

**CLARK COUNTY PLANNING COMMISSION
MINUTES OF PUBLIC HEARING
THURSDAY, NOVEMBER 17, 2011**

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

6:30 p.m.

CALL TO ORDER & ROLL CALL

DELEISSEGUES: Good evening. I call the Clark County Planning Commission to order for Thursday, November 17th, 2011. Can we have roll call.

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

Staff Present: Marty Snell, Community Development Director; Chris Horne, Prosecuting Attorney; and Sonja Wisner, Administrative Assistant.

Other: Cindy Holley, Court Reporter.

GENERAL & NEW BUSINESS

A. Approval of Agenda for November 17, 2011

DELEISSEGUES: Has everybody had a chance to look at the agenda, any changes? No changes to the agenda? Motion to approve the agenda.

VARTANIAN: So moved.

ALLEN: So moved.

DELEISSEGUES: All in favor.

EVERYBODY: AYE

B. Approval of Minute for October 20, 2011

DELEISSEGUES: Approval of the minutes for October the 20th. They were sent in the mail I think.

VARTANIAN: So moved.

DELEISSEGUES: Second?

ALLEN: Second.

DELEISSEGUES: All in favor.

EVERYBODY: AYE

C. Communications from the Public

DELEISSEGUES: Is there any communications from anyone in the audience about anything that they'd like to bring before the Planning Commission that is not on tonight's agenda? Seeing none, we'll move, then, to the public hearing items, staffed residential group homes, including definitions, location and hour of operation. Marty, do you have a report?

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

A. STAFFED RESIDENTIAL GROUP HOMES, including definitions, location and hour or operation.

Staff Contact: Marty Snell, Community Development Director
Phone: (360) 397-2375, Ext. 4101
Email: marty.snell@clark.wa.gov

SNELL: Commissioner Chair, Marty Snell, Community Development. Before you this evening is a draft ordinance to adopt a section under the special use chapter of Clark County Code 40.260. What we have before us today or this evening is a proposal to define and regulate what we call staffed residential homes.

You have a memo that was submitted to you October 26th and in the proposed code. There are a number of other pieces of correspondence that have been submitted in to the County, many of them are on the back wall there on the table. I can go through this if the Planning Commission would like me to.

One thing I want to stress for this evening is we have an interim ordinance that is set to expire November 24th. The Board directed staff to work with the Planning Commission to

come up with permanent regulations to address the staffed residential home use and what is before the Planning Commission this evening is a legislative proposal.

We are not here this evening to consider the status, the merits of an existing facility in Hazel Dell, that will be considered in a different venue at a different time, and certainly Chris Horne can weigh in if you feel the need, if that's something you'd like.

The amendment again is we define a "staffed residential home" consistent with State regulation, the Washington Administrative Code, and that's one of the pieces of material I gave the Planning Commission, and again it's in the back, it's Chapter 388-148 out of the Washington Administrative Code.

So we define the staffed residential home consistent with State law, we provide use authorization within the various residential zones, urban and rural in Clark County, and then we set out purpose, applicability, development standards and requirements under 40.260.205.

I think a couple of points to make here is where the proposal has a staffed residential home as a conditional use permit, the process of the approval of the conditional use permit would follow under a Type 2-A process which means staff would make a decision appealable to a hearings examiner.

The 2-A process requires a neighborhood meeting prior to an application being submitted to the County. There is an opportunity for the applicant, the responsible official or a neighbor, neighborhood association to request a hearing in front of the examiner.

So those are kind of some key points under the Type 2-A process. I certainly can field any questions that you might have. And again, Chris Horne's here from the Prosecuting Attorney's Office to help this evening. So I'll open it up to you and certainly to the hearing.

DELEISSEGUES: Any questions of Marty?

BARCA: Not at this time.

VARTANIAN: Yeah, just maybe for counsel. Will anything we do tonight, approve, disapprove, go to sleep, have any impact on what the process is going on now with the current residential facility?

HORNE: Well, actually that's a good lead-in because while this is purely a legislative proceeding, at least one definition that was in the emergency resolution is not.

And by the way let me just ask, this is a slight digression from your question so bear with me, the Board had asked in the prior meeting for a copy of the emergency resolution, was that provided to the Board?

VARTANIAN: Yes.

ALLEN: Yes.

HORNE: Okay. One omission from the materials that were provided to you previous or tonight is the definition of an "adult family home," that will be in the definition that goes to the Board.

So in answer to your question the only extent to which this resolution will affect any existing use is to the extent we are clarifying our code. Now whether somebody else agrees or disagrees or has a completely different answer is going to be an issue decided in a different forum, but with the exception of clarifying a prior code, that's the only extent to which it may affect any existing uses.

VARTANIAN: Okay.

DELEISSEGUES: Any other questions? Okay. We'll go to the sign-up sheet then, people to testify on this matter, and the first one I have is Narci Castro. Do you wish to testify? Would you just state your name and address for the record when you sit down.

CASTRO: Narci Castro, 75 --

DELEISSEGUES: Well, just go ahead and have a seat and speak into the microphone if you can.

CASTRO: Okay. Yeah, my name's Narci Castro, 7522 NW 15th Avenue. And the purpose of me being here is to advocate that the County enforce existing law and not try to revise the code and that's basically why I'm here for to say that.

DELEISSEGUES: Okay.

CASTRO: That's it.

DELEISSEGUES: What? Do you want to go ahead?

CASTRO: No, that's it, that's all I got to say.

DELEISSEGUES: Any questions?

BARCA: So, Mr. Castro, just for clarification, you understand what we're doing tonight is to try and create some permanency to the definitions and the land use in a policy format?

CASTRO: Right.

BARCA: Right. That's the Planning Commissions' role in this right now. So your request for the County is available for staff to take up, but that isn't something that we are able to direct staff to go do, we're strictly land use.

CASTRO: Okay, I understand.

BARCA: Okay.

DELEISSEGUES: Okay, thank you. Next on the sign-up sheet Ila Stark.

BARCA: Stanek.

STANEK: Bless your heart. I got to learn to write for you, Dick, it's just not working right.

DELEISSEGUES: That's okay, it could be my eyes too.

STANEK: No, I'm sure it isn't. Ila Stanek, West Hazel Dell Neighborhood Association, president. And what I see in the two codes looking at what we had and what the staffed residential code says, what we had is applicable to just about everything that's going on and that we're worried about, but the new code doesn't seem to me as well thought out.

I love the title, that's great, but it doesn't require all ten areas and standards requirements to be met by applicants and I think that perhaps as a Planning Commission you could take a look at that aspect of it, make certain that what you're approving isn't easier to obtain than what we already have. We love the idea of including the requirement for some sort of a good neighbor agreement as part of it, but we can work with that in the group.

Our big concern is that neighborhoods are made aware prior to anybody putting foot on the ground so neighbors understand, the greater neighborhood associations understand and thereby you can lessen the fear and the misunderstanding and all sorts of problems. So we just think that the new code isn't as tough or enforceable as the old code.

DELEISSEGUES: Any questions of Ms. Stanek?

BARCA: Are you ready?

VARTANIAN: Yeah.

BARCA: Go for it.

VARTANIAN: I think I will. What's for dinner? No. You indicated ten requirements under the old code or the established code?

STANEK: Yeah.

VARTANIAN: And some of them didn't come through --

STANEK: No.

VARTANIAN: -- on the new code?

STANEK: Right.

VARTANIAN: I don't mean to put you on the spot, but specifically which codes, yeah, I'm sorry?

STANEK: Well, how you put these things together and you have the focus of what you're thinking about and since that isn't what I can address I have to focus on. I just think that that was our take on it. We had a big neighborhood association meeting last night, we met with the community last week, and the consensus is the old code is enforceable and defensible if it should come to that and the new one, perhaps the way it's written and focused isn't quite that strong. I sent Marty to the book. I love it.

