN: Yeah, I had a couple of things just to add to that. Under Number 1, and Mr. Howsley was discussing with regards to the inflexibility that changing the density ranges will now create, there's been a lot of projects that have been preliminarily approved under these R-22, R-30, R-43 zones and they've been designed obviously back when the

economy was good at the higher densities, I get more lots out of it.

Now we have seen a trend of those coming back around for redesign to go to the lower densities on those projects. If the overlap is removed what we're going to find is that these projects when somebody wants to have them go to a lower density, a larger lot, that you're not maxing out the land development, they would then be forced to have to go to, as Mr. Howsley stated, more of an apartment-type project.

These density overlaps now allow these to go to a lower density and even though it's still a multi-family zone, you're still able to provide for that mix of the small lot single-family detached, single-family attached town home-type development in those zones themselves. There's some unintended consequences, I think, that could happen as a result of this.

And what one of those consequences might be that you are now eliminating the ability to have that variety of housing type particularly with lower income, first time buyers if we start removing that. If we remove that density overlap.

The second item I just wanted to touch on briefly under Number 4 as far as the density calculations, staff has indicated that in order to meet the sight distance requirements in these narrow lot developments, even though we are going to be going forward with some better standards with identifying exactly what those sight distance or, I'm sorry, vision clearance areas are that we can remove those areas from the density calculations.

However, there's a domino effect that takes place with that. Not only do we remove the vision clearance area that can't be developed, but that also has an effect of the balance of that area that can't be developed. And so we would hope or recommend that staff place language into this code before it's completed that would indicate that not only the vision clearance areas but those other areas that are either connected to or contiguous with that couldn't be developed as a result of removing that vision clearance area also have the opportunity to be removed from the density calculations.

So that's just kind of an unintended consequences of this. I think it's very easy to remedy, but right now the code as written doesn't allow for that. Mr. Howsley and I are available for any questions that the Board may have.

HOWSLEY: Yeah. Just returning really quickly to the density overlap issue, I think that that's an issue of importance but it should be addressed in I think the comp plan update process and not through this code at this time.

DELEISSEGUES: Any questions of either Mike or Mr. Howsley?

ALLEN: When you're talking about "vision clearance" are you talking about the sight distance requirements? Is that what it is or is it something else?

ODREN: There's two things that we talk about when we talk about vision clearance and sight distance. Sight distance is actually measured 15 feet back from the stop it bar and it

has a triangle that extends ten times the speed of the road.

The vision clearance triangle which we're talking about here extends equally 80 feet one way down a road and down one side of an intersecting road and 80 feet down the other side of an intersecting road so it actually slices off a corner of that, whereas the vision clearance allows you to see it once you're at the intersection. Vision clearance is designed for vision as you're approaching the intersection.

ALLEN: Thank you.

DELEISSEGUES: Left and right. George.

VARTANIAN: Can't you resolve that issue with traffic mitigation or signage or something?

ODREN: We can and that's kind of at the heart of the issue here. Before some of these had been taken care of simply by a stop control, but staff's contention is that stop control doesn't necessarily lead to safer neighborhoods, that too many stop signs people start ignoring them, they start just passing through them. Rather than having an intersection that doesn't have any stop control on it, it forces the driver to take a look and be aware of what's happening here.

What we're trying to do here and what staff and DEAB as well as the focus group have talked about is to come up with a set of standards to where that vision clearance area, the 80/80 rule if you will, can be reduced through a number of different ways whether it be through additional traffic mitigation, curvilinear roads, the difference in --

VARTANIAN: Do we want those roads?

ODREN: I'm sorry?

VARTANIAN: Curvilinear.

ODREN: Roads that curve that slows down the vehicle. They've provided some information to us from other jurisdictions that show that through these processes you can reduce that 80/80 down to say 60/60 which would then -- or there's a change in the classification in the type of road or you're going from a private road to a public road, these are all items that need to be kind of resolved which is what was discussed by Mr. Bazala as far as amending the design standards.

ALLEN: But then of course when you already have a narrow lot, once you introduce those curves in there it eats away at the lot square footage as well so you can't really say that that's a good fix.

ODREN: Well, potentially. However, some would say that they would rather have more of a curvilinear look to a road because it eliminates that and then you're talking about aesthetics in that regard. You really have to take a look at the lot as itself from a design

standpoint to figure out what would be the best layout for that particular piece of property, whether it's a straight road, curvilinear road.

But if it gets you to a point that you have the ability to reduce that vision clearance triangle by having something like that that is designed to slow the vehicle down, that's actually what we're trying to get to is some sort of middle ground.

DELEISSEGUES: Traffic calming devices.

ODREN: Right, as an element of that.

DELEISSEGUES: Any other questions?

VARTANIAN: Yeah, before you bail out, does staff have anything to say about that statement about maybe signage? Does it necessarily result in a safer neighborhood?

SNELL: Well, Steve Schulte was available at the Planning Commission work session two weeks ago talked briefly about that and typically when you put traffic control devices there are engineering warrants that are met or required. If you've driven through a neighborhood where they have stop sign after stop sign after stop sign after stop sign, you begin to wonder are there reasons for this or is this just a traffic calming device without warrant.

What has been talked about is other means to slow traffic down whether it's curvilinear streets or bulb bouncers or anything like that. Engineering, I don't think they're wildly supportive of traffic control devices for traffic control devices sake so we have other means to get to the issue.

DELEISSEGUES: Okay.

VARTANIAN: Okay. Just an interesting, you know, in the last where I was talking to Mr. Bazala before about parking on both sides of the streets and making wider streets so that you always have the ability to get through, we don't want to widen the street but we're perfectly happy with changing the ordinance so that we don't have to have law enforcement on sight distances or vision distances.

ALLEN: Could staff address the specific concerns that Mr. Howsley had raised with the removing density overlap.

ALVAREZ: What his concern with the overlap, again the objective was to be consistent with the comprehensive plan. This has been in the comprehensive plan since we adopted the plan in 1994, it just hasn't been changed in the code. We were looking at this section of the code, realized that there was a conflict and thought we would bring it up to you and the Board. It's clearly a policy question and it seemed like an appropriate time to do that.

SNELL: I'll add a little bit to this. The assumption built into comp plan is that your

multi-family zones develop at 16 units per acre. If you take all of the multi-family zones in the county and you have these overlapping ranges where everybody goes to the lower bound of the range, we won't accommodate, we won't get to the 16 units per acre.

I do agree that this is a policy issue. It may be that tonight may not be the best venue for the discussion. I would for one argue that when we get to the R-30 and 43 zones, those are really intended for true multi-family development and not a bunch of single-family whether it's attached or detached. So it really begs a policy discussion on it and it's your discretion to take that up or not.

HOWSLEY: Again, DEAB's position is that as far as the developments that are out there today and the way the economics are, as Mr. Odren suggested a lot of them may have tried to have been really, really aggressive with how many lots or units they were getting in their development and it's probably more practical now to do a less dense product.

And I think that DEAB's position would be this is probably an appropriate issue but this code isn't where to address it, I think it would be better with a larger discussion of zoning that would come to the Planning Commission at a future time.

ALLEN: Question. We had the workshop on January 6, this letter is dated January 13th, and I believe we got it, oh, just a few days ago. Why couldn't we have had this before the workshop, this letter?

HOWSLEY: Well, I think it's because DEAB didn't meet formally on this issue until two weeks ago.

SNELL: The afternoon of.

HOWSLEY: The afternoon that you guys had your work session.

ALLEN: Because this would have been very helpful for the discussion. I think that you have some valid concerns, but it would have been very helpful to have it.

HOWSLEY: And we'll apologize about that. It's that I think that this process is moving pretty rapidly and we're --

DELEISSEGUES: We're kind of letting this --

JENKINS: If you remember --

DELEISSEGUES: We're kind of letting this get long in the tooth here.

ALLEN: Well, I would have liked to have looked at some of the other documents as well.

DELEISSEGUES: Well, I agree with you but --

ODREN: We met on the 6th.

DELEISSEGUES: But they didn't send it in so we'll deal with the real world here. And it's not too late, Milada, we can talk about it right now, we've got the information in front of us.

ALLEN: That's almost like the resource, the issue as to what other jurisdictions might have done and act accordingly and/or at least have an opinion that's indicated and backed up by research.

JENKINS: Hello. I'm Marlia Jenkins, I'm the project manager and I would like to comment that DEAB did meet its deadlines that were established for this process and you were informed at the time of your workshop and before your workshop that you would not receive any opinion from them until after your workshop and before your public hearing. And so on behalf of the DEAB I would like to comment that they did make their deadlines.

DELEISSEGUES: Okay, thank you. Any other questions here of Mr. Howsley?

VARTANIAN: Yeah.

DELEISSEGUES: Or Mike?

BARCA: I think he said yes.

VARTANIAN: What the heck. What am I, chopped liver?

DELEISSEGUES: Go ahead.

VARTANIAN: On Ms. Jenkins' comment, that's true, deadlines are very nice; however, if they don't serve the purpose there's a lot to be desired when deadlines are assigned.

As far as overlap is concerned, I'm not a big fan of overlap for starters in case you hadn't noticed, and there's a couple of reasons for that. Number one, I'm sure if I asked everybody in this room, I would have that many different answers as far as how much overlap is okay for starters.

And, secondly, if you have overlap you really don't know what you're going to have when it's done as Marty was saying here a minute ago. I mean if you want to have a development in an area that's going to be populated at a certain level, that's the level we want to populate at.

Now I will give you things have changed and developments have maybe been proposed and maybe we've had pre-app conferences and what have you on some of them, those I would not have a problem with grandfathering. But as far as economics, as far as the economy, as far as profit motive is concerned, I'm sorry, that's called business risk.

I mean the fact that we've been having overlap all this time doesn't mean it's okay, it just

means we haven't addressed a problem. So I don't think we have a problem with overlap, doing away with overlap.

HOWSLEY: And I think that's a sound opinion and --

VARTANIAN: Well, yeah, it's an opinion obviously.

HOWSLEY: Again I think DEAB's position would be hold off on doing it at this point and let's have an honest discussion about it across other zones and --

VARTANIAN: Are you saying what I just --

HOWSLEY: -- this isn't the correct forum to do it in.

VARTANIAN: Are you saying what I just said was not honest?

HOWSLEY: No, I did not mean to suggest that, George.

VARTANIAN: It's okay.

DELEISSEGUES: Ron, do you got anything to add to the discussion?

BARCA: It's my opinion that as Marty stated it's definitely a policy decision we're talking about here. This is a lot more than just trying to streamline code, we're talking policy, and in that regard I do have a concern in the context of affordable homeownership at the low end of the market and whether we're taking a tool away for us.

Now it's very true that the County cannot legislate affordable housing, and it's also true that in high times of the marketplace we don't necessarily receive low end product from the development community, they go for high end and it doesn't matter the size of the lot and affordable homeownership is missed when times are good.

Times are not good right now. I think if there's the potential of developing in small lots at single-family dwellings at this point in time, we might get some of that type of homeownership model put in place. My preference would be to take this particular item and turn it into a policy discussion at a later time.

DELEISSEGUES: Okay.

ALLEN: I agree with Commissioner Barca. And hopefully the deadlines and the documents will be coordinated a little bit better.

DELEISSEGUES: Valerie, do you have anything?

USKOSKI: No. I think I pretty much agree with what Ron said and I don't have too much of a problem with how this new code is written if we address this elimination of the 50 feet

and maybe table the density overlap for a later time. And the vision clearance was the other one. If there's areas contiguous that can be taken out for your density calculations, I think that's definitely a benefit for flexibility.

DELEISSEGUES: I guess no other questions. Thank you for your testimony.

