

**CLARK COUNTY PLANNING COMMISSION
MINUTES OF PUBLIC HEARING
THURSDAY, AUGUST 16, 2012**

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

6:30 p.m.

CALL TO ORDER

DELEISSEGUES: We'll call the Clark County Planning Commission to order for tonight, Thursday, August 16th. Can we have roll call.

DELEISSEGUES: HERE
MORASCH: HERE
BARCA: HERE
GIZZI: HERE
WRISTON: ABSENT
USKOSKI: ABSENT
QUTUB: HERE

GENERAL & NEW BUSINESS

A. Approval of Agenda for August 16, 2012

DELEISSEGUES: Any changes to the agenda for tonight, gentlemen? No changes?

ALVAREZ: None that I know of.

DELEISSEGUES: Motion to approve.

QUTUB: I'll make a motion.

GIZZI: And second it.

DELEISSEGUES: All in favor.

EVERYBODY: AYE

B. Approval of Minutes for June 21, 2012

DELEISSEGUES: Approval of the minutes for June 21st. We'll go June and then August. Anybody want to make a motion to approve the minutes for June 21st and August 16th both?

QUTUB: I move we approve the minutes from both June and August.

DELEISSEGUES: And all in favor.

GIZZI: I second that.

DELEISSEGUES: All in favor of that.

EVERYBODY: AYE

C. Communications from the Public

None.

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION:

A. CPZ2012-00011 La Center UGB

Community Commercial with CC zoning to Agriculture with AG-20 zoning 209746000; and a portion of 209705000

Urban Medium with R-22 zoning to Agriculture with AG-20 zoning
209693000; 986027200; 209748000; 209737005; 209737000; 209694000;
209688000; and a portion of 209705000

Light Manufacturing with ML zoning to Agriculture with AG-20 zoning
211208000; 210123000; 608230000; 211028000; 211000000; 211029000;
211004000; 986028840; 211021000; 211015000;; 209742000; 209743000;
211051000; 211046000; 211047000; 211048000; 211049000; 211050000;
209699000; 211213000; 209687000; 211265000; 211241000; 211244000;
610906000; 211060000; 211007000; 211068000; 209702000; 209749000;
210118000; 210122000; 211002000; 211003000; 211005000; 211006000;
211035000; 211218000; 211246000; 211208005; 211031000; 210999000;
211061000; 209691000; 211030000; 210120000

Industrial Urban Reserve Overlay will apply to all of the parcels above except:

209737000; 209688000; 209737005; 209691000; 209702000; 209742000;
209687000; 209743000; 211007000; 211068000; 211060000; 211004000;
211021000

Staff contact: Jose Alvarez 360-397-2280, Ext. 4898

E-mail: jose.alvarez@clark.wa.gov

DELEISSEGUES: We'll start with the public hearing items. And the first is CPZ2012-00011, La Center UGB.

MORASCH: And I'm going to recuse myself from this one so I'll see you guys in a little while.

DELEISSEGUES: Whoa, thanks for coming.

MORASCH: Yeah, I had forgotten that that was on our agenda today until Ron reminded me.

DELEISSEGUES: Staff report.

ALVAREZ: Good evening, Commissioners. My name's Jose Alvarez, I'm with Community Planning. The proposal is to consider amendments to the comprehensive plan and zoning map to comply with the rulings of the Growth Management Hearings Board and the Washington State Court of Appeals.

The Hearings Board and Court of Appeals found that the County had invalidly de-designated agricultural land in adopting the 2007 comprehensive plan. The effect of the proposal would be to remove approximately 575 acres from the La Center urban growth area. All of the areas are currently in urban holding, either urban holding 40 or 20.

The bulk of the area is underlying zoning was light manufacturing. All of these properties would be removed from the urban growth area and revert back to the pre-2007 comprehensive plan designation and zoning which was AG-20. All but 13 parcels would have an industrial reserve overlay.

I've got another map that shows -- no, that's not it. So these red boxes on the northeast corner and the southwest corner are the areas that would not have the industrial reserve overlay. They didn't have it prior to 2007. I just wanted to clarify that for you.

At the work session Commissioner Barca had inquired about the zoning south of the river, this area. This area here is zoned MX by the City of La Center where the arrow is, the remaining, this portion, is all low density residential, and along this area is split between light manufacturing and commercial closer to the junction.

BARCA: Thank you.

ALVAREZ: You're welcome. That concludes staff's report. Do you have any questions?

DELEISSEGUES: Questions of staff?

GIZZI: No, none here.

QUTUB: None.

DELEISSEGUES: I have a question. Are any of these parcels within the city limits of La Center?

ALVAREZ: No. The area outlined in red is the city limits so they're all outside of La Center's city limits.

DELEISSEGUES: So if these parcels were within the city limits, they could be zoned by the --

ALVAREZ: Correct.

DELEISSEGUES: -- City of La Center?

ALVAREZ: Correct.

DELEISSEGUES: Do we have any option other than the Court's finding?

ALVAREZ: I believe we've exhausted our appeals and Chris Cook can speak to that.

DELEISSEGUES: Yeah, that's what I understand, but Chris can clarify this. Chris and Chris.

COOK: Good evening, Commissioners. Chris Cook, Deputy Prosecutor. Difficult mic.

DELEISSEGUES: It's barking at you.

COOK: Yeah, we've gone as far as we can go with appeals. The Court of Appeals ruled that the Growth Board had correctly ruled that the land in question was agricultural land and should not have been designated for urban uses, so the Court of Appeals affirmed the Growth Board on that.

And then we asked the Supreme Court jointly with the City of La Center, the County asked the Supreme Court to review that decision and the Supreme Court declined to do so. So there's nowhere else to go on that. We've pretty much gone as far as we can in terms of trying to get the courts to uphold the County's decision.