VARTANIAN: All is lost.

STANEK: Yeah, I know, now we have nothing else. Does anybody else have any questions?

BARCA: Yeah, I have a question in that regard. As you express it it sounds like you are advocating that the neighborhoods be notified ahead of time?

STANEK: Yes.

BARCA: And in the discussion about how we're proposing to make the changes to the code, we're talking about the Type 2-A review --

STANEK: Right.

BARCA: -- which wouldn't that indeed give the neighborhood notification ahead?

SNELL: It would, yes.

STANEK: Well, it would if it were requested within 21 days of a permit being filed as I understand it. A Type 3 on the other hand costs the County more money but would require a public hearing immediately.

The other problem that neighborhood associations have, and West Hazel Dell is huge, and I live like a mile and a half from it, I would not have received a notice initially because I don't live within 300 or 500 feet of the property, and so in those cases of what occurred there, what would tend to occur is that only the immediate neighbors and not a greater neighborhood association that's organized to prevent, protect and provide.

BARCA: So I'm going to paraphrase back not just for clarification --

STANEK: To get me on --

BARCA: Yes. So when you talk about the neighborhood being notified, you're talking about the neighborhood as an organized entity, the neighborhood association then --

STANEK: Yes.

BARCA: -- as opposed to the "neighborhood" meaning the adjacent neighbors?

STANEK: As well as, not as opposed to. So adjacent neighbors always because they're impacted by anything that goes into their neighborhood, but at least the neighborhood association should also be notified. And that could be done by community outreach, Holly could send us all notifications saying such and such is going to happen and it would be an easy thing, it's not a pricey thing to do. Have I satisfied everybody?

DELEISSEGUES: Any other questions of Ila? Okay, well, thank you very much for your testimony and thank you for your letter. The last name on the sign-up sheet I have is Trent Hall.

HALL: This is the first one of these I've been to so I may not be the most prepared, but we would ask as --

DELEISSEGUES: Could you start with your name and address, please, for the record.

HALL: Oh, yes, yes, I'm sorry. Trent Hall, 7515 NW 15th Avenue is the address that I'm representing today. And we would ask that with any code changes a facility like this, a home like this, be considered without requiring the 2-A process but a lesser process.

It's been expressed by others to make it more difficult or harder to open a home like this. This is not a group home. I was at the other meeting the other night and this is not a group home, it's a staffed residential home. So when you're looking at a State definition for what group homes are, it's not the same as what we're talking about here.

We're talking about what the State has set up for a specialized small population of people living in a home, six or less, and caring for a particular population as you can see in that definition, but the State has an additional definition for group home facilities which are not based in a home, they're based in a facility designed for a specific use. Anyway, that's all I've got for now.

DELEISSEGUES: Any questions of Trent?

VARTANIAN: Yeah. And this may not be a reasonable question for you, you're saying this is a permitted use in the zone? I think that's what you said.

HALL: Well, and --

VARTANIAN: I assume Counsel's nodding his head, well, okay, I'll just wait, maybe I

should address that to counsel or --

HALL: Maybe I didn't understand your question, I'm sorry.

VARTANIAN: I think you're saying that the State has a different definition or has a definition in one case but not one, but your project, whatever we're talking about, this kind of a facility is under a different kind of a definition?

HALL: I believe it should be and I believe that was the intention of it.

VARTANIAN: Well, no, it's not a matter of should be, it's a matter of is it?

HALL: In Clark County I believe it should be, it is in other places.

SNELL: I can share with the Commissioner the information from the WACs.

VARTANIAN: Okay, we'll wait till after or I'll wait until after. Thank you.

DELEISSEGUES: Go ahead.

SNELL: So just on that point the WAC regulations relevant to this under 388-148, it's an odd format, the WACs are actually formatted in a question/answer format, and at 0150 our local ordinances are part of the licensing requirements.

"You are responsible for complying with local ordinances (laws), such as zoning regulations and local building codes. The department may require you to provide proof that you are complying with local ordinances." So it's up to the applicant to check with a City or a County as to the zoning code and what's required in the zoning code.

VARTANIAN: Okay.

ALLEN: And it appears that that was not done; is that correct?

SNELL: That's a fair statement.

HALL: That's actually not correct. The County did tell us we could open at that location. That is not correct.

ALLEN: Can we have some background information on that one, please.

HALL: And we have documentation of that too.

BARCA: We need to keep this to the land use component, please.

SNELL: I don't think it's germane to the legislative proposal in front of the Planning Commission tonight and there's been various history recollections of how this transpired

over a year ago, who talked to whom, what was said from County staff to various representatives of New Vision.

I talked to the owner and in no uncertain terms told him that it required a conditional use permit and if he had a problem with my interpretation, he could contact Mr. Horne. So I'm not going to get into the rest of that conversation tonight.

ALLEN: So the bottom line is that technically they are in violation of the current code?

BARCA: You know what, let's --

VARTANIAN: Well, again we're not talking about current situation, we're talking about code going forward.

BARCA: And if you put that into the record is prejudicial to this component of what we're trying to do, can we please keep it to the land use.

ALLEN: I'm just trying to understand why if the current code was written and it was well written as it appears to have been well written, why we're going through this exercise of changing it.

BARCA: And this is our choice. We don't have to change it, Milada. If you think it's adequate, we don't have to change it.

ALLEN: All righty. Thank you.

SNELL: I did want to, first of all, let the Planning Commission finish its hearing and I do have some information on the Type 2-A, the public notice, and the neighborhood meeting requirement. I think that is important for the Planning Commission to know and for the people who have testified it's important to know who gets notice, how they get notice. That's a relevant piece of information.

ALLEN: Thank you.

DELEISSEGUES: Back to the testimony of Trent. Does anybody got any questions on the testimony that he offered? None? Okay. Well, thanks, Trent.

HALL: Thank you. And I have a couple of boys that live there that wanted to come here and they may want to say something else. I didn't have a chance to sign them up.

DELEISSEGUES: Could you state your name and address for the record.

CITIZEN: My name is (REDACTED).

DELEISSEGUES: Speak up as loud as you can so we can hear what you got to say.

CITIZEN: Well, I've lost a lot of things in my life and I turn it to hate, which under my way is I have a philosophical way that I'm not going to explain right now, but I can't take losing this.

This is the home that I've lived at for nine, ten months and I love the people there and I can't lose them. They mean a lot to me and I can't express how much I care about them. And if you shut down this place, there would probably be a lot of people losing jobs and it would hurt us kids because we kind of care about the staff. So that's all I have to say.

DELEISSEGUES: Any questions?

VARTANIAN: Yeah, just a --

DELEISSEGUES: I had a hard time hearing what you had to say.

VARTANIAN: Well, I guess just some -- you can go ahead.

BARCA: I think just so everybody continues to understand about what we're trying to do tonight, this hearing is not about shutting down the house that you live in or keeping it open, we are looking at the code in which the facility that you're currently in or any that come in the future are going to be guided by on how they're placed in the community.

CITIZEN: All right.

BARCA: So I understand that there is a lot of stress in the context of the situation of your specific home, but this is why I've been trying to keep this hearing working on just the land use policy of what we're dealing with tonight. So I appreciate your testimony and it's hard to get up enough personal strength to come forward and speak into a microphone.

CITIZEN: It is.

BARCA: And I appreciate the fact that you chose to do it and I think we all heard you.

CITIZEN: The thing is the last time I was here I didn't do that so I tried to work up the courage now. So if you don't have anything else to say, I'll get up.

VARTANIAN: We're not here to deal with the current situation, we're here dealing with what comes next, the future, whatever's going on now is going to determine, that's not within our purview.

CITIZEN: I understand.

ALLEN: And thank you for testifying. Thank you very much.

CITIZEN: You're welcome.

DELEISSEGUES: Does anyone want to testify on this? Could you pull the microphone up close to you, speak right into it.