HOWSLEY: Thank you very much.

DELEISSEGUES: Yep. Anyone else in the audience wish to testify on narrow lots? Okay, seeing none, we'll return it to the Commission for discussion, deliberation and hopefully a motion.

Return to Planning Commission

VARTANIAN: No, I don't have anything.

DELEISSEGUES: Ron, do you want to try a motion?

BARCA: Well, I'm looking at this right now and wondering if it's really possible to just pick out pieces of it as opposed to just saying that we deny the motion from staff and send it back as a policy decision. So I'm going to make a **MOTION** that we **deny** staff recommendation and send it back for a policy decision to be taken at a later time.

VARTANIAN: **Second.**

ALLEN: Friendly amendment?

BARCA: Within the context of what I said which is to deny it.

ALLEN: Okay. I just wasn't sure if you were specifically citing narrow lots or --

BARCA: Yeah, that's what we're --

ALLEN: -- if it applies to something else?

BARCA: No, that's what we're in discussion on.

DELEISSEGUES: Any other discussion? Okay. We have a **MOTION** to deny staff recommendation, return it for taking a hard look at the policy involved in it. Does that sound right, Ron?

BARCA: I think that's fair enough.

DELEISSEGUES: Okay. Roll call, please.

ROLL CALL VOTE

BARCA: AYE
VARTANIAN: AYE
USKOSKI: NO
ALLEN: AYE
DELEISSEGUES: AYE

DELEISSEGUES: With that we're going to take a break and we'll be back at 10 minutes after 8:00 or thereabouts.

(Pause in proceedings)

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION, continued

ADOPTION OF CHANGES TO THE CLARK COUNTY CODE REFLECTING THE COUNTY'S ONGOING EFFORT AT 'RETOOLING OUR CODE':

The county began a process in 2009 called 'Retooling Our Code', with the intent of streamlining the code and making it easier to use. Proposed code changes have been grouped into 'batches'. Batch 1 changes were adopted in July, 2010. Batch 2 proposed code changes have been split in to Batch 2A (heard by the Planning Commission in November 2010) and Batch 2B. This hearing is on the proposed Batch 2B code changes, which are recommendations from the Rural Lands Task Force, as follows:

- 1) Changes to rural center residential uses: the proposal is to change the way some uses are reviewed.
- 2) Changes to rural center commercial uses: the proposal is to change the way some uses are reviewed.
- 3) Adoption of rural center mixed use overlay district standards: the proposal is to implement language to allow mixed use on some rural center parcels.
- 4) Rural kennels and stables: the proposal is to permit kennels and stables outright with large enough parcel size.
- 5) Right to farm/log: the proposal is to change the way agriculture and forestry activities are thought of by way of being nuisances.
- 6) Master planning for energy parks: the proposal is to include a provision in the code allowing master planning for energy parks.

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DELEISSEGUES: We're ready to resume, if everyone will take their seats. The next item is Item B, adoption of changes to the Clark County code reflecting the County's ongoing effort at retooling our code, and we're going to break it down as I said and we're going to take changes to the rural center 1, 2 and 3 as one, rural kennels as one, right to farm/log

as another one, and the last one will be master planning for energy parks, not in that order.

We're going to start with the rural kennels. So anyone here tonight that wants to testify, we'll wait until we have a staff report and then we'll ask you to come forward.

EULER: Thank you, Mr. Chairman. Again I'm Gordy Euler with Community Planning. The remaining items with the exception of the master planning for energy parks are recommendations from the Rural Lands Task Force that the Board asked that we bring before you. And, again, we've talked about some of these issues in the workshop that we had a couple of weeks ago.

The issue with rural kennels started a number of years ago with somebody who I guess complained that they wanted to do a kennel in I think forest zoned property 80 acres in the middle of nowhere and were concerned that they had to spend the money to get a conditional use permit. I honestly don't know why it's taken so long to get around to addressing the issue, but we did take it to the Rural Lands Task Force and they came up with the recommendations that you see here.

Stables also somewhere along the line, I'm not really sure how that joined in here, but I'll present the background on kennels and then Jose is going to talk a little bit about stables. I did prepare for you a cheat sheet, if you will, a summary. It's three, I think, or four pages. It's available at the back.

This was Marlia Jenkins' suggestion to kind of try to wade through this. Rather than presenting you pages and pages and pages of the tables, we just tried to pull out here what we're actually changing and put this in summary form. So if you have that in front of you --

DELEISSEGUES: It's on the last page.

EULER: -- kennels and stables are on the last page.

Basically what the task force said was if they're on a parcel or parcels of more than 20 acres, they should be permitted, between 5 and 20 acres they would remain as conditional uses, a five-acre minimum. They recommended 125-foot setback and probably most importantly they said the applicant would need to mitigate for noise and we may hear some concern about that as to how that actually would occur. With regard to stables, the recommendation was ten acres or more would be permitted and below ten acres would be a conditional use was pretty much what the stable recommendation was.

So I'll answer any questions about the particulars. I gave you an example on Page 4 of what the code would look like. This is just one of the use tables that we would have to amend and I'll try to answer any questions that you have.

DELEISSEGUES: When you say "private equestrian facilities," that's not commercial, that's just somebody that has a horse and stables their own horse?

EULER: That's correct. And we thought we would put that in the code to say that if you're not commercial, you're private and that's agriculture and from a land use perspective, we don't worry about that.

DELEISSEGUES: But in the rural center it could be on a one-acre lot?

EULER: Correct.

VARTANIAN: And it would not apply to a private stable and someone who lets a friend board their horse or horses on the land?

EULER: That's an issue that has come up with, again Jose will talk about this, has come up with the equestrian task force planning group, work group.

ALVAREZ: Equestrian Advisory Group.

EULER: Yes.

ALVAREZ: And the idea is to have a private with some de minimus use.

DELEISSEGUES: That mic's definitely not working.

ALVAREZ: The idea was to have a, to clarify the code, have a distinction between private and commercial. The Equestrian Advisory Group looked at the language, they're okay with it. There's that kind of gray area where George is, Commissioner Barca is mentioning, I mean Vartanian, sorry --

VARTANIAN: Congratulations.

ALVAREZ: -- about this area having people over to your stable. It's really a building code issue. The building official came and talked to our group, they were comfortable with how flexible the building code can be in addressing some of those things and that level of flexibility. So that's essentially what I came here to say is that they're okay with what we're proposing.

EULER: The reason, if I may follow up, that we put kennels and stables I guess together is that code section Clark County Code 40.260.040 deals with a number of things, animal feed yards, animal sales yards, kennels and riding stables so as a special use section they're lumped together.

And so I think our thinking was in our effort to try and rework this to implement the task force recommendation they're really two separate issues, but the recommendation from the task force was about both because the code section that we want to change amends both.

DELEISSEGUES: When you have private equestrian facilities is there any limit on the number of horses?

EULER: No. Private's an ag use and, again, we wanted to say that if you have horses for your own benefit it's permitted, you don't need a review.

DELEISSEGUES: So if you had a one-acre lot, you could have an unlimited number of horses on a one-acre lot?

EULER: Sure.

DELEISSEGUES: Yikes.

EULER: Remember we had this discussion last year or the year before when we talked about the urban livestock ordinance and the recommendation at that time was to talk about best management practices for your livestock as opposed to setbacks, limiting the number of animals or minimum parcel size.

DELEISSEGUES: What I'm thinking of is I live on a one-acre lot and when you have the house and you have a drain field and septic tank and driveways and garage and maybe a shop, there's not a whole lot of room left for two or three, five, six, seven horses. I don't know how you, maybe the CC&Rs in the subdivision would take care of it, but it seems like --

EULER: We allow agricultural activities in most any zone and the definition of "agriculture" includes animal husbandry which includes livestock which includes horses.

ALLEN: Now the key word you mentioned on those small lots is the BMP. Who enforces it to make sure that they do have a BMP if it's a permitted use?

EULER: These are, again, we're focusing on rural areas. The provisions that you saw in the urban livestock ordinance aren't specifically applied to rural areas because it's deemed agriculture and in the current Clark County code there are no standards for agriculture.

So we encourage property owners to deal with the Clark Conservation District, to go to WSU Extension, to get information on small acreage management, there's some great programs, and --

ALLEN: Yes, I know.

EULER: Yes. -- out there as you know. But there are no standards in our code that relate to agriculture.

VARTANIAN: Just on the clarification on the back of the cheat sheet, Table 40.210.030-1, well, as an example on the next to the last one down, commercial equestrian facilities on parcels less than ten acres, it changed from to a C with a slash through it which I assume

is being rescinded and a C with a double underscore. What does that mean?

EULER: The reason I did that is to show that we're creating right now if you have a commercial, an equestrian facility, a riding stable, it's a conditional use. We're splitting that category into above ten acres and below ten acres. So below ten acres is going to stay conditional, above ten acres is going to go to permitted so that's why you see a C to a C. It's not changing but we're simply adding a second line that splits these uses out by parcel size.

VARTANIAN: Oh, thank you very much.

DELEISSEGUES: Anything else? Other questions of staff? No? Okay, thank you. Anyone in the audience wish to testify on stables or kennels? Okay. Please come forward and state your name and address for the record.

PUBLIC TESTIMONY

BECK: My name is Aleta Beck. I live at 8909 NE 223rd Circle in Battle Ground, 98604. I'm here to comment on kennels, but first I'd like to thank the Rural Lands Task Force for all of the work they've done and the time they've spent in the community to get this stuff before you. It's been a long, like Gordon said, why did it take so long to address this issue. And I would really particularly like to thank Gordon for the amount of time he spent with my husband and I in teaching us different things and responding quickly to our e-mails and stuff, that was very helpful.

We're greatly encouraged by the direction that these new codes are taking and I think you are going in the right direction, but there needs to be a bit more done. I was noticing in the proposed code that it is not addressed that in the animals that are, I've lost my place, excuse me, under 40.260.040, Section B, I think that's Page 12, I'm not sure where it is, 22, where it's proposed that animals are to be housed within an enclosed structure between the hours of 10:00 p.m. and 7:00 a.m. Did I get the wrong page?

EULER: It's at the top of Page 22 in the big staff report, yes.

BECK: Oh, okay, thank you. That it was talked about in your work session on January 6th that these structures should be somewhat soundproofed and not just a building, for example an RV garage, and when it's hot outside the owner opens up the garage doors and we basically have an amphitheater, that kind of thing.

And then also discussed during the work session was there was a discussion that the WAC noise limits and definitions are inadequate in regards to kennels and I agreed to that because dog barking has a cumulative effect on the receiving properties. So the duration of barking that is defined as a nuisance should also be a cumulative amount, saying that the amount of barking should be a total of minutes during a given time period, not continuous barking for a specific period of time.

If you have a dog that's barking for a half hour and you spread that over an hour, it's still annoyance, but according to the Clark County code right now it's 30 minutes of intermittent barking, whatever that means, and it's a continuous amount. And trust me, 30 minutes of barking over any hour period of time is annoying. And this criteria for nuisance barking I would suggest that it be for private kennels as defined in the proposed code or the owner of any dog.

I truly believe that there needs to be a separate criteria for noise for commercial kennels and it needs to be very strict. I would suggest that no barking be tolerated from a commercial kennel from the hours of 10:00 p.m. to 7:00 a.m. and it should not be assumed that since the dogs are housed inside that there will be no barking, I think this needs to be spelled out in the code.

When dogs are outside for exercise, they need to be supervised and the person who is supervising them needs to be in direct contact with the dogs so that any barking that occurs, it can be quickly brought under control. Whistling and yelling across the yard from a distance only creates more noise and shouldn't be considered direct supervision. If the dogs are not supervised, then they need to be indoors.