DELEISSEGUES: Thank you.

COOK: You're welcome.

PUBLIC TESTIMONY

DELEISSEGUES: On the sign-up sheet for La Center we have Ken Boal. Did I pronounce that correctly?

BOAL: My name is Ken Boal. I'm here representing 3B Northwest, we own a small parcel, 209746000.

DELEISSEGUES: Ken, just for the record, could you give us your address too.

BOAL: My address?

DELEISSEGUES: Yeah.

BOAL: Well, my home address is 119 Morrison Heights, Woodland, Washington.

DELEISSEGUES: Thank you.

BOAL: This parcel is we don't feel meets the agricultural use because it's only 12 acres, so for commercial use it really doesn't make any sense. We feel like it would be more appropriate for the Goal Number 5 for economic development due to its location, its freeway frontage and it's adjacent to commercial property right now where the gas station and store are operating and they also have a truck stop there.

So we don't feel like it meets the agricultural definition and it's better suited for commercial use. It was designated commercial, community commercial property before this, this new deal here. So that's what we got.

DELEISSEGUES: Well, Ken, we felt the same way, but the land use hearing board didn't like our conclusion I guess so we'll have to get to it I think in the next round of the land use planning and when we update the comprehensive plan.

BOAL: When is that?

DELEISSEGUES: I don't know when it's coming up. Too soon I'm afraid.

ALVAREZ: June 30th of 2016 we need to have completed updating the comprehensive plan, that's the current deadline.

BOAL: And so the only option is for La Center to annex that property?

DELEISSEGUES: That's probably correct. I don't know.

ALVAREZ: They can't annex it without it being within the urban growth area so it would have to go back into the urban growth area.

DELEISSEGUES: So it looks like where we're going to be for a while.

ALVAREZ: Yes.

BOAL: Okay.

DELEISSEGUES: Well, we appreciate your testimony and thank you. Anyone else in the audience wish to testify on this? I don't have anybody else on the sign-up sheet. Seeing none, we'll return to the Commission here for deliberation. Any discussion? Motion?

Return to Planning Commission

GIZZI: I make a **Motion** that we accept the La Center urban growth boundary resolution as shown in the staff report here.

BARCA: I'll **second** the motion.

DELEISSEGUES: Moved and seconded that we recommend staff's recommendation of approval. Can we have roll call, please.

ROLL CALL VOTE

BARCA: AYE

GIZZI: AYE

QUTUB: AYE

DELEISSEGUES: AYE

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

- B.** Amendments to zoning code to clarify the definition of "legal lot", ensure compliance with RCW 58.17, and provide a process for recognizing as legal, lots adjusted by adverse possession or eminent domain.

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E-Mail: marty.snell@clark.wa.gov

DELEISSEGUES: With that we'll move on to the legal lot determination and a staff report on that.

SNELL: Good evening, Commissioners. Marty Snell with Community Development and Chris Horne with the Civil Division of the Prosecuting Attorney's Office to my right. The code amendment before you deals with legal lot determinations and I'll be brief and turn it over to the Planning Commission for any questions of staff.

Essentially what the code amendment is to bring the County's code more into line with some State requirements and some case law. We also provide some consideration for lots that were created and they're quite small, so in the urban area we're looking at lots of 3500-square feet as threshold and in the rural area at 20,000-square foot which is a threshold for septic systems at the time that Public Health looks at property for building.

Those two sections regarding the 3500-square feet and the 20,000-square feet are found in both the legal lot determination section of the code at 40.520.010 and also in the boundary line adjustment section of the code under 40.540.010.

So I will turn it back over to the Planning Commission for any questions and certainly as we discussed in the work session this is a terribly legal bit of work and I imagine questions would be more appropriate to be directed to Mr. Horne here.

DELEISSEGUES: Questions?

GIZZI: Well, I have a question. I'm sure there are quite a few parcels within the county that were tax segregated and then built upon and it may be possible that they could prove intent and maybe not, but if these folks go to remodel or get a permit for another building on their property, by this definition it seems to me that we're basically not allowing them to do that because they're not going to fit into legal lot description and they're kind of left out of any future upgrades or remodels. Is that the correct interpretation?

HORNE: No, I don't believe it is, so let me help. One of the goals of this amendment is to clarify what are divisions of property consistent with State law in the definitions that are contained in 58.17. This code amendment does not eliminate or in any way make it legal prior divisions that occurred as a result of tax segregations.

If somebody, in fact I think it specifically allows, there's language contained in --

GIZZI: Would it be on Page 2 under "Definitions" under "Lot of record" the last paragraph, "Parcels segregated for tax purposes are not lots of record unless they," and this is I think the text to be added, "were divided with the intent to create an additional lot or lots in compliance," is that what you're referring to?

HORNE: Certainly. It's contained there, but it's also discussed in the body of this related to parcels that were created that were greater than 20 acres and also in -- well, I

will get to it, but let me see if I can explain at least initially.

There has been a misunderstanding I believe that tax segregations were a division of land and tax segregations are one way, one mechanism, one alternative for dividing property, but they're certainly not the only one. Historically the County has looked at sales as the best evidence somebody intends to divide their property.

Secondarily, we've looked at surveys, people who divided up by and record a survey breaking their property up into multiple pieces. Leases, we have recognized a lease of a portion of property as being a division for purposes because the statute says for purpose of lease, sale or transfer of ownership and then tax segregation is just a mechanism.

And while we talked about it during the work session, it's important to recognize for the record that a tax segregation really in and of itself has nothing to do with platting, really it's a mechanism under Title 84 to multiple tax bills and it does nothing in the way of land division. We only use it as one way that a property owner can evidence his intent to divide his property if that's what he or she is choosing to do.