CITIZEN: My name is (REDACTED). I live at (REDACTED) and I just wanted to say that if there was some way that we could try to work out to where we could have all kinds of a neighborhood meeting with everyone instead of one person comes to us and then they come to them back and forth, I would be totally willing to do that because I want to try to get through this and I want to see what's going to happen with this. So that was it.

DELEISSEGUES: Thank you.

ALLEN: Thank you very much for testifying too. You did a good job, guys.

ANDERSEN: What do they say, don't follow kids and animals or something like that. Brad Andersen, attorney at Schwabe, Williamson & Wyatt, and I had been helping Steve Morasch bits and pieces because these things really matter to us.

I was the Prosecuting Attorney for Skamania County for ten years, (inaudible) two years before that, I have seen both sides of this issue. I've seen kids that have been victimized that through no fault of their own are at risk. They lose their homes, they're forced to move out, those type of things. I've seen those kids that we've had to put into those homes then become offenders. They are at risk of being offended against and they become at risk of re-offending.

Make no mistake, if you find that these type of homes, including our clients, has to go through a conditional use permit, you will preclude these type of homes in this community without a doubt. They don't have, especially in this stage, this state that we find ourselves in with government having to cut back, grants being low, they don't have the money to be able to pay for the 40 or \$50,000 to go through a conditional use permit.

So when I leave here I don't want any doubts in your mind that making them go through a 2-A, I'm sorry, Morasch is the land use guy and he gave me a couple of numbers, they can go through a Type 3 or making them go through a Type 2-A which will lead to a conditional use permit is a killer, it won't happen.

And so if you choose today to recommend to the Commissioners that they go through some type of public process through that, then you really are saying we don't want these in this community. Now what will happen if you, even if a home, and these guys are operating on a string shoe budget, and don't we want that money to go to getting them the clothes, getting them treatment, getting those type of things instead of having to pay 40 or \$50,000 going through a conditional use permit process, isn't that a better use of the money.

So I'm not here to tell you what to do but just understand if you choose to go through some kind of even if someone appeals it and goes through a hearings officer, that will be the end of these types of homes.

Dr. Allen, and I understand what Mr. Barca is saying, this isn't the place to adjudicate what the status is. We obviously have a different view of the facts about whether this home was allowed or not allowed and that may have to be decided somewhere else, but I just need to put on the record and made clear that we believe that under the existing code our use was allowed. And in fact that's the information we had before they opened it up is that it was allowed.

And so to answer Mr. Vartanian -- I said that wrong, I'm sorry, sir.

VARTANIAN: That will work.

ANDERSEN: -- I think you had a question as well is, well, how this will affect the current matter. If Mr. Morasch had submitted a proposed ordinance and we would ask first that you just find that this is an outright use, don't do anything other than to define this as an outright use that's allowed.

Mr. Morasch has submitted something that says as an alternative make it I think it's a 1-A something where there's got to be the public notice, there's got to be this attempt to come up with a community agreement, which I heard the citizens talking about, that's a concern they have, they want to know and they want to have some participation.

But, folks, if you make this go through a conditional use permit, you're saying we don't want this in the unincorporated areas of Clark County because it just isn't going to fly.

I had some notes here, hold on. So why should you adopt our recommendation on this, the Clark County comp plan says you need to create opportunities for at risk and homeless youth. We gave some statistics and that's what you're talking about, your policy or your comp plan in it talks about creating opportunity for at risk or homeless youth.

The other one is affordable housing. It won't become affordable housing if you have to go through this conditional use permit. Secondly is you cannot discriminate against kids. Dr. Allen, that's why we think it's an allowed use because adult residential care is allowed, that's the title of it, but when you look at the language of it, it doesn't say anything about adults.

So we believe that under the existing code this was an outright allowed use, but I ask you why would you allow adult foster care, the same number, five or six, I think it's six and below, but you wouldn't allow kids, that's discriminating against kids.

And if you got paid staff, one or two paid staff, these kids are better supervised than my kids because my wife and I both work, so this is a very well supervised environment. I also believe that if you distinguish between the adult foster care and this that you're discriminating against non-family members.

Most, well, I shouldn't say most, there's many homes out there where there's four, five or

six kids in a home, now they may have stepparents, they may have aunts and uncles they're living with, it may be the old Brady Bunch, so why would we treat these kids differently than we would treat kids that are in a mixed family.

It doesn't make any sense, it's discrimination against them. When the Bradys got together they didn't have to go down to Orange County and apply for a conditional use permit. Shirley and whatever her husband's name was, they all lived together in a mixed family, so why would we discriminate against these kids that have already had these things happen to them.

Then we talk about special needs and the Clark County comp plan talks about the need for special needs. So I ask you, what will be accomplished by a conditional use permit. I told you the obvious, you're pretty much putting a death knell on these things, but under your comprehensive plan, and it's in the letter that we had submitted, you can't consider the things that really are bothering the neighbors.

I understand it, you're scared, special needs kid, at risk kid, going to break my windows, they're going to harass my kids coming home, that's what the fear is, that's the fear that's going on, the truth is much different than that.

We've submitted letters from up in other jurisdictions, but that's the fear that's going on, but how does a conditional use permit address that. That's not one of the considerations the hearings officer can consider is the subjective feeling, the fear, those type of things.

What they can consider is the objective impacts on the roads, are there going to be more kids. And, remember, we're just talking I think it's six or less kids. We're not talking a big residential care facility or a big foster home, we're talking about really a residential.

So I don't really see where the added, especially if we're giving them notice and we're required under I think it's the 1-A to have this community agreement and notice, those type of things, we're accomplishing the objectives that the citizens are talking about, how does the conditional use help because the hearings officer can't base his decision on fear or subjective things, he's got to base it on those objective impacts.

If somebody can afford to go through a conditional use permit, let's face it, the healthy communities, the communities that these folks are from, they're the ones that are going to appeal under a 2-A or a 3, they're the ones that are going to show up and say we don't want this in our backyard.

If not in their neighborhood, where. What's going to happen is they're going to go to these neighborhoods that people don't care, that's where these foster kids are going to be raised, you know, the 9 or 12 months or some kids are there from 12 to 17, they're going to be in these neighborhoods that I don't think we want them to be in, they're at risk.

I think we've all had kids where they bring kids over, some of us are afraid who they might bring over, but on the other hand we hope our kids will be an influence on them. So the

neighborhoods that won't object or be up in arms is where these homes may end up, which as you can imagine are the very neighborhoods we don't want these at risk kids to grow up in.

So we're here to say I think there's three options. One is we believe that under the current zoning this is a use that's allowed outright. Now I think the County has a different view and maybe we're going to have to fight that out. I hope not because there's not enough money to fight that out.

The other option is obviously go with what Mr. Snell is talking about, that will end these type of facilities in your community. And if that's what you want to do, I don't think it's the right thing to do but if you want to make it a conditional use, I'm telling you it's going to end these type of facilities.

The third option is the one that we had proposed. I wish I was better on land use to explain how that all works, I've read it, but it really accomplishes the notice requirements, it allows the community to be involved.

I think there's been successful experiences in other communities where neighbors actually embrace this, they're on notice, they're watching out, but is it Hillary Clinton talks about it takes a community to raise a child, well, that's what we're talking about.

So I'm asking you not to say no to this. I'm asking that you adopt the recommendation or what Mr. Morasch has drafted and submitted to you. I'll answer any questions. If they're really technical land use questions, I may have to punt, but I'm here to answer, I'll do my best to answer any questions you might have.

DELEISSEGUES: Any questions?

VARTANIAN: Well, one or two questions about a comment that first I take issue with your assumption that the fact that we are engaging in or want conditional use permits or that kind of activity, we're basically saying we don't want these in our neighborhoods, that's a bit of a stretch and I don't buy that argument.

ANDERSEN: Well, lead from my client's perspective, but I understand.