One thing that I noticed that you address the lower limit of dogs in the code, but you do not address any upper limits on the number of dogs. The State allows 50 adult dogs over the age of 6 months per a kennel. I would strongly consider you thinking about this when you put 50 dogs and if they're the size of Rottweilers on five acres, and I know what this is like, you don't want this, you make the properties unlivable around them.

I did make a suggestion in the past that the size of property dictate the number of dogs allowed on the property. Like if you have five acres, you can have the nine limit dog, ten acres you can have 15 to 20, and so on. That the acreage dictates the number of dogs you can have on the property, you know, even for humane purposes for the amount of room for the dogs.

In closing I guess I'll just say, and I've stated this before, that I do not believe that commercial kennels have any business on residential property, they just don't belong in that setting, unless it's like you say the big place with 80 acres that's clear out in nowhereville, but you put a commercial kennel on five acres and there are issues in these areas. Thank you so much. Any questions?

DELEISSEGUES: Yeah. Any questions of -- okay, thank you. Does David wish to add anything to it?

BECK: No.

DELEISSEGUES: No, okay. You're on the sign-up sheet so I just thought I'd give you the chance to one way or the other.

VARTANIAN: Just in case you didn't agree with your wife.

DELEISSEGUES: Right. You never know. He wouldn't dare. Anyone else wish to testify on kennels or stables? Okay, seeing none, we'll return it to the Commission. Deliberation?

Return to Planning Commission

VARTANIAN: I have one major issue with the kennels and stables and whatever else, and I realize some of these are out in the rural area, and it has to do with the noise ordinance.

I'm not so much concerned about the number of dogs on a piece of property, I understand your point, my concern is the effects on what's around and to me the State and following that the County's noise ordinance averaging X number of decibels over a 60-minute time you can literally have an atomic bomb go off in one minute and the rest of the time is zero silence, is absolute silence which will then average out to whatever the requirement is over a 60-minute period.

Unfortunately, you have been awakened or whatever you're trying to get accomplished and disturbed. I would much prefer to see a noise ordinance that says something about not to exceed X number of decibels at the property line, and not over a period of time, never, never, not even for an instant exceed the decided upon level or the decided upon decibels. That's my two cents worth.

USKOSKI: Just to throw a wrench in that, George, I understand where you're coming from with noise at the property line, but you can get quite a noise reading at a property line but actually the residence is further away based on topography, get a louder reading there.

VARTANIAN: Agreed. But what if you put a house right next to the property line or as close as you can, that's why I picked the property line.

USKOSKI: Yeah, it can vary quite a bit.

VARTANIAN: Oh, no, I understand.

USKOSKI: I kind of like the idea of just soundproofing the whole thing.

VARTANIAN: Well, okay. But the way to demonstrate that is to have a noise ordinance.

ALLEN: But then also that would not address the exercise areas as well as some of the dogs need to go out in some other areas after 10:00. And one of the things that I'm also concerned about, once you go through the number of dogs, and of course there's some little dogs and there are big dogs and like with horses you would have to do the units; i.e., a little pony would be worth point five unit and a large horse would be worth one unit or something like that.

So it would get into too much of an overregulation for some of that so I can see why it didn't include that. But one of the things that Mrs. Beck had addressed was that there was a number of dogs that was at the low limit but not number of dogs of the upper limit and something about the code that would allow up to 50 dogs. Now that I have a concern with so could somebody from staff address that particular statement by Mrs. Beck.

EULER: It's true.

ALLEN: Wow.

EULER: It's true.

ALLEN: Wow.

BARCA: So we don't have an upper limit so we have to default to the State then?

VARTANIAN: Right, the State.

ALLEN: The State, right.

BARCA: So if we don't like 50, we should probably make it less.

VARTANIAN: Zero.

BARCA: That's a lot less.

ALLEN: Was there a number proposed by any of the task forces and/or committees?

EULER: No, there was not.

ALLEN: Okay, thank you.

EULER: But what we did do was delete the definition of "kennel" as it existed in Title 40 and added the Title 8 definition of "commercial kennel" and that was done when we did the commercial code update. And you also see that here. So the language is here but it's not underlined because it took effect on January 1st.

I might also add we have Bill Burrus here from Community Development Animal Control if you have questions specifically about anything that has to do with dogs and dog management. So we do have staff here if you have questions about how noise is measured or how they handle complaints or that sort of thing.

ALLEN: I would have that question if I could ask that question.

BURRUS: I'm Officer Burrus with Clark County Animal Control. And dogs bark, okay, one of our major complaints is noise nuisance. It's also one of our most difficult to enforce.

You have a pet, your dog will bark at times. So the current code is ten minutes continuous or a half hour intermittent.

Ten minutes continuous is very difficult for the animal control staff to enforce at the level we're at currently. We typically don't hear a violation within ten minutes so you sit there a half hour and if you hear a violation within a half hour, the officer can issue a ticket based on their own observation.

The other avenues are petitions where the individual who has a complaint gets another household to sign a petition, be willing to go to a hearing and testify, then we can issue a notice of violation based on that. There are also avenues of videotaping the animal barking. Sometimes this works, sometimes it doesn't. Did I answer the question?

DELEISSEGUES: I think so.

VARTANIAN: Just as an aside, I understand the enforcement issues, but I still believe that code needs to be written so that it protects the public from whatever the noise issues are however we write them. Enforcement is a totally different issue. And I'm not belittling it by any stretch, it's just a matter of we don't have enough police to monitor the speeding traffic, but we still have speed limits out there.

BURRUS: Right. But to say that a dog couldn't bark period, dogs bark --

VARTANIAN: Oh, no, no, no.

BURRUS: -- it happens.

VARTANIAN: Yeah, I don't think anybody's suggesting that. At least I think what I'm suggesting is the dog can bark all he wants as long as he doesn't exceed X number of decibels at the property line.

BURRUS: Sure. And I don't think we have a measure, I think that's why it was referred to the WAC 173-60-50. I think that was the reason it was referred to that.

VARTANIAN: Right. But that's the one that says average decibels over a 60-minute period which means you can be very noisy for 5 and very quiet for 55.

ALLEN: I guess the statement was made that there should be no barking from commercial kennels would be recommended, but like you said you can't really --

BURRUS: It's not realistic.

ALLEN: -- you can't really stop the dog from barking, but if you do have them in after 10:00, then that should eliminate some of that. But on the other hand I'm not that familiar with the kennels so I don't know if they have to go out after 10:00 --

BURRUS: No. Typically --

ALLEN: -- or if they use the toilet.

BURRUS: Typically after 10:00 they're in a kennel where it can be cleaned the following morning.

DELEISSEGUES: George.

VARTANIAN: Yeah, one more point. I guess, and I realize we're dealing with commercial here, why do we narrow that affect to commercial? I mean why can't you have that apply to anybody who's got a dog or dogs?

EULER: The noise standard?

VARTANIAN: Yeah.

EULER: It does apply.

DELEISSEGUES: It does in both, yeah.

EULER: The noise standard applies period regardless of what you're doing --

VARTANIAN: Never mind. I take it back.

EULER: But we just wanted to make it clear in here that that was the standard for better or for worse, that's what we're saying you have to meet as tough as it would be.

VARTANIAN: Well, I understand.

EULER: Bill here can sort of explain to you what the --

VARTANIAN: Facts of life are.

EULER: -- vagaries of enforcement are.

DELEISSEGUES: Any other questions?

BARCA: I don't have one for Bill. I still have one for staff.

DELEISSEGUES: If we don't have any more for Bill, maybe Bill can be excused.

BURRUS: Thank you.

DELEISSEGUES: Thank you very much. I don't want to keep you up here while we discuss with staff.

BARCA: So the commercial kennel is ten dogs or more and then after that you go to a private kennel, but if they're involved in commercial activity and they have less than ten dogs does it matter?

SNELL: Say that again.

EULER: If they're involved in commercial activity, they're a commercial kennel.

SNELL: Correct. Any of the following under the bottom of Page 20.

BARCA: So why do we have the ten dog limit listed on there if they're really a commercial kennel under ten dogs?

EULER: I think the intent here was to come up with a middle ground de minimus two or fewer litters in any 12-month period create an exemption to the code. I mean all of the above four are a category. I'm not sure we did the best job of that, but that's the intent.

BARCA: I think I understand us trying to cut some slack to the private kennel, we're going to look the other way for a couple of litters, and as long as we don't have to do any kind of enforcement around the idea of them selling the puppies out or whatever the case, that's up to nine dogs allows the threshold for them to remain private?

EULER: Correct.

BARCA: But if they're actively engaged in commercial activity, then the number of dogs doesn't appear to be relevant, does it?

SNELL: Correct. So you could have seven dogs in this case under the commercial kennel because if you have seven dogs --

BARCA: And breeding seven litters.

SNELL: -- and you're doing buying, selling, breeding, you're letting for hire, boarding or training and there are seven, you're meeting the definition of a "commercial kennel." If you have seven dogs which are for personal or noncommercial purposes and you have seven dogs and you're not boarding, training or showing and you have two or fewer litters in a 12-month period, you're a private kennel.

EULER: And contrarily, if you have 20 dogs and you're not doing any selling or breeding or showing, you're a commercial kennel.

BARCA: Right, because you got too many dogs.

EULER: Correct.

BARCA: Right. I understood that, but since we made a point of talking about this threshold, I think I needed to understand the threshold isn't really a threshold. Ten dogs is not what triggers it, it's the commercial activity.

DELEISSEGUES: In some cases.

SNELL: Yeah. It's either the first bullet, that you're meeting the first bullet in the definition of "commercial kennel" or the other three bullets on Page 21, and if you're over ten, you're a commercial kennel.

ALLEN: So shouldn't there be some or ands in --

SNELL: Any of the following.

ALLEN: In any of the following?

SNELL: Yes.

BARCA: That would be helpful. I do like the suggestion concerning the number of dogs and the size of the parcel. That to me does have some sound logic behind it that if you have this number of dogs and you need to exercise them, you need to get them out, you need the spacing for them, five acres is really going to be quite a limit on what you can reasonably try and get away with so I would suggest that we take a harder look at that.

I'm most concerned about the low end threshold at the five-acre level and thinking about five acres around any place, you can put a lot of houses around five acres and what kind of impact should those neighbors be subjected to.

DELEISSEGUES: What about stables, do you have the same concern about horses on one acre?

BARCA: Well, I think that the Equestrian Advisory Board should talk distinctly about carrying capacity of the land and they should be making some strong recommendations about what's acceptable as far as the number of horses on parcels. We have neighbors right behind us that have seven horses on two and a half acres and it's a nightmare for them, meaning the horses. Go ahead.

ALVAREZ: The Equestrian Advisory Group is going to make some policy recommendations that will come before you probably later this year addressing best management practices. I don't know if it will be in policy or code like Gordy mentioned. In the urban livestock I think it was attempted to do that but wasn't successful and there was some members from that that would like to see that. So that might come before you at a different time, they have addressed that.

DELEISSEGUES: I would think that there ought to be as much concern about the number of horses per acre as there is dogs per acre because just waste management practices for

one thing and clear and Clean Water Act and a whole bunch of things would impact that.

You can't just say I got one acre in the rural area and then have unlimited number of horses because it's agricultural or whatever. I mean you don't need any ordinance at all if you're going to leave it at that.

EULER: And that's the way the County code currently is constructed, there are no standards for agriculture in the county.

DELEISSEGUES: I understand. But I'm saying that it's kind of ridiculous for us to support that and reinforce that when it doesn't make any sense and maybe as Ron suggested the equestrian people could come up with some guidelines for horses per acre in different zones rather than just say it's all agricultural so therefore we're not going to deal with it is kind of what we're saying.