One of the goals of this is to try and clarify as I said that a tax segregation was and is a legitimate mechanism for dividing property if it otherwise is exempt. I mean if it's regulated by the platting laws and not exempt, it doesn't make any difference.

If you try to divide property today in the urban area and break it up into smaller lots than 20 acres and tried to offer that for sale, that would be a crime and so it has to be at a time when that was exempt. But if it was exempt at the time you did it and you divided it or if you did a tax segregation for the purpose of dividing it for lease, sale or transfer of ownership, it's still a legal mechanism.

Now in answer to your question more directly with that sort of background, we require and the County code currently requires all property owners for major permits, additions, new primary residences or the first primary residence of a parcel to prove the lot is a legal lot.

Now there's some forgiveness, the County already has provisions in its code for forgiving platting violations to the extent a property owner is an innocent purchaser or the property can be recognized in the public's interest and that has to do with certain zoning and other considerations and a little bit beyond this discussion, but we have some mechanisms.

We already have a requirement in place that when you get a major permit for your property that we will look at that determination before we issue a building permit. If there's already been a legal lot determination done and we've decided a property or concluded that a property was a legal lot as a result of that and that was done through a tax segregation, even if today we might have second questions about it, the County already has a policy in place that prior land use and prior legal lot determinations are something upon which a property owner can rely.

So once we make that determination we don't ever revisit it. So the only people for whom that could even possibly be an issue is somebody for whom a determination has never been made, and that process is true for anybody, they will have to go through that legal lot determination process regardless of whether it was divided by survey, by sale or any other process that they'd have to show that they were exempt at the time they divided it and that their property complied with zoning at the time they took their particular action.

So what we're doing here doesn't change any of those considerations. I mean to the extent they're out there, they may still be out there, to the extent they comply they will comply for all of the different mechanisms through which you can divide land.

GIZZI: But the burden of proof before was as you had said that they had to have made this segregation prior to legal platting requirements and then here we're stating that they now need to prove that it was divided with the intent to create additional lots and that might be a high bar for somebody to get over if the land's been in the family for, I don't know, 150 years.

I mean how is a person that finds them self in that situation going to get relief if we tighten the code to include this clause here?

HORNE: Well, I guess I'd say two things. First, this isn't tightening it, this provision, the language I'm talking about, is already in State law. State law defines a division of land as the creation of lots or the division of property for the purposes of lease, sale or transfer of ownership. What we've done is merely put in the County code that which is already in State law, so that's not a change.

The other thing is the County has used and this issue really is one of nonconforming rights to a large extent and our code says that any property owner who claims that they're exempt from the current code, they're claiming essentially a nonconforming right, that they bear the burden of proving it. So this burden that we're describing is true for any nonconforming right whether it's the old grocery store that exists out in Amboy or whether it describes a legal lot.

With that said, we have always relied on or always allowed a property owner to provide affidavits and so statements by kids' parents or people for whom this property's been in their family are always pieces of evidence that you can use to prove intent, so this would not eliminate that from consideration. In fact we do it all the time.

GIZZI: Okay.

DELEISSEGUES: So, Chris, this letter from David Halme, what you just said would answer his concern?

HORNE: I believe. I tried to. In fact I didn't make it a part of the record because I didn't know it also went to the Planning Commission. He sent me that by e-mail. I sent him

back an e-mail and I won't speak to what he said other than to say he told me he was coming on vacation and that he was glad to talk to me or have me further explain it when he returns.

So we didn't have any great disagreement, I can tell you that much, but I won't try and paraphrase more of what he said other than what I've just said.

DELEISSEGUES: Well, maybe we'll get to it here in a minute.

HORNE: Certainly.

DELEISSEGUES: Any other questions of staff? That was a pretty thorough review of it. We'll go to the sign-up sheet if there's no further questions and LeAnne Bremer.

PUBLIC TESTIMONY

BREMER: Good evening. For the record my name is LeAnne Bremer, I'm a local land use attorney and I've had many, many legal lot determination cases over the years and Mr. Horne and I have battled many appeals so I'm very familiar with the issues that are before you tonight.

As was mentioned the current code allows the County to recognize tax segregated lots as legal lots if they were created before a certain time and they complied with zoning and platting rules at the time. I want to emphasize there's nothing in State law that prohibits that policy or code provision.

We had this very issue on the Gabriel Road Investments appeal where Mr. Horne argued that State law required the examiner to find that the tax lot was created with the intent to sell or lease it and the examiner rejected that argument. He said the County code is crystal clear, it's explicit, it says that the County will recognize tax segregated lots as legal lots under certain circumstances and in that case he found that these were legal lots.

So it's not something mandated by State law that you change the code and we don't see any reason why you need to. So what is being proposed is the current owner if they want a legal lot determination, and this was just alluded to, they have to show that the lot when it was created, and oftentimes these lots were created in the '40s and '50s, have to show that it was done for the purpose of sale or lease.

Now how is that going to be done, what proof will the County accept, there's nothing in the proposal that says that. I mean and what does the owner's intention have to be. Does it have to be immediate sale or lease or can they create it and then hold on to it for 20 years and sell or lease it. So it's going to be somewhat of a nightmare trying to prove what the intent was of these tax lot segregations.

And then why does that matter. I mean if you have a three-acre parcel that was created in 1960 and you could show intent, I'm going to create this parcel so I can sell it in two weeks, and then you have another case where a three-acre parcel created in 1960 you can't show intent, what's the practical difference between those two nonconforming three-acre parcels.

You have one you can show intent and one you can't, but you still have two three-acre parcels and this would deny the productive use of a lot that should be put to productive use, so it doesn't make any sense.