VARTANIAN: Well, I understand, I mean, but there's a lot of things that we do as a county or as a government that have some restrictions. It's not like saying we don't want poor people, but we're going to have poor people and not put them up some place. Secondly, or bad analogy, your definition of "disability" or the State's definition of disability do you consider these youth disabled?

ANDERSEN: Some would be special needs, some would be just out unlucky kids. But, yeah, I think that there's some kids that would meet the definition of "disability," especially a prosecutor with the ways they come up with disabilities to try to diminish their crimes it seems like. I probably have some mental disability under the new laws, but what I mean

is, yeah, there's kids that have disabilities that are part of this, not all.

VARTANIAN: Does that mean a requirement of professional assistance or just guidance in general?

ANDERSEN: Yes and yes. I mean isn't it depending upon the kid themselves, but there's none of that is in the facility itself under the definition is my understanding. Have I answered your question?

VARTANIAN: I think so.

ANDERSEN: Okay, I tried.

VARTANIAN: I think so. And I guess my final issue is typically we have other instances where neighborhoods need to be consulted and talked to that we're going to be doing this and on and on, but there's nothing in code, and I'm not sure if there is in this code, that requires the applicant to adopt some of the recommendations from the neighborhood.

All they have to do is say we're going to do this and here's what we'd like to talk to you about, do you have any problems, and then you can literally go away and say thanks for your time and then build whatever you're going to build anyway.

ANDERSEN: I don't know. Does the agreement require something more than what you just said because it --

VARTANIAN: I don't know what the revised code is getting to at this point. But having a nice meeting with the folks next door is nice and neighborly, but it doesn't require something to happen.

ANDERSEN: And I think as I understand it, I don't want to talk about the specifics of this case because Mr. Barca's made that clear, but my understanding is that Mr. Morasch's proposal has this agreement requirement and there's the 1-A process it's got certain requirements you'd have to satisfy.

I wish I could go further to tell you that I don't think you want to thumb your nose at it, that's why I think the agreement requires more than just consulting and then go build whatever you want to build but --

VARTANIAN: I guess I just don't remember reading anything specific about that and maybe I missed it.

DELEISSEGUES: Any other questions? Thank you very much --

ANDERSEN: Great, thank you.

DELEISSEGUES: -- for your testimony.

Is there anyone else in the audience who wishes to testify on this issue? You can come forward, then, and state your name and address.

STANEK: Arlen Stanek, 500 NW Wildwood Drive. I just have one comment to make and that is the neighborhood agreement is a great idea and it should be done before we go to the hearings examiner, but if you just have a neighborhood agreement, I think, George, you hit on it, thank you for the neighborhood agreement all you people, now we're going to go and do what we want to do.

There's nothing for the Sheriff, the Sheriff can't do anything, there's nothing to be enforced because there's no legal document, that's why I've urged Marty and I think I said it in my letter to the Commission, I think it should be an automatic hearings examiner and a legal document and if there's a violation of the conditions that the neighbors ask for, then there can be some enforcement. Without the hearings examiner and a legal document there's no enforcement. Thank you.

DELEISSEGUES: Any questions of Arlen? Okay, thank you very much for your testimony. Does anyone else wish to testify?

VARTANIAN: You didn't want to try Vartanian, huh? You just came out with George.

DELEISSEGUES: Seeing none, then we'll return it to the Planning Commission for deliberation. Chris, you had something?

HORNE: Well, I just wanted to clarify if I could a couple of points.

DELEISSEGUES: Sure.

HORNE: Actually I think I agree with Counsel, fear alone isn't any basis for doing land use, and it shouldn't be and I don't think it is, but dealing with the impacts of a particular use is an appropriate use or is an appropriate consideration.

In a Type 1 or even a Type 2 process under the Clark County code, and under most County codes, you are given a group of set standards and you have very little discretion. If A fits, you go onto B. If B doesn't fit, you either approve or deny and go on to C and it's very much like that.

In a Type 2-A process, and by the way sometimes that's the advantage or it's to the advantage of the property owner to have a conditional use because if you have unique circumstances where you might not fit the magic blocks and the answer is denial, by doing considerations and looking at how you can mitigate those uses, you can make it fit. So in an area where a use may not generally fit, you may be able to make it work out.

But the difference primarily between a Type 1 or 2 process, Clark County code doesn't have a Type 1-A, but the difference primarily between a Type 1 and Type 2 and a Type 3

or 2-A is that the examiner has the authority in a particular case to look at the issues that are addressed, excuse me, and if mitigation is needed to ensure that there's not a significantly detrimental impact on the neighborhood, then he can impose conditions to protect the neighborhood and make sure that everything works together.

So that's primarily the reason that this use is going forward. It doesn't have to do with a particular neighbor or anything else, it has to do with requiring the ability to mitigate for the impacts of the use which brings up the question of is this the kind of use that might require mitigation.

Well, I'll only be specific, Commissioner Barca, for one second and then I'll move on. The particular use that came up in one year had 32 calls to law enforcement and those by the way just for the record are not neighbor calls, they're all calls that originally originated from the home itself either due to inhabitants assaulting one another, assaulting staff, running away, attempting to hurt themselves in one form or another, those are kinds of uses that require some additional mitigation and they're legitimate.

So we're not just picking and choosing. The reason why you treat kids differently than you do adults is you trust that adults by the age of 18 or 65 if they're in an adult family home is that they're less likely or at least with guidance are less likely to be a harm to other people.

That's not a guarantee but that's the rationale. And in fact just to point out even the Legislature treats it differently. These are not just kids that could fit into a foster home, by definition kids in a staffed residential home under WAC 388-148-1015 are unable to successfully live in foster care.

So they're kids who have had other issues, that in fact the WAC requires they have two kinds of, they have social, they have to have a social summary, and they also have to have a specialized treatment plan for each youth. So there is some reason to require particular mitigation. I don't think this is just a fear. And that's all my comments and I'm glad to answer any other questions you might have.

SNELL: And just a couple of points that I wanted to make earlier. The Type 2-A process under the current code requires a neighborhood meeting prior to an application. The neighborhood meeting does provide notice to the Neighborhood Associations Council of Clark County, the County recognized official representative of the neighborhood association, if there is one, the staff, the County PIO Holly, Holly Gaya in this case, landowners within 500 feet.

So there is notice given to the neighborhood association and NACCC as well as the County neighborhood liaison for the neighborhood meeting. So this is prior to an actual application being submitted so that the neighborhood is notified that something is proposed for a home.

Once an application is actually submitted we do provide notice and there is 21 days from the date that people receive notice that they could request that the matter go to the

hearings examiner. So in terms of the notice earlier that Ms. Stanek mentioned, we do contact NACCC, the particular neighborhood association, and County staff.

In terms of some of the fee amounts that were quoted in testimony, \$40,000 is a stretch. The conditional use permit when submitted with a site plan, the conditional use permit is halved, it's about \$3,000, and then the site plan review for something like this is about \$5600.

There may or may not be a pre-application conference required which is maybe another \$1500.

So 10,000, something like that. I doubt there would be any engineering or stormwater use since these are existing homes. So the \$40,000 is a number I don't know how they get to that calculation.

USKOSKI: Well, I think maybe some of that number comes from most people don't have the ability to negotiate through all the code requirements and application requirements themselves and by the time you hire a consultant to prepare that and all the documents needed, that's where your costs are driven up.

SNELL: I understand. However, nobody's going to cut a check to Clark County for \$40,000 for a conditional use permit application.

USKOSKI: No. But all said and done, by the time they go through the process it could be a substantially high figure compared to what they're looking at in the County fees. That number is going to be significantly more than just County fees.

BARCA: And are there additional fees within the context of the expectation that it would be going to a hearings examiner by request?

SNELL: No. The Type 2-A is you charge the application as if it's going to the examiner. If it doesn't go to the examiner, they're refunded about 1500 or \$2,000.

BARCA: So that is an up front expenditure?