SNELL: I was going to respond to that, that discussion earlier. Absent standards in the county we would typically address this through a complaint of a neighbor because of odor I would imagine or other reasons.

Our experience with the urban livestock work is if we get a complaint and we follow up, we would have the property owner and the horse owner or horses owner contact the conservation district and they do have manure management plans and best management practices and other plans and programs that would be available to them too, if they have an acre certainly 12 horses may not make sense on that one acre, but maybe two does and we would refer them to the conservation district to work with the conservation district on what is a reasonable number of horses for this site and for the carrying capacity of that site.

This was brought up probably four years ago and the Board said, no, we don't want to get into putting a numerical standard on how many horses you can have based on X, Y or Z acreage. That was the Board then, I don't know if they'd be entertaining the thought now, but just to let you know how we would handle it absent the standard today.

DELEISSEGUES: I would think that would make sense in true agriculturally zoned areas that are agriculture 40 or 20, but when you get to rural center one, it doesn't seem to hold in commonsense terms that you wouldn't limit the number of horses on one acre in a rural center which is suburban, not urban and not rural. Anyway, that's all I've got to, not going to solve the problem tonight I guess. Any other discussion?

BARCA: I have one more question. In the uses table where we're talking about forestry 80, 40, AG-20, we have kennels on parcels between 5 and 20 acres as conditional use. Why did we conditional use those there?

EULER: Right now in the rural areas kennels are a conditional use, period. So the Rural Lands Task Force was to say if you have more than 20 acres kennels will be permitted if you meet these standards, and below 20 acres with a minimum of 5 acres they will remain

conditional uses and these tables just are designed to reflect that. Did that answer the question?

BARCA: Well, okay. So we thought it was okay above 20 acres in the rural lands, but we didn't think it was acceptable without specific conditions being met?

EULER: Correct. The idea of this was in keeping with the Board's philosophy to make the code cheaper and therefore better and hopefully faster. The Rural Lands Task Force said instead of having kennels be conditional uses everywhere, which they are currently, it makes sense to the Rural Lands Task Force that we keep them as conditional.

But if you have less than 20 acres, a minimum of 5 acres, you have to have and allow them to be permitted above 20 acres. That was their recommendation.

SNELL: And important to note is that it's a permitted use on over 20 acres with the special use standards that apply so 40.260.040 which is the code language at the bottom of Page 21 and at the top of Page 22, you're having to meet those standards for the permitted use.

And if you are 5 to 20 you have to go through a conditional use permit which there are additional criteria and a hearing and an examiner make the decision on the conditional use. Does that make sense?

BARCA: It does, although I thought we were trying to make this quicker and easier and so I'm just wondering why the 5 acre up to 20 distinction was held, why did we think, "we" meaning not the rural task force but staff and then by inference Planning Commission, why do we think that it really needs to remain conditional?

EULER: Again, the idea was, I think, to base the level of activity given, you heard Ms. Beck speak, she lives next door to one of these. It may be that this doesn't solve the issue at all, but we're presenting what the Rural Lands Task Force is thinking and, again, the lesser level of review, lesser standard of review for larger acreage I think was their philosophy.

You know, maybe it should be 40 acres to 5 acres or some other number, but this was we're presenting their recommendation and I think that they said above 20 if you can mitigate for noise make it permitted.

DELEISSEGUES: Well, I think one thing we can do in the motion is suggest we add or subtract.

BARCA: Right. And because I was being specific around the idea of the forest and ag land specifically, not cutting it open to all rural acreage, I was thinking that there's some opportunity that we missed.

DELEISSEGUES: George.

VARTANIAN: Is anybody here from the Rural Lands Task Force?

EULER: No. I think we sent them at least two or three reminders that --

VARTANIAN: No, I'm just curious.

EULER: Yeah. I was hoping somebody would be but --

SNELL: And the history and experience does tell us that kennels on five, ten acres, they do have impacts to neighbors and we are looking at the kind of good neighbor policies and good neighbor policies would allow for those neighbors to come to a hearing and testify in front of an examiner and present their case as to why or why not something should be approved.

ALLEN: Since the task force representation is not here could staff address their recommendation for a 200-foot buffer or a setback, excuse me, from property line that the staff was recommending for commercial kennels versus the one that the task force recommended which is only at 125 feet?

EULER: Any number you're going to choose for a setback is arbitrary. The code currently reads in RC-1 and RC-2.5, that's rural centers and in rural commercial and in all urban zones where permitted, that's the way the current code reads, kennels are allowed with a 200-foot setback.

In a sense a 200-foot setback, probably a 125-foot setback is going to preclude kennels from ever happening in rural centers because you can't get any size setback, those would preclude, you can't build it on an acre. But it says "in all urban zones where permitted" which we struck because kennels aren't permitted in urban zones.

So part of this was a code cleanup. We stuck with the 200 feet in order to help with the noise mitigation. The task force recommended 125, current code says 200 feet. I've had people say, well, maybe a half a mile isn't enough depending as you pointed out somebody mentioned topography and then how you would measure this. But the 200 foot even though it's not applied directly to where we're going is a number that's in --

ALLEN: In the code currently.

EULER: -- code currently. So we are recommending even though the task force wanted 125-foot setback, we said, no, let's keep it at 200. Even 125 is going to preclude them in rural centers unless you have a large enough parcel.

VARTANIAN: That's one of the reasons I keep not so much concerning myself with setbacks and all that stuff and saying X number of decibels at the property line. The whole point of the setback is to mitigate sound and what better way to do it than just say here's the sound level that's going to be acceptable at your property line. You could have a one-foot setback but that dog had better be murmuring half the time or all the time.

ALLEN: Yeah. And unfortunately you can have a 200-foot setback with a whole bunch of hedges and everything else but the dog's going to go right by the property line when you're measuring that at the property line so that's one of those things that are very difficult to manage. But your staff recommendation is for the 200 feet, right --

EULER: Correct.

ALLEN: -- for the setback?

EULER: Yes.

ALLEN: And then also last but not least in defining the commercial aspects of the equestrian facilities, staff I guess is in line with the definition of the building code for consistency all the way through this particular section?

EULER: In the resource zones we talk about I think equestrian activities including rodeos and some other things. In the other rural zones we talk about riding stables. So what we're trying to do is get consistency in the language so that's another thing we're trying to do here is standardize the language. So, Jose, anything you want to add there?

ALVAREZ: No.

DELEISSEGUES: Okay, good. I think we've gone around on this at least twice now.

ALLEN: Yes.

DELEISSEGUES: Does anybody want to try a motion on this?

BARCA: I'm writing one but I'm not ready yet, I'm close.

VARTANIAN: I would like to make a motion that we --

DELEISSEGUES: You would like to move?

VARTANIAN: I would like to **MOVE**, yes. I would make a recommendation that we **deny** the staff proposal and send it back for further analysis again on noise issues and the need, you know, management, all the things that we've been talking about tonight, noise issues, numbers of animals on given (inaudible) of property, that's my motion.

DELEISSEGUES: Is there a second? Someone else want to make a motion? That one wasn't --

ALLEN: I make a motion that we recommend to the Board to adopt the language as written by the staff.

DELEISSEGUES: With no additions or subtractions?

ALLEN: Correct.

DELEISSEGUES: Second on that? No. Well, keep trying.

(Motion **failed** for lack of second).

BARCA: Okay. How about I'll try. So I'd like to make a **MOTION** to **adopt** staff recommendation with the following changes: No commercial kennels or boarding facilities in the rural centers and attach a limit to the total number of dogs for commercial kennels or boarding facilities based on available acreage.

DELEISSEGUES: Is that it?

BARCA: That's it.

DELEISSEGUES: Second on that one?

USKOSKI: I'll go ahead and **second** that with an **amendment**.

BARCA: First you second it and then make an amendment.

USKOSKI: Okay. I'll second it.

BARCA: All right, got her. Go for it.

USKOSKI: Just on Section 40.260.040 --

BARCA: What page, please?

USKOSKI: 22. -- B, second line there with an enclosed add in soundproof.

BARCA: That's acceptable.

DELEISSEGUES: "Soundproof" is kind of a tough definition, you know.

USKOSKI: Or sound mitigating.

DELEISSEGUES: Limit it to some decibel number but --

BARCA: We have a very smart staff who will figure the wording out.

DELEISSEGUES: I'm sure they understand we want it --

EULER: You actually made that recommendation in the workshop and I actually have it in my notes here that you wanted to insert the word "soundproof."

VARTANIAN: Now we're in trouble.

DELEISSEGUES: Well, wait a minute now. We got a motion and a second. Are you going to interact here?

COOK: Yes.

DELEISSEGUES: Proceed.

BARCA: Can't we vote first?

COOK: Actually my question concerns the **motion**. Chris Cook, Deputy Prosecuting Attorney. And as I understand Commissioner Barca's motion, it would require a limit on the number of dogs depending on acreage, but is that limit specified? And if it's not specified, who should set it?

BARCA: Yes.

DELEISSEGUES: In other words so many dogs per acre, would that specify it?

BARCA: Yeah.

VARTANIAN: Well, who's going to specify it?

DELEISSEGUES: You mean we'd give a number?

BARCA: A limit of dogs per acre.

COOK: I am wondering whether you want to give a number or whether you want to delegate?

BARCA: I do not want to give a number.

COOK: Would you care to name someone who should name the number?

BARCA: I think either staff or appropriate authorities that staff can contact could come up with a reasonable number to bring forward to the Commissioners.

DELEISSEGUES: In other words --

COOK: The director could do it?

DELEISSEGUES: Marty can do it.

SNELL: I suppose I'm the responsible official.

COOK: Generally.

SNELL: Generally speaking. I'll take the responsible serious.

DELEISSEGUES: Generally responsible, you mean.

BARCA: So are we okay?

DELEISSEGUES: Is that okay now? Are we good to go?

COOK: The wording still doesn't specify how that number is going to be arrived at. The PA's office I think would prefer for the **motion** to say that the responsible official will come up with a number based on acreage. That's not very elegant wording but that's the idea.

DELEISSEGUES: Why don't you restate the motion to say it that way.

BARCA: Okay. We've had worse. I'm comfortable with the responsible official working the number out prior to it going to the Commissioners.

DELEISSEGUES: Is that okay with the second?

USKOSKI: Yes.

DELEISSEGUES: Any other discussion on the motion?

ALLEN: What about the amendment? We haven't --

BARCA: Wait, wait. Yeah, we already accepted the amendment, the soundproofing.

ALLEN: Accepted, okay.

BARCA: Yeah.

DELEISSEGUES: Any other discussion? If not, may I have roll call, please.

ROLL CALL VOTE

BARCA: AYE
VARTANIAN: NO
USKOSKI: AYE
ALLEN: AYE
DELEISSEGUES: AYE

DELEISSEGUES: With that out of the way we will go to the second item, not in order, which will be master planning for energy parks. Jeff, do you have a staff report?

NITEN: It's kind of an unfamiliar place for me to sit. Good morning or good evening, Commissioners, Jeff Niten with Community Planning. And the proposal in front of you tonight is an idea that staff had as an incentive to draw renewable energy clusters to the county.

We did three things with this proposal. The first is we defined what "renewable energy" is. The second element of the proposal is adding heavy industrial zoned parcels to the master planning section of the code which enables master planning to occur in heavy industrial. Currently that can't happen so we added that section there. The third element of the proposal before you tonight is for design standards for specifically biomass energy facilities.

I looked into a couple of the issues that we had during the work session, that were mentioned during the work session. There are 389.6 acres of heavy industrial property in the county, approximately 218 of those acres are in Chelatchie Prairie up north and the rest of it is in ports, Port of Camas/Washougal, Port of Vancouver, Port of Ridgefield except for a few small parcels, the majority of which are right along 117th at the northern edge of the Vancouver urban growth area.