And I know that staff has been concerned over the years about us coming in and arguing these really skinny 15-foot wide lots where they're legal lots and we've been successful in proving that to the examiner, but we realize that even if we get a legal lot determination for something like that, a very undersized or very small lot, we know you can't build on that, so what owners often do after they get their legal lot determination is do a boundary line adjustment and in response to that issue the County's adopted this lot reconfiguration process that you have to go through now.

If you have nonconforming lots whether they were tax lots or legal lots, you have to go through a new application process to get those reconfigured lots blessed, so there is already a process in place for the County to look at these lots, these boundary line adjustments and decide if they're going to approve it.

And it's quite an approval process. I mean the owner has to show that they're not creating any additional parcels, there's septic suitability, there's potable water, the nonconforming parcels have to be at least one acre in size and they can't have any impacts on sensitive or resource lands, et cetera, et cetera.

So there is quite a process that the County goes through to bless these boundary line adjustments. So I think that addresses a big concern of the County staff, but I'm still not quite clear why they need to take this extra step of proving intent when we have these other processes in place.

And then the proposed provision about, I guess I'm a little unclear on the intent of the language, that if you have a 20,000-square foot lot in the rural area and it's nonconforming, which it would be in most circumstances, you can't boundary line adjust it unless the adjustment brings the property into compliance with the area dimensions of the district. Does that mean the width and depth of the requirements of the district or --

HORNE: The State law specifically addresses the area and width and that language is a State law requirement under 58.17.040.

BREMER: That statute states that there has to be adequate building site when you do a boundary line adjustment and so what you're saying here is that if you have a 20,000-square foot lot, it's already nonconforming. If you want to slightly adjust the

boundary lines between two lots, you can't do it, it's just prohibited outright, and there are times when you need to do it.

If you have a boundary dispute with your neighbor for instance, you might need to slightly adjust the boundaries of your parcel, but if you have this, and this 20,000-square feet seems to be an arbitrary number, I did want to make the point that State law that Mr. Horne is relying on about the sale, the intent to sell or lease a parcel is in the subdivision statute which was adopted in the 1970s.

A lot of these lots were created before the 1970s, so he's applying retroactively a requirement, and again this is an argument the examiner rejected, he's applying retroactively a requirement in the '70s to lots that were created in the '40s or '50s or '60s. So again I just want to underscore that this is not a requirement of State law. Now certainly it's a policy decision for the County to decide if they want to do this, but it's my opinion that it's not a requirement.

And there's reference in the staff report to this Mason versus King County case, that's my final comment, and I've read that case a number of times because Mr. Horne brings it up in a lot of his legal arguments that again that a lot of these code changes are mandated by that case.

What that case says to me when I read it is that if you have a legal conforming lot, you cannot boundary line adjust it to make it nonconforming. I don't think I disagree with that, but, again, the proposal before you tonight doesn't even address that issue so I don't think we need to really go there, but I just want to put that on the record.

DELEISSEGUES: Any questions of LeAnne?

BARCA: I have a question. So assuming that we're trying to in some fashion streamline the process, what would your suggestion be to help actually streamline the process and to make it easier for landowners to come forward with these early subdivision type lots?

BREMER: I think the process you have now works just fine, I really do, and I don't think there needs to be any more changes to the code.

BARCA: So when you come in representing somebody, you're satisfied with the way that it works inside the County?

BREMER: Well, now I am. I mean we had to battle the staff on a number of appeals, but once those appeals were resolved favorably it's been fairly easy to get them through now.

BARCA: Thank you.

DELEISSEGUES: Any other questions? Thank you, LeAnne. That's all I have on the sign-up sheet. Does anyone else in the audience wish to testify? Mr. Howsley, long time no see.

HOWSLEY: Good afternoon. For the record James Howsley, 1498 S.E. Tech Center Place, Number 380, Vancouver, Washington 98684. I'm wearing two hats tonight, one my hat is chair of the Development Engineering Advisory Board and the second as my capacity as the attorney for the Building Industry Association here in Clark County.

First putting on my DEAB hat, we did not forward a recommendation to the Planning Commission. Effectively our last meeting we thought that we would have this language in front of us to deliberate upon and to make a recommendation to this body, it wasn't sent to us until last week and then we had some I guess conversations and some e-mail conversations, we could not come to a vote at that point.

Effectively the DEAB would like to see this language returned to it in its September meeting and then make a recommendation to the Board of County Commissioners on that. I think that many of the members, and I don't want to speak, I'm just sort of speaking in generalities, had some concerns regarding some of the specific language contained in this ordinance.

I would just like to echo, and now putting my BIA hat on, I would just like to echo my similar statements with LeAnne. I think that the process that we have now is a better, faster, cheaper process, this would add a little extra layer that we would have to go back and sort of envision ourself when this lot was created and try to address the intent which is really hard to do sitting here in 2012 to look at what somebody might have been thinking in the 1970s, much less 1960s, and so on and so forth.

So as far as that's concerned, we think that the existing process works fine. If the language does move forward with a recommendation of approval to the Board of County Commissioners, specifically I have, I guess, some questions regarding under the Approval Criteria E, Subsection (5), and this goes to the issue of the square footage, I think I understand where the staff is coming from from a policy standpoint on the 3500-square feet in the urban area, but my question relies more specifically on where did they derive that 20,000-square foot number.

The code cite that Mr. Horne cited to is 58.17.040 Sub dash (6) and that requirement only requires that you have a sufficient area that is capable of containing a building site. If they're trying to say that a 20,000-square foot lot for instance in the rural area isn't big enough to have a septic tank or sort of an outfall for a drain field for that, that's understood, but there hasn't been any evidence as to why that, that number, it just sort of just seems to me to be picked out of thin air.