SNELL: Yes, that could be refunded if it does not go to the examiner.

ALLEN: So it is 1500 to 2,000, not the exorbitant amount that we've heard about?

HORNE: Well, no.

SNELL: No, no, no.

ALLEN: Because you would still --

SNELL: It would be you would start with a figure that includes the assumption that you go to the examiner. If the neighborhood meeting goes well and nobody requests that it go to

hearing, there's a refund of about I think 1500 or \$2,000 back to the applicant.

ALLEN: But you would still sometimes hire an attorney as we saw today, but then you would also have the consultants as well as if you would have had the CUP; right?

BARCA: Are you counting?

VARTANIAN: No, I'd like to --

DELEISSEGUES: I'm not sure if Milada's finished. Are you through?

ALLEN: Well, I was just trying to see because the 10,000 for a CUP versus how much for a Type 2-A?

SNELL: That is the Type 2-A because it starts off with the assumption that you will go to the examiner and so we charge the full CUP and site plan review and then, again, if it does not go to the examiner, there's a refund.

ALLEN: So between a CUP and a 2-A the difference would be about 1500 to \$2,000 if they do not go to the hearings examiner?

SNELL: That's correct.

ALLEN: Thank you.

DELEISSEGUES: George.

VARTANIAN: Yeah. You indicated that landowners within 500 feet would be notified. Is that landowners only or residents?

SNELL: All landowners within 500 feet.

VARTANIAN: Not necessarily residents?

SNELL: Correct. All landowners.

USKOSKI: Are they all three required to post notice in the area too?

SNELL: Yes.

USKOSKI: So the residents do have the opportunity to be notified?

SNELL: Correct.

DELEISSEGUES: Any other questions of staff?

VARTANIAN: Yeah. Well, just to get my head on right, which would be interesting, we're not talking about a charitable type activity, we're talking about a business enterprise in the future, not this one that we got going on, I'm not even considering this one, I mean we're talking about a business enterprise as opposed to some church or charitable organization that comes in and want's to do good? I mean I'm not saying these folks don't want to do good.

HORNE: Yeah, I think it's safe to conclude that, that this is more than a charitable exercise. I think the going rate is around 110,000 per child per year.

VARTANIAN: For what?

HORNE: That's how much they get paid to be cared for.

VARTANIAN: By?

ALLEN: And supervised.

HORNE: By the State.

VARTANIAN: Oh, you need a partner?

HORNE: But, remember, that's just what the rate is, that's subject to change by the State.

VARTANIAN: Yeah. No, I understand that, but I'm just trying to make sure I understand --

HORNE: It's not charity.

VARTANIAN: -- who we're talking about, not who in this case but what we're talking about, it's a business enterprise like any other business enterprise?

HORNE: Yes.

VARTANIAN: Although it is doing things that need doing and it's a good thing to do, it's still a business enterprise, okay.

ALLEN: So 110 per child times six?

HORNE: Well, let's not focus too much on this use or somebody else's, but the State pays a rate per child for care per year.

ALLEN: Right. I was just trying to establish a level as to -- I mean I can see where 1500 to \$2,000 to a charitable organization might be a big stretch, but I just don't see that connect or that same reasoning for a business.

SNELL: I have just a quick correction here. I'm looking through the fee table that we have

and the conditional use permit is about \$3,000 with a site plan. The site plan is about 5600, so that's 8600. If there is a hearing pursuant to the Type 2-A process, there's an additional \$1500, so it's in addition to, so it's 8500, 8600, and if it goes to the examiner, there's an extra \$1500 cost.

VARTANIAN: Correct. Why would you need a, bear with me, why would you need a site plan if it's an existing structure and basically a home?

HORNE: Good point. I don't know.

BARCA: Because that's the way the County works.

VARTANIAN: Ah, silly me. I'm sorry.

HORNE: Well, the answer is in a particular case you may be able to have that application waived if it's not warranted, but the answer is it really depends because in most cases you're starting out with bare ground.

VARTANIAN: Yeah, but I mean given probable circumstances.

SNELL: Well, it could be for the site plan as little as \$2100 because you're not --

VARTANIAN: Okay. Well, it's not Chapter and Verse, no matter what happens you will have a site plan, it depends on the situation. If it's an existing structure that's already --

SNELL: In just about every case you'll have a site plan because there's a physical structure that the use will occur in. A physical structure and --

VARTANIAN: Even if there's no change to the structure?

SNELL: A physical structure and a physical site. So you look at some site plan with a conditional use permit, it just whether it's a Type 1 or Type 2 or Type 3.

VARTANIAN: And I guess my question is, or I don't understand, if it's an existing structure that's on the same land that it was always on and it's already been site plan reviewed when it was first constructed and there's not going to be any major modifications to the building, why would you need a site plan?

HORNE: I'll be honest, I --

VARTANIAN: And I'm not saying it doesn't need it, I'm just trying to understand.

HORNE: Yeah. At a minimum you need to ensure that there's adequate parking. There isn't an original site plan when you build a house for a single-family residence because it just goes through building permit review. So it's slightly different, but you're right it may be a much more simplified in one case than another if you're dealing with existing

structures.

SNELL: So it could be as little as \$5,000 and if it goes to the examiner, it could be an extra \$1500.

VARTANIAN: Thank you.

DELEISSEGUES: Well, there are some requirements in here that aren't for a residential home like minimum of one parking space per each adult supervisor and also the fencing requirements and some others, so they may very well want a site plan.

ALLEN: And of course by having that site plan review you would identify if there were any problems with the parking because in some of those residential areas it's hard to park as it is and this would provide a safe parking spot for somebody who is working there.

But that's why I'm trying to figure out because it seems like to me that the cost was the primary issue as to why the home was objecting to the Type 2-A or CUP, but if it's only 6,500 I was just not making connections between foregoing the safety and welfare of the residents for that amount because we want those kids to be safe out there too.

So with a conditional use permit, though, you would make sure that the site itself was safe for them to use as well as operate the business as well to minimize the impacts on the neighborhood as well, so it would be a win/win for both sides if there was a review.

USKOSKI: I actually have a question of staff regarding the Type 1 and Type 2 straight processes, what's the difference between the Type 1 is just purely administrative --

SNELL: Correct.

USKOSKI: -- with no public notice?

SNELL: Correct.

USKOSKI: And then the Type 2 they're still required to do the --

SNELL: There's notice provided --

USKOSKI: Yes.

SNELL: -- and a decision is appealable to the hearings examiner.

HORNE: Actually in both cases. A Type 1 and a Type 2 are each appealable to the hearings examiner. It has to do with the kinds of conditions that would be included in a Type 1 versus a Type 2 and then notice. Think of a Type 1 much like a building permit, we don't give notice to your neighbors if you get a building permit, but in a Type 2 process we do.

SNELL: So if you short plat ten acres into two fives, we provide notice as a Type 2 short plat.

USKOSKI: So if we were to look at this as a Type 2 process rather than a Type 2-A or a Type 3, there would still be the public notice component, there would still be the conditions?

HORNE: The only conditions that you would have are the ones that are contained in the current code so all we look to in a Type 2 process generally is whether there's adequate lighting, whether there's adequate landscaping, we would look at parking, if there were issues about timing.

Yeah, if there are issues that might relate to the particular neighborhood and how these two uses are going to fit together or mesh together, we would not be able to touch those in a Type 2-A process or 2 process because we don't have any conditions that apply to those.

The only way if you're going to have site-specific issues that they can be addressed is through some kind of a conditional review, so that's the difference. If the panel thinks that's not necessary, then certainly that will affect your vote, but that's the rationale behind why this was proposed as a Type 2-A process.

SNELL: And what was submitted in the record as part of the Schwabe, Williamson & Wyatt material was a proposal to make this a Type 1 process with review and approval standards where you'd have providing the County and the neighborhood association with contact information, providing minimum staffing ratios based on different blocks of time, a criteria that no home be sited within a thousand feet of another, that they comply with other terms in the State license.