And that's the proposal that we have and I'd be happy to answer any questions that you might have.

DELEISSEGUES: What's Chelatchie Prairie zoned?

NITEN: It's a rural center so it's CR-2.

DELEISSEGUES: The old logging site, what's it --

NITEN: What's that?

DELEISSEGUES: The old logging site, mill site.

NITEN: Yeah, that's heavy industrial. That's where 53 percent of the heavy industrial property in the county is located.

BARCA: So we're adding heavy industrial to the ability to become master planned?

NITEN: Correct.

BARCA: And then we are stating that we can master plan heavy industrial only for energy generation?

NITEN: For renewable energy, correct.

BARCA: For renewable energy?

NITEN: Yes.

BARCA: Why did we limit it to heavy industrial?

NITEN: Heavy industrial is the zone that is most likely to be the chosen location for energy producing enterprises. A light industrial zone more than likely would not attract that type of industry because of the restrictions placed on it and mostly the location.

BARCA: The restrictions placed on what?

NITEN: Light industrial. Light industrial is outdoor storage yards, things like that. It's not for a heavy intense use like energy production would be. I don't see a energy company or a renewable energy company wanting to locate in a light industrial area. I can't see that happening unless it's totally indoors which I suppose that could be the case.

BARCA: Which is possible.

NITEN: It is. But the incentive is not there. It doesn't preclude the ability for them to locate there, but the incentive isn't there.

BARCA: I think that we're just limiting ourselves needlessly by coming up with a very narrow decision process so early in the game of renewable energy which is part of the discussion that we tried to have during the workshop is that we don't even know all of the potential for choices on renewable energy and by saying that we're only going to allow 300 and some odd acres out of the entire county to be eligible for this type of endeavor, it seals the fate of what we're going to be able to do in the future.

NITEN: There are not only 389 acres eligible for that type of endeavor, there are only 389 acres eligible for the incentive for that endeavor. If they wanted to and if they could meet the development standards a renewable energy company, they would be more than welcome to locate in a light industrial zone. The consensus of the staff that drafted this code doesn't think that it would be likely. Even remotely likely.

BARCA: And so what incentive are we giving them?

NITEN: The ability to master plan, the ability to create clusters which they did not have before in heavy industrial which we think is the most likely and the most appropriate site for renewable energy companies to locate.

VARTANIAN: Can I ask a quick question?

BARCA: Yeah, go for it.

ALLEN: Why were they --

VARTANIAN: I take it we can master plan in the other zones?

NITEN: Yes. You can currently in light industrial, in office campus and in mixed use you can master plan in those zones currently. Today you cannot do a master plan in a heavy industrial zone.

VARTANIAN: And that is because?

NITEN: I don't know.

VARTANIAN: Other than the law is that way.

NITEN: I don't know.

VARTANIAN: Oh, okay. Well, first I don't understand why it's only renewable energy as opposed to any energy and, secondly, I don't understand why we wouldn't allow master planning for whatever you want to put into a manufacturing if it's heavy industrial.

NITEN: That was a concern that was brought up by DEAB, why you wouldn't allow it for anything. What we were looking at when we drafted this proposal was to create an incentive for renewable energy. I don't have any concerns and I haven't heard any concerns of allowing master planning to open up for any industry in heavy industrial.

But what we were looking at was creating an incentive. If the tradeoff is to allow master planning for any industry to locate in heavy industrial, there's no issue with that.

VARTANIAN: I mean there's not a problem by allowing master planning?

NITEN: No.

BARCA: So the Leichtner Landfill, I believe it's zoned light industrial, there's probably a potential for quite a bit of methane gas production, but we would not be willing to give the incentive for them to harvest the gas?

NITEN: We already do.

BARCA: In the same way?

NITEN: They can master plan and renew it, they can master plan and they can locate there if they're already zoned there. They already exist on light industrial land, therefore the renewable energy as defined by 40.100.070 it meets that definition.

VARTANIAN: What does master planning do for you?

NITEN: It allows you to --

VARTANIAN: I mean I'm obviously not understanding master planning in the context.

NITEN: It allows you to make changes later through a post-decision review process rather than going through a quasi-judicial process. Minimal changes, not wholesale.

VARTANIAN: No, I understand.

NITEN: Yeah. After you receive your preliminary approval, it allows more flexibility later.

VARTANIAN: Okay.

BARCA: So you're saying they can master plan for renewable energy in their current location?

NITEN: They can master plan for anything in light industrial.

BARCA: For anything?

NITEN: Anything that meets the light industrial criteria. You couldn't be retail or anything there or housing.

BARCA: Well, I think I still misunderstood the intent, then, of what we're saying that we're only doing master planning for renewable energy in the heavy industrial.

VARTANIAN: In other words, if you're not going to have heavy industrial, if you're in an industrial zone, heavy industrial zone, and you want to do something other than a renewable energy facility, you cannot master plan.

NITEN: Correct. Under the proposal.

VARTANIAN: Under, yeah.

NITEN: Which is the same way it is today. That doesn't change from the way it is today.

VARTANIAN: Well, I'm ready to make a **motion**.

BARCA: I'm done, yeah.

DELEISSEGUES: Any other questions of Jeff? Milada?

ALLEN: Nope.

DELEISSEGUES: How about you, Valerie?

USKOSKI: No.

DELEISSEGUES: Okay, thanks I guess. You got anything else to add on --

NITEN: No.

DELEISSEGUES: Okay. We'll see if anybody in the audience would like to testify on this issue of master planning for energy parks. Seeing none, we'll return it to the Commission, then, for deliberation.

VARTANIAN: Will you accept a motion?

DELEISSEGUES: Certainly, any time.

VARTANIAN: I **MOVE** that we **accept** the staff's proposal but with the exception of master planning for renewable energy and to open up all the heavy industrial lands for master planning.

USKOSKI: I would **second** that.

VARTANIAN: Thank you.

DELEISSEGUES: Any discussion on that?

BARCA: I'm not sure I understand it.

VARTANIAN: I guess my point is rather than limiting master planning incentives or capability for just renewable energy in the heavy industrial zone, you're allowing master planning for anything you're going to put into the heavy industrial zone.

DELEISSEGUES: Still good for the second?

USKOSKI: Yes.

DELEISSEGUES: Any other discussion? Roll call, please.

ROLL CALL VOTE

VARTANIAN: AYE
USKOSKI: AYE
ALLEN: AYE
BARCA: AYE
DELEISSEGUES: AYE

DELEISSEGUES: With that, then, we'll move to the rural center residential uses 1, 2 and 3 on the agenda. Changes to rural center residential uses, changes to rural center commercial uses, and adoption of rural center mixed use overlay. We'll try to put them all together and see what happens.

EULER: Thank you, Mr. Chairman. Again, Gordy Euler, Community Planning. I noted on the little summary sheet that I gave you that the Board gave the Rural Lands Task Force five things to do, five charges, and two of which were for them to look at ways to improve economic development opportunities in rural centers and essentially rural areas in general so it's out of that discussion that these recommendations come.

I want to give you just a little bit of context. They started with rural center residential uses. We basically gave them the use table and said what do you think and on the first page of this sheet we've boiled down to basically the changes they wanted to make so you don't have to go through six or seven pages of the use table.

And they're listed there, change bed and breakfast up to two rooms from review and approval Type II process to permitted. Change three or more bed and breakfast rooms to from conditional to permitted. And you can read the rest of it there.

And we've put the information in the staff report about how we'd have to change the bed and breakfast section if you wanted to make this change and we've identified the wrong zone so the correct language is not in your staff report, it's under D, approval process, here.

And the reason this has to be here is that the bed and breakfast section specifically says three to six bedrooms and so if you didn't put this in here, you'd set up a conflict in the code. So that's why this is here. So that's the change. And then you can see on the top of Page 2 on the little cheat sheet we've added adult family homes, but you've already made a motion to take care of that so that's why this is here.

In your staff report we showed the Rural Lands Task Force making recommendations to the side and rear setbacks and this issue is going to be addressed in Batch 4 so we're proposing that if you make a motion that it not include changes to rural center side and rear setbacks. Even though those changes are shown in your staff report, this issue is going to be addressed in Batch 4 and you'll be hearing more about that.

With regard to commercial districts, again these are the specific things that they wanted changes on. Rather than going through the entire table, we pulled them out and put them here. And the reason you don't see anything in CR-1 which is rural commercial outside of rural centers is we didn't have them comment on the rural center, on the rural commercial table. Because we were focused on rural centers, they only commented on CR-2. That was an oversight on our part which of course we can correct at some later time.

So this is the list, that's why you only see things in the two columns here. And, again, there's some issues in some places in here where the task force recommended those

things that are in gray shading that these move to the review and approval process from conditional use. And as I explained before, the County now has the Type II-A process or the Type III, the conditional use light process in place. So these very well could end up as Type IIs, but staff is recommending that these uses that are shaded in remain as conditional uses.

The other thing that happened as I explained two weeks ago was just last month the Board adopted changes to the commercial code and one of these was to split the urban commercial zones from the rural commercial zones and there are some changes that are included in your staff report that should have gotten made at that point which did not. And some of those code cleanups are in the staff report.

For example, if the new title of the section is rural center commercial districts, well, it should say rural commercial districts because CR-1 is not a rural center commercial district. And in the table there in the center of Page 3 we also struck minimum density residential uses and high density residential uses, but if we want to be consistent we would leave those in and just put an X there. That's because we don't allow high density or medium density in rural areas. So those are the proposed changes to the rural center commercial table.

Rural center mixed use overlay district, this would be a new section of the code. Again it would apply to about 50 parcels in three rural centers. Maps of those rural centers and the areas that this would apply to are in the back of your notebooks. This was, I guess, a code cleanup, if you will. We've had the rural center designation on the map but no implementing language.

So if you choose to recommend the proposal, we developed language, took it to the task force, they said they liked it and the Board said bring it forward for you to talk about. So those are the three proposed changes to rural centers, the rural center residential, rural center commercial and the rural center mixed use overlay.

DELEISSEGUES: Any questions of staff on this subject?

ALLEN: Is the Hockinson rural center map the new expanded boundary or is that still the boundary?

EULER: The Hockinson rural center map is not correct with regard to the boundary; however, it is correct with regard to the location of the mixed use overlay.

ALLEN: Okay, thank you.

EULER: Yes, we noted that that needs to be updated.

ALLEN: Okay, thank you.

BARCA: So, Gordy, do you have staff comment based on the letter submitted from the six

Cities?

EULER: Do we have staff comment?

BARCA: Yes.

EULER: I think the staff report indicated that staff shares some of the same concerns that were submitted by the Cities. There are certainly Growth Management Act implications any time you make changes to uses or expansions in rural centers and that's part of the reason obviously we're bringing this to you to have those discussions.

One of the facts in the letter that was signed by the mayors is a task force recommendation which was to go to a half-acre residential parcel. That is not part of this proposal and we don't know whether at any point if that will be brought forward.

DELEISSEGUES: Well, I'm happy to see Ms. Cook --

EULER: Yes.

DELEISSEGUES: -- because I wanted to ask her professional opinion on the last six lines of the letter from the mayors concerning the comprehensive plan update and whatever else you came to say, but I'd like you to address that too.

COOK: Well, I'm primarily here to answer questions, but I don't think that's a necessity to discussing rural center commercial uses be limited to a comprehensive plan update, it's zone changes and that's all. Well, it's not even zone changes, it's use changes within the zones.

And I can't speak for the Rural Lands Task Force, but I was present at the meetings where they discussed these items and they generally looked through the various items in the use tables and said, well, why, what is there about this use that makes it inherently incompatible with location in a rural area or makes it inherently compatible.