And if you had a site that was a little bit larger that could adjust for that and make up for that difference to make it more complying, it seems like it would be prudent maybe that

isn't the correct number in the rural area. So with that I'll conclude my testimony unless there's any questions that this body has on either hat.

DELEISSEGUES: Any questions of Mr. Howsley?

MORASCH: Sure, I'll ask one. I think LeAnne testified that she didn't think that the State law required any of these changes that are before us today, do you see any of these changes here are in any way required by either the Mason case or the statute itself?

HOWSLEY: No. And Chris and I have had these discussions before, I am very, very sympathetic to the County, I think that there has been instances in the past where we've made legal arguments on these very narrow lots that were easements that effectively have been for roads that would have been able to expand for lack of better terms into legal lots of record.

And I understand the staff's concern with that, but I think that those are so few and far between that this would have a greater impact on sort of the greater good and go to the question of not making things better, faster, cheaper.

I think the existing process does work. The County can always challenge us in front of the hearings examiner with evidence of their own if they feel like the system doesn't work.

DELEISSEGUES: Thanks, James. Anybody else in the audience wish to testify on this? Seeing none, we'll return it to the Planning Commission for deliberation and questions or any follow-up.

Return to Planning Commission

BARCA: Question of staff.

DELEISSEGUES: Go ahead.

BARCA: So, Marty, what was the outcome that we were hoping for by this proposal?

SNELL: I think in some regard more clear language and language that's consistent with what legal counsel from the County is telling me which is to make our code a little bit more consistent with either State law or case law.

BARCA: Do we find right now that the existing wording is causing staff some difficulty in resolving --

SNELL: It has in the --

BARCA: -- some applications?

SNELL: It has in the past. And Ms. Bremer mentioned that where some of the clients that they're not happy with a decision of staff, then they appeal to the examiner. So that certainly isn't cheaper by any stretch, but it's a result that the client is satisfactory with upon appeal and overturning the staff decision.

BARCA: So ultimately in your opinion we were trying to drive towards language that clarified and had less appeals towards it?

SNELL: Correct.

BARCA: So I guess the determination for us, then, is whether the proposal helps meet that end or whether we find it as been testified that perhaps it's not going to meet that end. All right, thank you.

DELEISSEGUES: Any other questions?

QUTUB: I would just have a comment if I could.

DELEISSEGUES: Comments are allowed.

QUTUB: I think the question that Ron asked about, why were you trying to do this and in his question he said has it caused the staff problems, is it causing the staff problems in dealing with these various either boundary changes or whatever and we don't want to cause the staff problems, but it's really the property owner that I think the Planning Commission should be, and I shouldn't be directing at that, I guess I should be directing it at the, at the members of the Commission, it isn't, we want the staff to be able to do their job, but it's really the property owner that we're acting for here.

So if it causes the staff problems, there is an appeals process which may not be cheaper but it seems to me that we should be trying to please the people who own property and comply. Do you have a comment?

HORNE: I didn't know if you wanted me to respond. Well, I guess I won't comment on the question of your role because the State law defines kind of what that is and I think that's part of what your role is certainly. I mean the statute under 35.63 says that you're required or your role, the County's required to present all development regulations for the Planning Commission's consideration before it votes on it. So I mean we're required under State law to send it to you.

But the primary reason I believe this is in front of the Board is I don't believe that we've been in compliance with State law. If you start out with a case called Nykreim versus Chelan County, the Court of Appeals from Division III said that State law preempts local code, that the Court intended this law to provide for uniform division of property in the state and to the extent there are local laws they are preempted by State law.

The State statute says that when you divide property it has to be for the purpose of creating an additional lot, tract or parcel for lease, sale or transfer of ownership, we weren't requiring that through tax segregations and we added that element, so all I did was adopt something that's already in State law.

Now LeAnne said, and she's correct, the hearings examiner ruled based on our existing code that he could approve this boundary lot adjustment that we dealt with and it wasn't appealed to Superior Court because my client chose not to appeal that. It doesn't mean it's correct or not, it just means it's a decision of the examiner in a single case. So we're required to comply with State law.

As it relates to the 3500 versus 20,000-square feet issue, 3500 is smaller than any single-family lot that's allowed in Clark County, that's why that number was chosen as the benchmark. And 20,000 is the smallest lot that the Health Department would approve for a septic system without some kind of a variance.

But in terms of what a building site is don't be confused that a building site means the smallest place that you can put a house on. What the Legislature said when they defined a "building site" is based on the zoning. So you look to the zoning code and in the R-20 zone it means 20 acres. If you can't result in a parcel or if your boundary line adjustment results in parcels less than 20 acres, you're not allowed under 58.17.040 Sub (6) to do a boundary line adjustment.

This code will still allow it, we only create, we don't go quite as far as the State law probably requires, we're trying to provide as much flexibility as we can and may still be able to defend that, but we have drawn the line at really small parcels and said that those parcels can't be further adjusted in any way unless it brings them into compliance which is really what the State law says.

In terms of making it better, faster, cheaper, the way the Mason case came out and the way this case will wind its way through the Court of Appeals is for sure when you have a neighborhood dispute. Mason was a neighbor of the property owner who sought to do a boundary line adjustment.

King County approved it in that case, the neighbor was upset and took it all the way to the Court of Appeals, and by the way those weren't conforming parcels, they were both nonconforming, the zoning in that case was AG-10 and both parcels were less than ten acres and they tried to boundary line adjust them and the Court of Appeals agreed with the neighbor after three years of litigation and reversed the Trial Court and the County and agreed with the neighbor.

So in terms of better, faster, cheaper it only may be in the short term or it may be on one case, but certainly will not be uniform or will not be if it winds up in the Court of Appeals because we know what the Court's going to say, they've already said it, we preempt local codes and you're required to follow the State law.