So that would be a Type 2 process, they meet these standards, they're approved. There is an opportunity to appeal, but, again, as Mr. Horne stated you meet the criteria, there's almost automatically an approval with complying with those standards.

DELEISSEGUES: Any other questions?

BARCA: Yes, I have a question. Mr. Horne, you were talking about additional conditions that might be implied to a specific request, do you have a feel for what we would be talking about as in the context of something other than the structure itself or the infrastructure of the facility other than parking, other than screening?

HORNE: Certainly. In different cases, I mean, again, it's always dangerous to try and use one example as the example, but in different cases we have used performance standards that relate to noise, so depending on where you're located.

Let's assume you're near a hospital or you're near a use, well, maybe not a hospital since

they generate a lot of noise, but let's assume you're near a use in which noise becomes a significant factor, then you may impose noise standards that apply to a particular use to make it fit within the neighborhood.

You may require that if there's no parking off street or on street, you may require that all the parking be off street. On another circumstance you might have a small enough lot where there's no off-street parking, but if there's parking on street. With a conditional use we would be able to approve that by finding there's an appropriate alternative. So the conditions can be both before and they can go both ways and so it's always difficult to try and pick out one. Sometimes it relates to noise, sometimes it may relate to lighting.

I can tell you, well, I won't, again I don't want to sound like I'm scaring anybody so I'm not going to go into particular examples because it actually doesn't relate to Mr. Andersen's client at all, but the State's push towards bringing more kids locally is significant and I'll just leave it with that and having a conditional use gives you the ability to do that. Light, noise. Light, you may require in a particular case you may want to have lighting between two residences so that you're not surprised if somebody winds up in your backyard.

I mean I'm just suggesting that depending on the uses there may be circumstances where you develop site-specific conditions and it's a little difficult in advance for me to anticipate them all. That's part of the reason for a conditional use process because you can't always think of them all in advance.

DELEISSEGUES: In a Type 2 with those kind of issues were brought up did they still refer that, then, to the hearing examiner?

HORNE: Yeah. In a Type 2-A process you can --

DELEISSEGUES: I mean a 2 though.

HORNE: Strictly in a 2 process, no, we would approve or deny. If they didn't fit and we deny it even if we could approve it with additional conditions because our code under a Type 2 process doesn't allow us to substitute condition A for B, we'd just deny that project.

BARCA: So my concern as we move forward through this is that many of the circumstances that we're discussing to me from my experience personally adult family homes and adult foster care can run into some of these same types of issues, but it sounds like we are making a very distinct divergence based on what the State has what you read out in the testimony about how the State has differentiated, but I'm looking at the context right now of saying why would we choose to do adult family homes in a different fashion?

HORNE: Well, I can tell you from our experience tells us that the number of law enforcement calls we get to an adult family home other than I'm sorry to say deaths are very low. And so purely from an impact on neighbors, purely from an impact from a community standpoint, there is a great deal of difference between those two uses even

though they may bear some similarities.

ALLEN: And that's why I had a little bit of a concern when there was a comparison made constantly between the adult home and this particular youth home. And of course we're not against kids to begin with, but when I heard of the outright use to be permitted, I think that that's basically the way that the applicant had treated it to begin with, but it's obviously that it's not working as an outright use type of an environment.

So the conditional use permit, though, would specify specific conditions and would also provide the lighting, noise and/or parking review as well; right?

HORNE: It could in the appropriate case. I mean we can't just dream up conditions if they're not warranted in a particular case --

ALLEN: Sure.

HORNE: -- but if they are, yes.

ALLEN: But it would make a more safe environment for both the residents, the staff and also for the neighborhood as well.

USKOSKI: Well, I just have one question as far as these additional conditions that would be put on. I mean some of these as far as lighting and stuff like that is going to be very particular to the types of kids, which actual individuals come into the home.

And you won't know that at the time of the application so then you're stuck making a blanket statement that all kids are going to need to have this extra lighting to protect the neighbors or whichever way, but you won't have the actual profiles of the individuals in the home to make those conditions.

HORNE: You're right and I'm not going to suggest we are. Remember, again, I guess I start out with the assumption that a conditional use is intended to deal with site-specific conditions, that is where it's located and the types of neighborhoods in which they're located.

The best example I can give you is to locate a gas station for example in the rural area may be a big deal or a small deal. Lewisville One Stop located right next to the Lewis River raises fairly large issues. It's the last conditional use case that I had occasion to litigate raised very large issues because of the potential for impacting the Lewis River which is an ESA protected stream.

So what you look to is not just the nature of the use but the use itself, the site it's set or the type of building, the type of lot it's at and then what surrounds it. Impacts to property values in a particular case where you have an asphalt batch plant may result in the denial of a conditional use permit if they can be proven.

If they're just unsubstantiated fears as Mr. Andersen was concerned about it being, then they can't be justified. If they're unproven then we can't condition specially just because people don't trust, don't like or don't want them in their backyard.

USKOSKI: So how are we developing these conditions, then, if we don't know what these issues are? I mean that's the problem that I'm having is that we want to be able to put these conditions in place, but until we actually have a profile of the individuals they are just human beings in a residential area just like everybody else so to speak, but they have some special needs but what those needs are we don't know until the child is there.

HORNE: That's true. You rely upon the application, the number of people that are in the application, and as I said you look to the nature of the location where the use is situated and what the neighborhood is like.

There are things you will know at the time they apply for this, but you won't know everything in the world and that's true, you deal with the application, the person, the nature of the use, the nature of the building, the nature of the site and where it's located.

DELEISSEGUES: You wouldn't know any of those things in a Type 3 either.

HORNE: I'm sorry?

DELEISSEGUES: You wouldn't know any of those things if you had a Type 3 evaluation.

HORNE: I wouldn't know any of what things?

DELEISSEGUES: What you just covered.

HORNE: Sure I would. At the time they file their application we'll know their lot size.

DELEISSEGUES: No, I understand that.

VARTANIAN: No, the kids. What kind of population.

DELEISSEGUES: You mentioned some things that you would not know about the fear and the worries and what these people may or may not do or how well they might be or might not be supervised and a whole bunch of those intangibles that you were discussing.

HORNE: I thought I said that those are things we can't attempt to regulate. If they're unsubstantiated fears, we can't regulate those.

DELEISSEGUES: And that's what I'm talking about. I'm talking about you wouldn't have any more definition to those unsubstantiated fears in a Type 3 than you would on any of the others.

HORNE: No, I wouldn't, but we can't regulate them anyway.

DELEISSEGUES: Yes, George.

VARTANIAN: Do I, and maybe I nodded off, but do I understand that the difference between a 2-A and a Type 3 process is on a Type 3 it's an automatic procedure as opposed to the 2-A which is a somebody has to ask for one procedure?

HORNE: Yes, that's the difference.

VARTANIAN: That's it. As far as what it covers, as far as the impacts, they are the same?

HORNE: Yes.

VARTANIAN: Okay.

BARCA: And I think it's fairly safe for us to say as a Board that we recognize that if we put in a 2-A, we will be going to a hearings examiner --

USKOSKI: Regardless.

BARCA: -- regardless, yeah. I mean that's a rational circumstance for us to expect to take place if we choose a 2-A.

So I'm still kind of stuck as Valerie has pointed out that circumstances of the occupants is what we're hinging a lot of the decision-making on and we won't genuinely be able to ascertain that ahead of time.

ANDERSEN: Mr. Barca.

BARCA: No, please.

DELEISSEGUES: Yeah, we're deliberating, we've closed the public hearing now.

ANDERSEN: It was and I want to put on the record Mr. Horne started to get into some specifics that was really outside of any testimony and out of fairness it isn't fair for the public to not have a chance to do that. He did a rebuttal that wasn't fair and so the things where he's talking about 32 police calls I don't --

BARCA: Brad, it's --

ANDERSEN: I just don't think it's fair that they get into things that were not addressed during the meeting.