And so they looked at the uses that way and they essentially couldn't figure out why you couldn't have some of these things in a rural area, why it would change the rural area to urban, which is an assertion made by the Cities. So in general I disagree with the Cities' letter as to the legal consequences of the proposals by the Rural Lands Task Force as brought forward by staff.

I just saw this letter this evening so I haven't had an opportunity to read the case law that they cite, though I have to note that it's essentially two cases. There are one, two, three, four, five, six, seven, eight bullets, but it's only two cases and I'm not quite sure exactly what those two cases say, so that would be interesting. And some of them deal with boundaries and so forth and this doesn't change the boundary of a rural center at all so to that extent they're pretty well irrelevant.

DELEISSEGUES: Okay, thank you.

COOK: You're welcome.

DELEISSEGUES: Any other questions of Chris?

ALLEN: I did have a question. On the second page they're citing the necessary capital facilities in a comprehensive method, right, if you could address that issue, that would be great. And it's the capital facilities paragraph I think Number 2 on that Page 2, the last sentence in that paragraph.

COOK: Right. Well, again this assumes a transition from rural character to urban character and I don't see that as a necessary consequence of these changes. So I kind of reject the notion that this is precluded without capital facility planning because I think it's founded on an erroneous assumption. Because there can be a bed and breakfast with more than three bedrooms does not make it a city.

ALLEN: Right. Thank you.

EULER: If I might add to that, what's not proposing to change is the site plan requirements or any of the development standards such as getting a Health Department approval for septic or well.

We're concerned, I think, and we say so on Page 16 of the big staff report that some of these uses appear to be more intensive use of particular properties and we are also adding several uses that are listed that are currently prohibited, but if this development were to occur, they would have to meet site plan conditions and setbacks and landscaping and all of the other development standards.

And if there was even down to the mixed use where we're proposing if it's allowable in a rural center on residential property and allowable on commercial property, you can put the two with some limits on the same parcel, they would still have to have a perc test and be able to have septic unless there was sewer in the area. So the meeting of the development standards requirements isn't going to change.

The issue as we see it is do these changes continue to preserve rural character and I mean if we're going to a littler box to a smaller box to a small box to a bigger box retail store is that going to preserve rural character in rural centers and that's the Growth Management Act standard.

ALLEN: Thank you.

DELEISSEGUES: George.

VARTANIAN: A question of staff. I meant to ask this earlier. On Page 13 on the big staff report the last item, zoos, museums, historical and cultural exhibits and the like, under the

second column we cite Permitted 1 and then Number 7 as a footnote. I don't see a Number 7. I meant to ask you that in the work session also.

EULER: Number 7 isn't there. As I recall the recommendation is I think the footnote reads that zoos would not be permitted, but we'll fix that.

VARTANIAN: Well, that's all right.

EULER: No. No, it's a good question, it should be here.

DELEISSEGUES: Anything else for staff?

ALLEN: Now is there going to be a differentiation between the zoos for domestic animals kind of a thing or zoos for exotic animals because sometimes you have those petting zoos on a farm?

EULER: I don't think that was contemplated in the Rural Lands Task Force recommendation.

DELEISSEGUES: Anyone in the audience wish to testify on this? No one? Must be here for something. We'll keep looking. Okay, if no one wishes to testify, we'll return it back to the Commission for deliberation and a motion.

BARCA: Well, I looked at this list and I tried to put it in the context of saying if it was in a rural center, what would it look like as far as rural character goes and I don't believe that I see eye-to-eye with this as we heard from Ms. Cook concerning the idea of whether it really is in the context of changing the rural character.

A lot of these facilities or uses would require significant amounts of parking and asphalt which brings up stormwater issues, skyline issues, and I think we start to move away from rural character pretty quickly. I believe I understand the motive of the Rural Lands Task Force, they're really trying to promote an opportunity to have job creation in the area and they're trying to make their own backyard self-sufficient to the greatest degree possible.

But when we look at it from the land use context, and I think actually the Cities' letter is pretty well written in regards to what the GMA issues genuinely are and we gloss over those sometimes pretty readily but I believe that they're very relevant. I can buy into some of these items, but there's many of them that I would have difficulty accepting and I'm not sure how we want to try and go down and whittle them out to say yes or no in that regard.

I can certainly understand the bed and breakfast concept and say, yeah, I could understand the proposal that says you permit up to two and three is conditional. I could see lumber, I could see heating and plumbing because those are the types of things that from the rural lands there's a constant stream of traffic necessary to maintain one's house and they have to go after those types of items and if you can provide it in the rural center commercial setting that makes sense to me. Event facilities, RV parks, hotels, bowling

alleys, skating rinks, we move away from rural character pretty quickly.

ALLEN: And zoos.

BARCA: So I'd be willing to entertain the idea of trying to reach consensus on which uses are okay and which ones aren't, but I'd like to hear what the rest of the Planning Commission feels on it.

VARTANIAN: Yeah. My inclination is first of all I agree with Mr. Barca except for the point about going through piecemeal and deciding what should and shouldn't be there. My inclination is to not accept staff's report, not accept the findings of the Rural Lands Task Force, but to leave the code the way it is because there are ample uses in the tables that have nothing to do with amusement centers, as Commissioner Barca said, bowling alleys and that kind of stuff. I'm sorry, that's not at least what I see as rural center stuff or rural commercial stuff.

Secondly, if I understand it correctly, and I may not, the whole point of rural centers was when they came up with the GMA that there were in fact nodes of commercial business out there already and we just grandfathered that basically rather than calling it legal nonconforming uses or whatever, but as we add things and change things within them, I think we're getting away from the intent of the GMA.

Offering employment and commercial applications and whatever else have you, that's the whole point of an urban growth boundary being inside of it and outside of it and I just don't see how that's consistent with the rural lands use. And as far as a little bit of this and a little bit of, I mean this is a real good example of creep for lack of a better term, c-r-e-e-p.

That we make these minor modifications a little bit here and a little bit there, come back in a year, oh, well, we got this now and how much more different is that going to be later. The whole point here is that rural centers were established because they were already in place when the GMA was enacted and I don't think we should make any changes to the current code. Finished.

DELEISSEGUES: Valerie.

USKOSKI: I kind of agree with everything that's been said thus far. I think some of these that are in the table that we could change a few of them, but like Ron had said with the amusement centers and bowling alleys and theaters and hotels that I don't think that really follows a rural center. And rather than piecemeal it out, I don't know that that's necessarily the answer trying to taking it line-by-line for what we do or don't like. Milada.

DELEISSEGUES: Okay, Milada.

ALLEN: I too have concerns with some of the uses and especially with those that were not permitted previously but now would be permitted, and/or those that were not permitted for example in CR-2 like the bowling alleys and the outdoor paint ball facilities that are now

permitted with a conditional use permit. But at least they're permitted with a conditional use permit, but the zoos and the museum, historic and cultural exhibits, those really belong in city centers or close to them unless the zoos just don't fit with the museums anyway.

But I know that that's not what we're considering tonight, but I do have some problems with allowing these uses in the rural center. And I do believe that it was said that the infrastructure may not be a concern or that our capital facilities may not be of concern, I do have a concern when we bring in these increased uses into centers that may or may not be able to accommodate facility-wise, some of these big giant centers that would bring a lot of parking and a lot of impact on the adjacent properties.

And I do agree with some of the comments that were in the letter signed by all mayors and I think that they should be commended on coming together and doing one collaborative letter because that makes it much easier for us to go through and to see some of the consensus that they came to together as a unit. So I think that this document is a pretty good document that they had presented with the exception, of course, of that half-acre minimum that you said were not part of this whole proposal.

DELEISSEGUES: Are you through?

ALLEN: Yes.

DELEISSEGUES: Well, from my standpoint I agree with an awful lot of what the mayors have come up with and I think as Milada said that when you get five or six mayors agreeing on something in Clark County, we ought to probably pay close attention to what it is they have to say and what their concerns are.

And I particularly agree that this is a major change, I believe, from the concept that we had in the Rural Centers Task Force which Ron and I were both on and we tried very hard to maintain some kind of boundary around what we were talking about as a rural center to maintain the rural character of that rural center.

This goes, things that Ron mentioned, some of them, and they're mentioned again on the front page here, uses such as vocational schools, event centers, theaters, health clubs, hotels, motels, blah, blah, way beyond the scope of what we had envisioned for a rural center.

The roads in the rural area don't necessarily have the capacity for large numbers of vehicles at any one time, your ADT would go out of sight. We already have the rural roads being used for people that are commuting from Portland and jobs in Vancouver and so forth heading north to Battle Ground and all points north and east in the county, totally insufficient to handle the traffic that they have during peak traffic hours.

I can sit at 164th and 182nd in Hockinson, wait there for a long time because of the signals that they put in along Ward Road that compact the traffic into platoons and pretty quick

you've got about 20 or 30 cars piled up. And then they're right on the bumpers of each other and you can sit there for a long time waiting to get out of there with nothing but a boulevard stop to control the traffic and nothing on 182nd, they're all headed north.

All you need to do is put an event center in there and have another 4 or 500 people show up and coming and going, plus the schools that are already there, it absolutely won't support that kind of traffic. And particularly the areas you're talking about here in your maps, I don't know what Chelatchie Prairie, why anybody would go up there out of their way to attend an event, but maybe they would.

But certainly Brush Prairie and Hockinson and some of those areas they're already underserved by the capital investment and facilities that we have. And I know that the County doesn't have the money to improve them and they're not going to get more money out of a few bowling alleys and hotels and so forth in the rural centers.

I notice that there's a motel in Battle Ground that should have a restaurant if they're ever going to get classified as a more than a three star facility and they've never been able to attract a restaurant. Even in Battle Ground they've got a mattress outfit in there. So we've got a lot of building to do in the cities that we've already got without having to build or try to build more cities in the rural centers.

So I don't really support anything except putting this whole thing off until we do have another comp plan update and we can notify people and let them know what we're going to be talking about and have them have the opportunity to come in and testify as to whether or not they want all of these things in their backyard if they live near a rural center, supposedly a rural center.

BARCA: Mr. Chair.

DELEISSEGUES: Yes, sir.

BARCA: I believe we were tackling a couple of items put together on this one?

DELEISSEGUES: Yeah, we were, the commercial and the residential.

BARCA: And the mixed use overlay was all part of it if I understand the way that we were discussing it?

DELEISSEGUES: Right. We were trying to do it that way.

BARCA: So I'd like to make a **MOTION** that actually we **accept** staff recommendation except as follows and we do not accept any of the changes to Table 40.210.050-1.

So we buy the changes for the bed and breakfast, we buy the changes for the adult family homes, we buy the changes for the adult family homes in the residential and the rural center mixed use overlays, but we do not accept any of the changes for the commercial

uses in that particular table I stated 210.050-1.

USKOSKI: I would **second** that.

DELEISSEGUES: Discussion on the motion?

VARTANIAN: Yeah, could I just take a quick look at mixed use overlays if I might. Where is it?

BARCA: It's right here.

COOK: Page 18 of the big report.

BARCA: Yeah, on Page 18 of the big report which is followed up with the maps.

DELEISSEGUES: What page is it, Ron?

VARTANIAN: 18. The bigger map.

BARCA: Well, it's not the maps but 18 is the text.

VARTANIAN: I'm sorry, the big text, yeah. And as I understand the mixed use ordinance that's being proposed for the rural centers does that follow the guidelines that the County has for mixed use use of the land in the urban, that's it, in the urban area?