So what we're trying to do now is bring this closer into compliance with State law while try to the extent we can legally defend it maximize providing as much flexibility as we can to local neighbors and otherwise we treat these properties just like we do every other nonconforming use, uses that are trying to be exempt from the laws that everybody has to apply or comply with because they happened prior to a particular date and if they can prove that they are entitled to that exemption and we grant that.

DELEISSEGUES: I have a question about the examiner overturning the staff's recommendation based on our present language, why wouldn't the examiner take a look at the State code and see just exactly what you said and uphold it?

HORNE: Reasonable lawyers will differ, that's the only thing I can tell you. I mean Commissioner Morasch is there, I think he'd probably agree with me. I can only say that we didn't agree on that. But as I said it's not my call to make those decisions, it's the Board's as to whether those decisions are appealed and the Board decided it was not an appeal that they were going to take to Superior Court.

DELEISSEGUES: Any other questions?

GIZZI: Yeah, I have a question for Mr. Howsley. Did I understand that DEAB was going to take a look at this and you guys were bouncing some language back and forth and thought about making some recommendations in September?

HOWSLEY: That would be correct. I think, again, we didn't have the opportunity to formally vet the language as presented to us except in sort of a very short e-mail conversation so we would like to see it presented to us, have Mr. Horne come in, explain sort of the policy ramifications, it's nice to understand about the 20,000 feet now, but additionally what other language were there before we would make a recommendation to the Board and I think that would be the position of all the DEAB members.

GIZZI: Thanks.

DELEISSEGUES: Of course the DEAB knew about this, I mean I'm sure you were noticed of the hearing.

HOWSLEY: That's why I'm here.

DELEISSEGUES: So it just seems like you wait until the 11th hour to formulate a testimony for a hearing that you want to postpone and here's your opportunity, if you want to come back and tell us what you think the DEAB's concerns are, but other than that, if we want to proceed tonight they may not have another chance is all I'm saying. So any other questions of staff? And, if not, what's your pleasure? Anybody?

MORASCH: Do you want a **motion**?

DELEISSEGUES: Well, do you want to discuss this or do you want to make a **motion**, it's certainly up to you.

BARCA: As I hear the testimony and I understand what we're looking at for outcome, I wonder if the wording as we've chosen to put it forward in the proposal is our best alternative. There certainly seems to be some points of clarification that staff feels help explain the State law and how we're becoming more compliant. There's been some very specific testimony about the 20,000-square foot, the 3500-square foot and I'm wondering whether those components need to have a little bit of work on them before they go forward to the Commissioners.

Based on our recommendation of course we've seen in the past that we can recommend something and then it gets altered in between our proposal and then what goes before, which would take into account when the DEAB decides to convene and weigh in, they may be weighing in on a slightly different form of wording that they put forward as an alternative.

I don't know that a recommendation from us at this point in time is really valid. It appears to me that perhaps we have some room for negotiations still to resolve this that meets the criteria of what the County is trying to get done and what the primary users of it feel need to happen.

GIZZI: Yeah, I think the implications for quite a large number of folks in the county are huge here and rushing into a decision is probably not in their best interest and we've relied on DEAB's testimony and interpretation in the past and I think allowing them the opportunity to take a look at this and maybe suggest some alternative language and give staff a chance to look at this again might benefit all of us.

DELEISSEGUES: I don't think State law's going to change and I think if we need to be in compliance with it, DEAB is a development engineering advisory board but they're not the legal advisory board, I think we've got enough information here to make a recommendation.

MORASCH: Well, if that's the case, then I would recommend that we recommend that the Board deny it because as Chris Horne said reasonable lawyers differ and I agree with him 100 percent on that and I'm just not convinced based on what I heard today two lawyers from the development community, one who's on the DEAB, testifying that these changes were not needed to comply with State law.

DELEISSEGUES: Well, see, that's the question, is it or isn't it.

BARCA: And we won't know.

MORASCH: And you're not going to get a firm answer on that because you've got three

lawyers in the audience and they don't all agree.

DELEISSEGUES: Well, they'll never agree, they're getting paid not to agree.

SNELL: Mr. Chair, I might have a suggestion here that if you would rather hear testimony from DEAB after they've had a chance to look at it, you could table this and bring it back to an agenda where it's not so heavy, I believe September is quite booked for you, October might be a little lighter, so you could revisit this in October after the time that DEAB has had a chance to look at it and if you asked the question about is there a requirement either through a State law or a case law for us to change the code, then we can look at that as well.

DELEISSEGUES: Is that acceptable?

QUTUB: Yeah, I think so.

MORASCH: Yeah.

DELEISSEGUES: Then let's have a motion to table this. It won't be a date certain, then, apparently because we don't know when it will be back on the agenda so as soon as we can get to it, let's put it that way.

SNELL: I was just asking other staff what September looks like and they said that the agenda was quite full.

WISER: September's full.

SNELL: And then October might be a lighter month.

BARCA: October is always so busy.

WISER: October we have the rural land study with the Board on a Tuesday night and on Thursday night we have biannuals and annual reviews. November is free but that might be too long.

DELEISSEGUES: Nothing's scheduled for November. Is that too long to wait?

SNELL: Not for me.

DELEISSEGUES: Why don't we table this until November public hearing. Do we have a motion on that?

QUTUB: I **MOVE** we table it till November.

MORASCH: **Second.**

DELEISSEGUES: Moved and seconded. Roll call, please.

ROLL CALL VOTE

MORASCH: AYE
BARCA: AYE
GIZZI: AYE
QUTUB: AYE
DELEISSEGUES: AYE

DELEISSEGUES: Thank you very much for your testimony on that and we hope to see you again in November.

BREMER: You will.