VARTANIAN: Okay, understood. Thank you.

ANDERSEN: You're welcome.

DELEISSEGUES: George took care of it.

BARCA: All right. So I have personal experience in a adult foster home scenario myself where I think the impact to the neighborhood was extreme and it sounds in some circumstances very similar to the discussion that we're having about what we're fearing for the potential in this case of the juveniles.

Both of the circumstances to me are unknown until you populate the home, but we're proposing to have a differentiation on how we're choosing going about doing it and I have a concern about that. And my experience versus the neighbors' experience for a one particular home, both of them are very narrow, one particular home, but they color the issue.

And I think what we're looking at is we're looking at policy so do we swing towards the most conservative, and if that's the case my inclination would be saying that adult family homes should be in the same purview and handled in the same fashion rather than make the differentiation. I don't believe we have that before us, but I would certainly be moving in that direction, whichever we choose to do I would think we would want to handle them the same.

DELEISSEGUES: Reasonable.

VARTANIAN: I would also advocate for putting everybody into the same pot, if you will. I mean the question is not how old they are or how young they are, the question is what's the impact. You can have some very vocal, and, trust me, I've had experience with this, seniors that are difficult to control that are still not so bad that they need nursing facilities or assisted living facilities and you could have some angelic, truly angelic younger folks that don't take much of anything other than just make sure they get fed and whatever else they need.

So I don't like the idea of having different requirements on different kinds of facilities when they are both basically doing the same thing. I would much rather see all of it subject to some sort of a challenge by the public to go to a hearings examiner.

But as far as we don't know who's going to be there until it's populated, not too, too long ago we had an exercise about, maybe you've heard about it, the Amphitheater up in Clark County and we didn't know what kind of music was going to be there.

You could have something with Christmas carols or you could have Black Sabbath and both of them have very significantly different sound levels and activities so you pick one that you want to be able to cover for sure and hope it works out the best. Maybe you want to provide for the worst scenario.

But regardless of that I think it's inappropriate that there are different standards for different facilities to house people who don't have the organic or the nuclear family relationship. If

it's noise, it's noise. If it's somebody's throwing bottles out of their window, it's somebody's throwing bottles out of their window. And I know that's not before us right now.

DELEISSEGUES: Okay.

VARTANIAN: But I said it and I'm glad.

DELEISSEGUES: Let's give everybody an opportunity to weigh in on this once more. Milada, do you have anything?

ALLEN: Well, I have one little tiny little question and that's about sprinklers, sprinkling or fire hazard and protection of the inhabitants in these homes because from my understanding is like the adult homes right now don't require sprinklers and if that's the same situation with the youth, I'm concerned about the safety of the inhabitants within these, quote, unquote, businesses versus a residence.

HORNE: The fire code applies to both the same, they're based on the nature of the occupancy and size. This would not be the type of an occupancy whether it was adults or youth that would require sprinkling in my mind and based on my knowledge unless the size of the building were large enough.

And I think the magic number is 3600-square feet. When it exceeds, again my memory is 3600-square feet, it would require sprinkling, but that's the same no matter who's in it.

ALLEN: Thank you.

DELEISSEGUES: Do you have any other thoughts on this?

ALLEN: No. No, other questions --

DELEISSEGUES: Not yet.

ALLEN: -- but go ahead and start.

DELEISSEGUES: Valerie.

USKOSKI: Well, I guess I've said a lot already, but in general I don't feel that necessarily a Type 2-A and conditional use permit is the way to go and I don't agree with distinguishing the difference between adult family home and then the juveniles.

And I guess my inclination a little bit more is if we want to be able to put some of these other conditions on them, we could still do that with a Type 2 application and just state in there as far as what Mr. Andersen presented with the staff's ratios that they need to have, we can address some of those in that way where they're conditioned and we have the legal mechanism to do that without forcing them through a hearing where it doesn't seem that we can address anything more without doing the profiles of the individuals.

DELEISSEGUES: Ron, do you have anything to add?

BARCA: So hearing what Valerie is proposing, Marty, if we talk about it just in the terms of a Type 2 can you tell us for the record what that would trigger?

SNELL: In terms of?

BARCA: In terms of County requirements and the process.

SNELL: The process for a Type 2 would be that there would be notice provided of a development application, it would be provided to neighbors within 300 or 500 feet. I have the --

BARCA: Take your time, I'd like to hear it.

SNELL: I'm looking for the notice requirements. There is typically a pre-application conference is required and the neighborhood association is notified of a pre-application conference, not just the application itself.

ALLEN: But they cannot testify in that pre-app or they cannot ask questions?

SNELL: No, it's information only.

ALLEN: Right. So the neighborhood association cannot raise any questions during that pre-app?

SNELL: Correct. I'm trying to look for the notice requirements. Okay. Notice: The notice is given to the applicant or the applicant and the applicant's representative, neighborhood association and owners within 300 feet, any agencies with jurisdiction and two other people the responsible official believes may be affected by the proposed action or whoever requested such in writing.

That's who gets noticed. They have a certain amount of time to review and provide comment and the staff that is reviewing the applications considers those comments and there is a decision issued. A decision is issued by staff and there's I believe it's a 14-day appeal period from the date of the decision to ask for an appeal to go to the hearings examiner on a Type 2 application.

BARCA: So the neighborhood input is at the point of application?

SNELL: It's the neighborhood at pre-application and then --

BARCA: No input at pre-application?

SNELL: No input at pre-app.

ALLEN: No input.

BARCA: Right.

SNELL: And then once they get a notice of the development application that's when they have an opportunity to review and comment.

ALLEN: And yet it would have been served better before prior to applying to have had all of that input from the neighborhood as well as a two-way conversation going back and forth and yet that is not allowed during the pre-app.

USKOSKI: Well, it's to my understanding people can show up to the pre-app to sit in --

SNELL: Yes.

USKOSKI: -- so they can comment at that time as well.

VARTANIAN: No, they can't comment.

ALLEN: No, they cannot comment.

SNELL: No. That's --

VARTANIAN: The public can't comment. You can go listen and watch. I mean sometimes they'll let you say something.

USKOSKI: Yeah, we've always I guess let them have their input.

VARTANIAN: So basically -- well, I guess I'm --

DELEISSEGUES: Well, wait a minute. Does that answer your question, Ron?

BARCA: Yes, that answers my question.

DELEISSEGUES: George.

BARCA: I yield --

DELEISSEGUES: You have the floor, George.

VARTANIAN: No. I thought you were finished, I'm sorry. What's the difference between a 2 and a 2-A?

SNELL: So the 2-A --

VARTANIAN: I mean if you can, an official can call for, if you can appeal it to a hearings examiner in both cases --

SNELL: So the 2-A requires a neighborhood meeting.

VARTANIAN: And other than the notice to the neighborhood, that's it?

SNELL: Well, yeah, the neighborhood meeting is --

VARTANIAN: Required.

SNELL: -- is an additional step and the 2-A is the applicant, the responsible official or a neighbor can request that it go to the examiner, not on appeal but prior to so that the decision is made by the examiner and not staff.

VARTANIAN: Ah, okay.

SNELL: One idea is to foster some early communication in something like this because this is a section we want to add to the special use chapter.

One consideration is that you require a neighborhood meeting and still have it follow a Type 2 process where there's a formal notice of application, a decision rendered by staff, and then an appeal period.

HORNE: One clarification. Type 2, while Mr. Snell talked about a right to appeal to the hearings examiner, the key difference there is if there's a Type 2 process and there's an appeal to the hearings examiner, the person who's filing the appeal pays the fee.

VARTANIAN: Ah, that's right.

HORNE: In a Type 2-A it's built into the application fee so there's that difference also.