EULER: Essentially what it would allow is whatever is allowed in CR-2 rural center commercial and rural center residential RC-1 and RC-2.5 could be done on the same parcel. And as I understand it, the overlay was applied to residential parcels adjacent to the commercial centers in those three rural centers.

So they have rural center residential zoning and the mixed use overlay would allow commercial activity on them and we picked the commercial activity as to what you would otherwise be allowed to do on a commercial parcel in rural centers.

VARTANIAN: In existing code?

BARCA: In existing code without changes.

EULER: In existing code without any changes, yeah. Or in the existing code if the code changes, it would be whatever is allowed in CR-2, RC-1, RC-2.5 could be done on the same parcel, and there's some other limitations on there, and done with the intent of with an eye towards rural character.

VARTANIAN: Okay, thank you.

DELEISSEGUES: Any other discussion on the motion? And the second is okay with the

--

USKOSKI: Yes.

DELEISSEGUES: -- whatever we described? Okay. No further discussion, we'll have roll call.

ROLL CALL VOTE

BARCA: AYE

VARTANIAN: AYE

USKOSKI: AYE

ALLEN: AYE

DELEISSEGUES: NAY

DELEISSEGUES: I'm going to vote **NO** because I still think it's contrary to the concept of the rural character.

BARCA: It's his choice.

EULER: No. No.

BARCA: It's all right.

EULER: Just a point of information, what did you vote on?

DELEISSEGUES: What did who vote on?

EULER: In terms of the motion? So you wanted nothing in the commercial --

VARTANIAN: No changes to the commercial section.

EULER: -- to the commercial table. The mixed use overlay is okay?

VARTANIAN: Yes.

EULER: And then bed and breakfast and adult family homes in residential?

BARCA: All tables were accepted with changes except for the rural commercial district change.

EULER: Got it. Thank you.

DELEISSEGUES: With that we'll move to B.5 which is right to farm/log.

EULER: Thank you, Mr. Chairman. This is the last of the items that are in Batch 2B. It's on Page 26 in the big staff report.

Rural Lands Task Force basically recommended the County's right to farm and log ordinance be changed such that agricultural and forest activities are only nuisances if there are substantial adverse impacts on public health and safety. In other words whether or not the use was established before somebody moved in next door would no longer matter. And that was essentially the task force recommendation.

The staff recommendation, and as you heard from legal counsel and please join in, Chris, if you will, doing so is contrary to the State statute on which our County statute is based and staff feels in consultation with the PA's office that there's a lot of case law that deals with nuisance that does not support this. And I'll just leave it at that in terms of the Rural Lands Task Force recommendation.

COOK: I have serious concerns if the County adopted the ordinance as recommended by the task force whether the courts would uphold that ordinance as being something that they could enforce. This is an ordinance that takes away somebody's rights to seek redress from the courts and just the overwhelming theme of case law in the state from the Supreme Court is that in order to be protected by something like a right to farm, right to log statute, the resource use must have been there first.

So what we're hearing from folks is we want to encourage agriculture, we want to encourage agriculture on small parcels, so people are moving in now they ought to be able to do what they want, get rid of this, you have to have been there first requirement. I understand what they're saying, but I'm not sure that legally it flies.

BARCA: Well, when you say that they must be there first, you're saying that the activity had to be there before the contrary development?

COOK: The nuisance activity or the alleged nuisance activity that's being complained of.

BARCA: Without any type of hiatus of that nuisance activity taking place?

COOK: Oh, whether there's a hiatus or not I think is a factual question and how much of a hiatus and what's allowed to be there.

BARCA: Because I think --

COOK: I think that's a factual question that would be dealt with by the courts on a case-by-case basis. But in one situation there was a serious hiatus, in another situation there was a very small farm where livestock were raised that became a giant feedlot. And the small farm was there before the people that sued the feedlot for nuisance started living there but the feedlot wasn't there and the court ruled that because the feedlot had not been there first that its nuisance effects were open to suit.

BARCA: And I think I could understand we don't have much of a historical precedent for the County being a large feedlot-type facility --

COOK: No.

BARCA: -- or lending ourselves to it.

But in the context of agricultural activities and forest practices, I think we have a long-standing historical precedent for that happening in the county, especially in what we're talking about in the rural lands and land zoned ag and such. So there's a lot of property that was ag and has been moved out of ag, but I think it's easy for us to say that agricultural activity took place there.

COOK: Well, agricultural activity in the 1970s I don't think would be a defense against a lawsuit in 2011.

VARTANIAN: So you're saying that whatever nuisance was in effect prior to my buying a house next door is a defense, but any new nuisance, let's say, yeah, somebody used to plant tomatoes and that took one kind of a fertilizer and now they're planting peas and that takes something else, would not be defensible?

COOK: Well, interesting that you should bring up a change in the agricultural activity. I think that would be an interesting court battle as to whether planting tomatoes and planting peas were the same thing. I'd kind of maintain that they were the same thing myself, that would be my notion. As to whether planting tomatoes is the same as some other --

DELEISSEGUES: Raising grain or --

COOK: Yeah, some totally different activity I don't know whether the courts would look favorably upon that or not. But the general idea is if the use was occurring before your nonresource development and you build or moved in next to it, you should have seen it. If you didn't like it, why did you move there.

You can't move there now and tell people to stop what they're doing. That's the basic concept behind the Common Law and behind the statutes and the County's ordinance that are based on it. The task force would like to take that temporal aspect away and as I said that's very contrary to the case law in Washington.

VARTANIAN: Well, phooey, I've done it again.

BARCA: Write it down next time.

VARTANIAN: Yes, I almost always do.

DELEISSEGUES: A senior moment.

BARCA: Can I take the floor for a moment?

VARTANIAN: Yes, of course.

BARCA: I'm wondering about the context of you have pasture land that's not being utilized, there's housing development adjacent to it, people come in and they plant trees and you know at some point in time those trees are going to grow up, they're going to get harvested and that's a potential nuisance that we have on the onset. Could we really preclude the people from planting and harvesting the trees by saying that that nuisance is going to be available in the future?

COOK: Well, just planting and harvesting trees I'm not sure whether that would constitute a nuisance. There are cases I've seen in a couple of different states that have to do with forest activities. As to whether it precludes a nuisance if something was pasture land and around it there's been development since then, I don't see how the forest activity got there first.

VARTANIAN: So it's the use, not the zone?

COOK: It's the use, not the zone. Because when there's a lawsuit the allegation is that the particular use has impacts that interfere with the use and enjoyment of one's own property. So those are typically things in a resource zone that would have to do with odors, dust, noise, pesticide use, water, yeah, absolutely, water affects contaminants or just noxiousness.

So that's the idea and just because something is zoned for ag use it's not necessarily interfering with your use and enjoyment of your property, it is the specific use to which the property is put.

BARCA: So that same piece of pasture land that has gone fallow for a period of time, the houses are in place, somebody else buys it, they look at it and they say that is an ideal place to put on --

VARTNIAN: Corn.

BARCA: -- cows?

COOK: Once again as I said I don't think that using it for cows in the 1970s is a defense against a lawsuit 41 years later. It depends. Were the cows there and when the development came in or were they not. If they were not, I don't think that there's a nuisance occurring.

ALLEN: So if it's an established agricultural land whether it's fallow or not and it has a potential to either grow row crops or tree crops or it could be used for grazing, that would not be a, quote, unquote, a right to them to continue agricultural uses if they change from row crops to grazing? I mean it's still part of agriculture.

COOK: Yeah, that's the sort of thing that the courts get to figure out, how long it's been

from one particular activity to another, how connected they are. Some lands lie fallow because there's a cyclical period in one overall agricultural operation, I would argue that that overall operation continues. You grow something in the south 40 for a couple of years and then you don't grow it there for a couple of years and then it comes back, this is not a change.

The question would be whether there's a change and how much. You all are raising interesting questions, they're kind of questions about how many are dancing on the head of a pin. It's these sorts of questions would be answered case-by-case in the court.

But as a general rule, and that's all I can give you is the general rule because that's what I've got, if the nuisance creating activity was there first, the law says that you do not have a cause of action in nuisance against that activity.

ALLEN: And if you change that would that constitute takings?

COOK: If you changed what?

ALLEN: If you changed, you had agricultural use there, you abandoned it and now you're starting something different but it's still agriculture use, but you cannot do that because now that we're saying that you were not there before this development was wouldn't that constitute takings?

COOK: We've never said that they could do that before the development. The current code and current State law says you have to have been there first. So the change that's being proposed is to take away the requirement that you've been there first.

VARTANIAN: The use has to have been there first, not the zone?

COOK: Yeah. The nuisance use, yeah.

DELEISSEGUES: So this part of the code change it says whatever it is that's going on on agricultural land and the person that has the right to farm or log, whatever's going on, is not a nuisance is not very legal. I mean who's to say it's not a nuisance. You say the courts are supposed to say that and I would agree with you so why would we put it in a code saying that --

COOK: This is something that's been adopted --

DELEISSEGUES: -- land uses on neighboring parcels are not nuisances.

COOK: Well, there is a State statute that says that, but it does have to be once again an activity that was there prior to the nonresource.

DELEISSEGUES: Right, I understand that.

COOK: Virtually all states have adopted some sort of right to farm, right to log legislation.

DELEISSEGUES: Fine.

COOK: It's pretty much everywhere.

DELEISSEGUES: Yeah, I understand that. But I'm just saying we can't presuppose that everything that's going on on any land that's designated farming or logging is not a nuisance, it depends on what's going on, the use as you pointed out, you can't have it both ways.

COOK: Well, what the code says and what the statute says is that if the nuisance activity has a substantial adverse effect on health, I believe that a lawsuit is allowed and this doesn't say it's not a nuisance, it just says you can't come to our courts and sue about it. That's what it says.

DELEISSEGUES: Well, they can, they might get thrown out.

COOK: Yeah, they might get thrown out.

ALLEN: Now let me understand this.

DELEISSEGUES: Anybody can sue anybody.

ALLEN: The strikeouts on Page 26 and 27, were those the strikeouts according to staff's --

COOK: Gordy, I'll let you do this.

EULER: On Page 26 is the Rural Lands Task Force recommendation and that is to say that ag and forest activities wherever they occur, whenever they occur are not a nuisance. And so we presented you an option on Page 27.

We did a couple of things. One is we inserted our own definition of "ag activities" and "forest uses." That's one you can take or leave. That was just our recommendation. But as an option you could apply the Rural Lands Task Force recommendation only to property that's designated ag and forest.

COOK: But I don't think that would hold up in court.

EULER: And which is what you're hearing from Counsel that even doing that much is contrary.

ALLEN: So the language on Page 27 would not be contrary to the State law, whereas the language on 26 is contrary to the State law --

EULER: They would both be --

ALLEN: -- is that what I understand?

EULER: They would both be contrary to State law.

ALLEN: Both would be.

EULER: We made one totally is on Page 26 and halfway so on 27.

ALLEN: So in other words the bottom line is if there's no change, it is still according to State law, but if we make any of these changes proposed on Page 26 or on Page 27, we will be contrary to the State law?

EULER: That's correct.

ALLEN: Thank you.

COOK: What are you saying is contrary to State law on 27?

EULER: To only apply the Rural Lands Task Force change just to the land zoned ag and forest.

COOK: Oh, yeah, that would be a problem.

EULER: Correct. Which is the strikeouts on Page 27.

ALLEN: So if there's no change period and we don't take the 26 or we don't take any changes on 27, then will we still be in compliance with the State law?

VARTANIAN: Yes.

EULER: Yes.

ALLEN: Thank you.

VARTANIAN: Commissioner Barca and I are having a side conversation and I think one of us understands it that currently --

COOK: Which one?

DELEISSEGUES: Which one?

VARTANIAN: Well, I'm not going to tell you that.