DELEISSEGUES: And we will continue this continuance

SNELL: Thank you.

(Commissioner Barca left the hearing.)

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

C. CPZ2012-00004 - NE 119th & NE 72nd Ave Circulation Plan

This proposal would amend the County Arterial Plan Map to add future local commercial / industrial streets in the quadrant southeast of 119th Street and 72nd Avenue.

Staff contact: Mike Mabrey 360-397-2280 ext 4343 or e-mail michael.mabrey@clark.wa.gov

DELEISSEGUES: With that we'll move to Item C, CPZ2012-00004, NE 119th and NE 72nd. Michael.

MABREY: Good evening, Mr. Chairman, members of the Planning Commission, Mike Mabrey, Community Planning staff. The item before you is a proposed amendment to the arterial plan map to add two future streets in the area southeast of NE 119th Street and 72nd Avenue. The proposed classification of those streets - could I have the other map. Thanks - is a local commercial industrial street.

WISER: This one.

MABREY: Move it up and to the left. Up and to the left. Okay, that's good. The

approximate alignment of that future street is shown in white on the southeast quadrant of 72nd Avenue and 119th Street.

The impetus for this proposal is a capital improvement project that's in the County's six-year transportation improvement plan to make safety and capacity improvements at the intersection of 119th and 72nd as well as widening 119th from 72nd about to Curtin Creek.

In the process of analyzing, and the staff looked at about a dozen alternatives along with consultant HDR, and through that analysis concluded that the preferred alternative was to have a future southeast quadrant road which would allow some of the heavy movements in the a.m. from westbound to southbound to divert through this local street system and the same on the p.m. peak which is heavy movement from northbound to eastbound. That provides enough relief to the intersection that additional lane improvements could be minimized at that location.

The proposed roads intersect the existing street system about 870 feet east of 72nd along 119th and about 770 feet south of 119th along 72nd. These locations were chosen in order to minimize conflicts at the intersection, maintain signal progression and meet the block length and perimeter standards of the code.

The cross-section of a future commercial and industrial street would be 42 feet of pavement consisting of two 14-foot travel lanes, one in each direction, and a 14-foot wide center turn lane, the total right-of-way width would be 60 feet including six-foot sidewalks and a planter strip but no parking or bike lanes.

The benefits of this road include reducing cost of intersection improvements, providing direct access to adjacent properties as they develop and improving circulation in this area where substantial commercial and industrial growth is expected to occur. Because this provides a regional benefit, any road improvements made by developers will be eligible for traffic impact fee credits. And that concludes the staff report.

DELEISSEGUES: Any questions of Mike?

GIZZI: Yeah, I've got a few if that's all right.

DELEISSEGUES: Yeah.

GIZZI: So we're 770 feet south of that intersection at 119th so it's less than 800 feet which I think is typically the expected standard for an urban intersection and so that concerns me. I mean we talked about this in the work session and I've since been through this intersection 15 times at least and now I compare this to, what is it, 503 and 502 in Battle Ground where you've got Fred Meyer, you've got Safeway and you've got these lights sitting there that are just impeding traffic flow.

You get caught coming out of Battle Ground when Battle Ground High School lets out, then you hit this section of lights and traffic's backed up all the way through Battle Ground and then you go down the road here to the east and you've got Prairie High School. And I look at the addition of two lights here and I have to just wonder if that's really going to afford us traffic relief or congestion relief at this intersection.

So that's my first concern is whether or not that's truly going to fix the problem or if it's maybe a bit of a not the best solution. We're making some choices based on cost, I don't know what those cost differences are. We can eliminate a light by coming out of St. Johns and going through.

I know there's a little bit of a wetlands impact there, but it seems to be relatively minor, maybe two half of 200-square feet or, no, no, I'm sorry, 200-by-200 so that's a little bit more than that, but I don't see the cost comparisons, I don't see the traffic comparisons, I see the fatal flaw analysis but we only see the conclusions, I don't see any relative differences between the St. Johns extension from a cost standpoint or a benefit standpoint over this.

I just wonder if we're not cutting corners here to maybe lower cost at that intersection and then causing us some issues later. I'd like to see the cost benefits.

And then the other issue is we talk about increasing safety but when I talked to WSDOT on the 502 widening, they always use their collision point analysis as the basis of their argument and if I look at this we're adding collision points. I'd like to understand how adding a light here is actually increasing safety again, I just really I have some concerns.

I think there are too many lights in too small a space. We know 119th is going to be upgraded in the future, we're talking about putting another light at 119th, man, I've just got concerns about this, Mike, I really do. I don't see cost comparisons or anything in here.

MABREY: Right. The level of analysis didn't include cost comparisons at that level because some of the alternatives were clearly nonstarters.

GIZZI: Right. I think we came down to four alternatives.

MABREY: Right.

GIZZI: One of them being the St. Johns extension and one of them being this and I would have thought that at least between those four alternatives we'd see some data that would allow us to make some decisions. Unless I didn't go through this close enough, and I'm pretty sure I did, I just don't see that, I don't see anything to allow me to make a determination based on relative cost differences. I see the matrix that we have.

MABREY: Yeah. I don't think you're being asked to revisit the engineer's decision and the Board's decision to make the southeast quadrant the preferred alternative.

GIZZI: We're being asked to approve or disapprove this.

MABREY: Correct.

GIZZI: And I do have a question about that because actually on the last page of the fatal flaw analysis document it basically says that we're being asked to approve the following alternatives and that list of following alternatives includes the St. Johns Road extension and the southeast quadrant road.

MABREY: Correct. And I haven't been able to fully document how the St. Johns extension was excluded or how the southeast quadrant road was chosen. My understanding is that it occurred at a Board work session subsequent to and based on their review of this document.