VARTANIAN: That's right. Yeah, I knew that but I had forgotten it. Well, to be perfectly honest with you, which I always am, initially I have a real bad problem making a distinction between a foster home or a home that there are six kids who are not related by blood, or maybe they are, and just a nuclear family that has six kids and they're a pain in the neck among other places, and we would have no restriction except that the difference here is that it's a business and generally that business is going to foster more problematic children than a regular nuclear family generally speaking and that's where I get hung up.

I mean other than that I don't see a reason to make a distinction between a regular household family and a foster family, whatever you want to call it. But the fact that there's a probability of occurrence more in one business than the other makes me think that there needs to be some more protection for the community. Not protection, that's a bad word, availability for involvement by the community.

DELEISSEGUES: Do we think we have enough understanding and clarification on this issue to start with a motion that we could discuss? If not, I'm going to call a break.

BARCA: Let's take a break.

VARTANIAN: Let's take a break. When all else fails, take a break.

BARCA: I would like a break.

VARTANIAN: Do you not want to take a break?

BARCA: I just asked for a break.

DELEISSEGUES: If you don't feel that we've discussed this enough to make the motion, well --

VARTANIAN: I mean I could make a motion, but, I mean, if everybody else feels that it's not --

DELEISSEGUES: Well, wait a minute. Are you ready for the motion or do you want to take a break?

BARCA: I would like to take a break.

DELEISSEGUES: How about you?

USKOSKI: Let's go for a break.

VARTANIAN: I move for a break.

DELEISSEGUES: Okay, we'll take a break and we'll be back here at ten minutes after 8:00.

(Pause in proceedings.)

DELEISSEGUES: Okay, we'll resume. We're a little bit early, but we might as well get started and resume our deliberations on the issue of staffed residential group homes. So what's your pleasure?

ALLEN: I just wanted to say that what I had said about the safety still applies here and of course one of the requirements of the State law is that they comply with the local law, but I would like that law to be good enough to protect the residents, the neighborhood and to protect their health, safety and welfare and to me Type 1 or Type 2 as proposed by Mr. Morasch or he proposed Type 1 and the attorney proposed outright use, which we know now is not working, and so to me a Type 2-A would be a better alternative than either one of those.

But I would prefer a Type 3; however, I can see that there is a lot of other issues that are involved here so I would probably go for a 2-A, but unfortunately if there is a problem if they lose their Type 2-A permit, when they come back I would like to see it to be re-applied under a Type 3-A under the CUP conditions because if some things do not work on a site-specific or business-specific level, then that would be corrected through the CUP process.

DELEISSEGUES: Valerie, do you want to say anything?

USKOSKI: I think I've said it all.

DELEISSEGUES: Ron.

BARCA: I believe we've covered the ground adequately.

DELEISSEGUES: George.

VARTANIAN: Me too.

DELEISSEGUES: Okay. So is someone ready to move a motion forward?

VARTANIAN: I **MOVE** that we **accept** the modified code or the updated code, if you will. And my reason for it is that it seems it has everything that the Type 3 has except that it's not a necessity to go to a hearings examiner but there's plenty of opportunity for the public to get the hearing examiner involved.

ALLEN: That means Type 2-A; right?

VARTANIAN: Yeah.

ALLEN: Okay, thank you.

VARTANIAN: I think, yeah.

DELEISSEGUES: So your motion essentially is to --

VARTANIAN: Adopt the code.

DELEISSEGUES: -- adopt the staff recommendation?

VARTANIAN: Yes.

DELEISSEGUES: This is a recommendation?

SNELL: This is staff proposal, yes, this is what we're recommending to the Planning

Commission to move forward to the Board, yeah.

DELEISSEGUES: Is there a second?

BARCA: To keep this moving I will second George's proposal.

DELEISSEGUES: Moved and seconded. Any discussion on the **motion**?

BARCA: I think for the record I need to state even though I seconded this I'm going to vote **against** it and I will state the reasoning is I believe there's a discriminatory element between the adult homes and the staffed residential that as we so often do we do tactical strikes on things that we perceive as being issues and we don't deal with it in code as equitable measures when we choose to change things and I believe that's the case in this point.

I would like to see us review the placement of these types of facilities as beneficial as we state in our comp plan and genuinely try and make them equitable and available for the community to embrace them.

DELEISSEGUES: Any other discussion on the motion?

VARTANIAN: Yeah. Is that I didn't think that was an alternative that was available because I feel the same way, I don't think we need to make a --

BARCA: The staff recommendation is not to do anything but.

VARTANIAN: No, I know it. I know it. Okay.

ALLEN: But I think that the only thing that's in front of us today is this particular issue and, yes, adult foster homes should probably go through a Type 2-A too.

VARTANIAN: But the reason for my motion was --

ALLEN: But that is not something in front of us today.

DELEISSEGUES: But I think the motion on the table is to support the staff proposal, all the rest of it we'll have later.

VARTANIAN: Yes. And only because that's what's in front of us today.

DELEISSEGUES: Valerie, do you have anything?

USKOSKI: No.

DELEISSEGUES: Okay. Well, just an editorial comment before we call the roll. Our role really is to flush out for the Board of County Commissioners discussion on this issue and

they're the ones that will make the decision on it. We make a recommendation and our job is to try to present both pro and con on the issue and let them have a fairly good idea of what the width and breath you might say of the discussion on the issue is, prepare them for their hearing.

So I think anybody that has a real concern, and I'm sure you all do, you want to make sure that you would attend the County Board of Commissioners' hearing. So with that we will call roll on our recommendation to support the staff proposal.

ROLL CALL VOTE

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

VARTANIAN: Oh, my goodness.

WISER: 3/2.

DELEISSEGUES: Then that concludes the discussion on that issue.

ALLEN: May I say something?

DELEISSEGUES: Yes, you may.

VARTANIAN: You just did.

ALLEN: I think it was great that you had involved the kids in the testimony today, I just wish that you didn't tell them that they might be losing their home because they're great kids and I do wish all of you guys well and I do appreciate you getting them involved in a public process and they understand what this is all about. Thank you.

ANDERSEN: Thank you very much.

DELEISSEGUES: We'll move on, then, to old business and, Marty, you had some comments?

OLD BUSINESS

SNELL: Yeah. I just wanted to inform the Planning Commission of a decision I made recently relative to the last code amendments that you heard on the 20th of October. In spite of my taking things off the table for further staff work and coming back to the Planning Commission, I decided that we should move forward some code amendments to the Board of County Commissioners.

I did honor my word in terms of having staff work more on the proposal given the testimony, given the Planning Commission discussion. We met with and we've been in communicating with the folks who testified and other farm interests. We have a meeting on Monday to review a revised roadside farm stand code and an agricultural market code.

Certainly when I take this to the Board of County Commissioners, I will disclose that Planning Commission asked that it be returned to staff and then back to them. In the interest of time we are trying to move all of these code amendments forward. You have a work session in two weeks on Batch 5, thank you, a hearing on the 15th of December. No rest for the weary.

So I just wanted to let the Planning Commission know that I had a slight change in mind and plans and so if the Board says, hey, take it back to the Planning Commission, that's certainly their prerogative. I just wanted to give you that courtesy.

VARTANIAN: Thank you.

DELEISSEGUES: Thanks, Marty. Any other old business? Any new business? I guess there's no comments, then, members of the Planning Commission wish to make?

NEW BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

BARCA: I think we at least had a very good --

SNELL: A good discussion.

BARCA: -- discussion about the issue tonight as thorny as it was.

DELEISSEGUES: That's what we're for.

VARTANIAN: Agree.

DELEISSEGUES: With that we'll adjourn.

ALLEN: And the bottom line is that we're all concerned about the safety of the kids as well, so that's the bottom line as well as the others.

ADJOURNMENT

The hearing adjourned at 8:30 p.m.

All proceedings of tonite'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 be also be viewed on CVTV on the following web page link:

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

Chair

Date

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