BARCA: He'll tell you in a second.

VARTANIAN: No. If I was right I'll tell you, otherwise I won't. No. Current code says that if you've got a working farm, you're growing corn and somebody puts up a subdivision next to you, you've been growing corn for ten years and if somebody comes in and buys the house next door and suddenly he doesn't like the smell of your fertilizer --

COOK: He doesn't like your fertilizer, he doesn't like your pesticides if you've got them, he doesn't like you harvesting all night and making dust and --

VARTANIAN: And he doesn't like me personally, too bad.

COOK: Yeah.

VARTANIAN: Too bad; right?

COOK: Right.

EULER: Correct.

BARCA: I wasn't arguing with that.

VARTANIAN: Yes, you were.

ALLEN: Now if they move in when your land is fallow or in a rotation cycle, then they --

COOK: No. If it's in rotation cycle, I would maintain that that's part of the agricultural activity. If it's one of these farms that's been not farmed for the past X number of years because people just aren't managing it for farm, that's different.

ALLEN: And of course if the person moves in next door and they see, ah, nice beautiful open space and we hope it remains in open space, then it becomes agriculture is reintroduced there, then he's got a problem with that so he takes it to court. So I think I really do believe that the Page 26 and Page 27 would confuse the issue and of course it is contrary to the State law.

EULER: Staff's recommendation is to make any changes, bad policy, leave it as it is.

ALLEN: And that's why it sounds like it would be a more prudent and reasonable way to go is pursuant to what is State law.

SNELL: So I'm prompting the Planning Commission here I'll admit freely, it's 10:00, we do have a couple of people who may want to testify --

DELEISSEGUES: Yeah, I'm trying to get there.

SNELL: -- and we've not gone to hearing it and I think folks are getting maybe a little tired.

DELEISSEGUES: I'm trying to get there. I was waiting for an opening here in the dialogue. Is it okay now that we can --

BARCA: I had no idea we were holding anybody up. I apologize. I thought you were all here just for the show.

VARTANIAN: Yeah, we can revisit discussion again after.

SNELL: They aren't watching on TV.

BARCA: We're on TV?

DELEISSEGUES: Thank you, Chris.

VARTANIAN: All three people are watching us.

DELEISSEGUES: Anybody in the audience wish to testify on this matter? Please come forward and state your name and address for the record. And thank you for waiting for so long, my gosh.

PUBLIC TESTIMONY

CROSS: Theresa Cross, 4114 NW Columbia Street in Vancouver. It's late and we're all tired and I'll keep it very short, but I have to say I had no idea that people growing food to feed themselves or to make a living at it could be such a contentious issue. You have before you the letter from the Clark County Food Systems Council of which I am the current chair and I'll just make a couple of points from this letter, you can read it for yourself.

The Clark County Food Systems Council our primary focus is to maintain and build a healthy local food system. "Local" is up for interpretation, but certainly we encourage people to buy and support local businesses and buy local food and support local businesses as much as possible. We believe there's an urgent need to undertake farm preservation strategies because once you lose your farm land, you aren't going to get it back.

Statewide sales trends demonstrate the consumer interest in local agriculture is growing significantly. We need to plan for people and if people are going to eat, we have to plan for food. The Clark County Food Systems Council supports any changes that can be made to County code to strengthen the right to farm in our communities. That's all. Thank you.

DELEISSEGUES: Thank you. Any questions? Any discussion?

BARCA: I think your letter was very straightforward and stated the facts, I appreciate it.

CROSS: Thank you.

DELEISSEGUES: Appreciate your patience, thank you.

CROSS: Thank you. Learned a lot tonight.

VARTANIAN: Yeah, you learned not to come to hearings.

DELEISSEGUES: Anyone else wish to testify on this? Okay, seeing none and no one left, return it to the Commission.

VARTANIAN: One more time --

DELEISSEGUES: Oh, no.

VARTANIAN: -- Counsel. What is being proposed to us now is to say that you may have been farming this farm for all this time, but if somebody comes next door and says you're a nuisance, you may have to defend yourself?

COOK: No, that is not what is being proposed. What is being proposed is you have lived in the rural area as a rural resident or wherever as a resident for the past 50 years.

VARTANIAN: Yes.

COOK: The farm operation moves next door to you.

VARTANIAN: That's not what I'm talking about.

COOK: That's what's being proposed.

VARTANIAN: Okay. I am obviously missing the point here because what I'm reading is agricultural activities and forest activities shall not be found to constitute a nuisance --

COOK: Right.

VARTANIAN: -- unless the activity has substantial adverse effect on the public health and safety.

What that says to me is you may have been there before or you may have been there after the residential development, but in either case somebody could say you're a nuisance.

COOK: In order to --

VARTANIAN: That's what that sentence says to me. And if I'm misreading it --

COOK: You're misreading it. Truly. Look at what's stricken from it. The part that's stricken is the part about the agricultural or forest activity having been preexisting, they're taking away the preexisting requirement.

So what it says is that if you're a nonresource or even in the feedlot case the people that sued were farmers actually but they lived on their farm, they didn't really like living next door to the giant feedlot, so if you have a use and you've been there forever, or even if you've only been there for five years, if the resource use comes in after you've been there, what this proposal says is that you cannot succeed at suing them regardless of how they messed things up.

So they could raise hogs next to you, they could have the giant feedlot, they could plant a small forestry operation and spray it with the drift going to your property, you don't get to sue them even though you were there first. That's what the proposal is.

VARTANIAN: Fine. But what I'm reading here is that --

DELEISSEGUES: I don't think so. Go ahead.

VARTANIAN: What I'm reading here is that after you take out the strikeouts, it doesn't make a distinction between the farm having the noxious agricultural activity being there first or after a residential occupancy next door, you can get sued for nuisances.

COOK: A substantial adverse effect on health is a really, really, really difficult standard to meet. As a lawyer I would love to have that language in something that I'm defending against.

VARTANIAN: I understand that. But I guess I'm not even wanting to have to defend against it. I'm just saying that if a farm was doing X before somebody bought the house next door, he can continue to do it without fear of suit.

COOK: Well, once again I'm not sure that State law will allow you to do that.

VARTANIAN: Well, I guess I just don't understand that State law.

COOK: If you're poisoning your neighbors, you shouldn't be doing it.

VARTANIAN: I'm not talking about a terminal condition, I'm talking about just, boy, it stinks in here.

COOK: But that's a substantial adverse effect on health, it stinks in here is not.

DELEISSEGUES: The whole purpose of this exercise was to simplify and make it more understandable and I don't know how long we've been discussing this and nobody seems to understand any of it.

COOK: Actually the purpose of the Rural Lands Task Force was not to simplify and make things understandable. The purpose was to further the charges that they were given by the Board in terms of creating economic opportunity in the rural areas and updating kind of the code as it pertained to the rural area in the modern times.

DELEISSEGUES: So you're saying it's okay if nobody can understand it? That's my point. I understand what you're saying.

COOK: Thank you.

BARCA: So as I see it what the Rural Lands Task Force is proposing is to try and push the policy issue that says the County is going to do more than what they have previously done by what we had documented as far as the right to farm by being active in the pursuit of saying the people who choose to do this activity are in some fashion encouraged and I believe that we have language in the comp plan that already talks about us trying to genuinely encourage rural activities, agriculture and forest practices.

So the way I look at it right now is we are being told by legal counsel that this probably won't fly. I'm wondering how we bring forward genuine encouragement that allows people to feel like an investment in growing crops, doing forest practices is not going to be quickly overturned by a land use decision.

They're looking for certainty, they're looking for some way of having an ability to make the investment and know that it's going to last in the County's policy and the method in which they follow that. I'm willing to put this out here to get it in front of the Commissioners just so we can have the policy discussion.

VARTANIAN: Whoops.

USKOSKI: I wasn't going to say anything until Ron spoke. I'm Troy Uskoski, 26011 NE Deer Ridge Road, Yacolt, Washington. And I'm just particularly in a situation that Ron just mentioned, that I might be interested in investing in a land that's zoned forest use which is currently in forest use, but I wouldn't have been the original owner practicing the forest use on that property.

So I'm curious if the existing neighbors could file a complaint against a new owner of that property, but yet performing the existing use or the existing function that's already there or does that use of that land follow from one owner to the next?

COOK: B.

USKOSKI: B.

BARCA: Since it's in that current use, the way that our discussion has gone that use carries over regardless of ownership. It would be this discussion was around the idea of putting a piece of property back into use after a period of time when it hadn't been used for

that or instituting a new use on a piece of property that it hadn't had that use prior to.

USKOSKI: I would think there would be an understanding that in forest practices you might not touch it for many years because it's going to take a lot for the trees to grow.

COOK: Well, growing is part of forestry.

EULER: That's still in current use, yes.

USKOSKI: And no change from my point of view is good.

DELEISSEGUES: Where are we?

BARCA: Well, we need a motion to get ourselves out of here.

DELEISSEGUES: I'm all for it.

BARCA: Hey, I'll make a **MOTION** that we **accept** the Rural Lands Task Force recommendation to move this on to the Board of County Commissioners.

DELEISSEGUES: Is there a second?

USKOSKI: I'll go ahead and second for you, Ron.

DELEISSEGUES: Well, we're getting pretty late, I guess, in the meeting. Any discussion on the motion?

BARCA: Let me just say real quick that I recognize the controversy, I understand staff's point of view, and because it's such a policy driven topic we get it out in front of them.

DELEISSEGUES: Yeah, I didn't hear you mention that in your motion that you were sending it back for clarification and policy or was that --

BARCA: It's a policy discussion by --

ALLEN: So you are forwarding this particular issue to the Board of Commissioners without a recommendation; is that correct?

SNELL: No, he's saying approve.

BARCA: No, I'm saying approve and let the Commissioners hear the entire discussion because I believe the Rural Lands Task Force will show up to a hearing with the Board of Commissioners and they can have their say. And we have a second.

DELEISSEGUES: Is that still okay with the second?

USKOSKI: Yeah.

DELEISSEGUES: Roll call, please.

ROLL CALL VOTE

BARCA: AYE

VARTANIAN: NO. Because I'm not sure. I'm really having a hard time understanding what is before us. Reading it gets us to what Counsel at least is giving me thinking, wanting me to think about where we're going with this. I'm not seeing the language say that.

USKOSKI: YES

ALLEN: NO. Because both Page 26 and 27 if they are contrary to the State law, I don't want to add to a problem. But this definitely is a policy issue that should be addressed at the much more comprehensive research and discussion.

DELEISSEGUES: I vote NO pretty much following along Milada's reasoning and George's.

BARCA: Yeah, way to go, now they'll never see it.

VARTANIAN: No, they'll see it. It will go before them.

NEW BUSINESS

None.

OLD BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

WISER: There's nothing on the docket for February.

DELEISSEGUES: Nothing?

WISER: No. If it changes, I'll let you know.

DELEISSEGUES: We need it, we need some time off, I can tell. I'd like to make one comment. Our colleague Jeff Wriston, I heard from him a couple of times and today, he's not doing well in his recovery from surgery and he said he might be laid up for some time. He has a decision to make whether to go for a second surgery or not and he's weighing that.

But, Jeff, if you're watching we miss you and we wish you well in your recovery and hope you'll be back with us soon.

ADJOURNMENT

The hearing adjourned at 9:30 p.m.

All proceedings of tonight's hearing can be viewed on the Clark County Web Page at:

[http:// www.clark.wa.gov/longrangeplan/commission/06-meetings.html](http://www.clark.wa.gov/longrangeplan/commission/06-meetings.html)

Proceedings can also be viewed on CTV on the following web page link:

<http://www.cityofvancouver.us/cvtv/>

Chair

Date

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