GIZZI: But this document says we recommend the following alternatives, St. Johns Road extension --

MABREY: Right.

GIZZI: -- southeast quadrant road, southeast continuous flow and full build out.

MABREY: Right. And this was presented to the Board and they went through a number of discussions regarding access, medians and impacts of the various alternatives and my understanding is that the alternative that they have chosen is the southeast quadrant road and by process of elimination.

I can't tell you that it was because of environmental impacts necessarily, but St. Johns extension alternative does create large additional costs. It means basically taking the existing road alignment and shifting it over or else --

GIZZI: Or just mitigating for, what is it, for a half an acre of wetland. I mean we do it all the time. 502's taken what, five acres of wetlands and they're mitigating that so mitigating a small piece I wouldn't think ought to at least discount the entire project.

DELEISSEGUES: Are you asking questions or are you guys having a debate or what?

GIZZI: Sorry. I drive through here four or five times a day.

MABREY: I can tell you that --

GIZZI: I know a lot of people do.

MABREY: -- the location of the intersection along 72nd was chosen because it's halfway between the existing signal at St. Johns and 119th Street which makes progression

simpler, so that's why it's at 770 feet.

GIZZI: I'm done.

DELEISSEGUES: Are you done?

GIZZI: Yeah.

DELEISSEGUES: Anybody else? I have a question. Did I understand you to say essentially that we're here to recommend a decision --

MORASCH: That's already been made.

DELEISSEGUES: -- that the Board's already made?

MORASCH: I kind of had the same question. Thanks, Dick.

GIZZI: Well, I didn't know who they were but I didn't want to dominate the discussion.

MABREY: I think what's before you is an arterial atlas amendment and you can pass it or not pass it.

DELEISSEGUES: But it's already been decided on.

MABREY: The St. Johns extension is not before you.

DELEISSEGUES: I understand that, yeah.

MABREY: I mean it's an alternative that was considered and my understanding is that it's one that has been rejected in the process through the Engineering, Public Works.

DELEISSEGUES: Well, that puts a different light on it.

MORASCH: Well, wait, I thought you said the Board of Commissioners rejected it through their work session?

MABREY: That's my understanding, yeah. I mean this document that I sent to you said that the last two options that should be considered are the St. Johns extension and the southeast quadrant road. I mean if you have a fundamental issue with the southeast quadrant road and future signal, then you should probably recommend denial.

MORASCH: Yeah. I guess my question is if we're going to make meaningful recommendations shouldn't we have a range of options to consider and make recommendations on rather than just one option and thumbs up or thumbs down on it?

MABREY: That's not typically the way we do circulation plans. If you want to get into the engineering analysis business at the Planning Commission, then you can certainly do that.

DELEISSEGUES: Well, let's see what the people in the audience that wish to testify here and maybe it will help the County Commissioners understand where we are. I have Glen Thornton as the first person on the sign-up sheet, do you wish to testify?

PUBLIC TESTIMONY

THORNTON: My name's Glen Thornton. I live at 7617 NE 119th Street. I'm also one of the property owners that is and has been active in that area for 40 some years. And I as far as comment and knowing the legalese and the terminology that you're using, I'm somewhat ignorant of that, maybe totally ignorant of that.

However, I do have strong feelings on regarding logic and how traffic flows and it's my personal feeling at this point that the interjection of a traffic light between NE 119th Street and St. Johns Road is an impediment to good traffic flow.

And I also understand a little bit about wetlands because I'm quite a water bank for all of the wetland mitigations that's taking place in that area and I have seen a continuous increase in surplus water that has flooded my fields and has really reduced appreciably the land base that I have there for Christmas tree farming which we've done for 40 plus years.

My feeling is that this southeast quadrant is not a good preferred alternative because of the interjection of the traffic light. And then in regard to the St. Johns extension, I think that is the most logical. And I know that it does take a little bit transgression on the wetlands which I consider somewhat a specious argument for not doing something because the County has continually approved projects on wetlands and the mitigations basically as a downstream person have failed. They have not metered water out as some of the engineers have told me that that was their objective.

Anyway, that is my comment at this point. I would not favor this quadrant as proposed. I would be much more favorable to the St. Johns extension.

DELEISSEGUES: Any questions of Mr. Thornton?

GIZZI: Just, Mr. Thornton, based on your address I'm guessing that, and actually the name of the tree farm, that is your tree farm that that road goes through?

THORNTON: Yes, it is.

GIZZI: Yeah, that's what I thought. So you're okay and have talked with staff about that

going through your property and that's not your concern?

THORNTON: Actually I have a pretty high regard for Linda Smith (sic) as the project manager in the past, she is I think an exemplary employee. And I also met with Mr. Mabrey and I appreciate that a lot too. And I have a lot of respect for Mr. Mabrey and certainly I can't be a restriction to progress. And I understand the County's traffic problems. And so within reasonable limitations I would have to say that I would cooperate with the County.

DELEISSEGUES: Eileen, do you have some questions?

QUTUB: Yeah, I had a question, Mr. Thornton. Does the St. Johns extension actually traverse your land as well?

THORNTON: Well, what extension I have seen it's on the same pattern as this going across my land so it doesn't really change.

QUTUB: Right-of-way.

THORNTON: It's neither an advantage nor disadvantage. I just feel it's an advantage from the standpoint of traffic flow.

DELEISSEGUES: Steve, questions?

MORASCH: No, no questions.

DELEISSEGUES: Thank you, Mr. Thornton.

MORASCH: Thank you.

DELEISSEGUES: That's the last I had on the sign-up sheet. Anyone else in the audience wish to testify? Could you come forward and give us your name and address, please.

CALDWELL: Sure. Thank you. My name is Rex Caldwell and I am a partner in a parcel of land that's directly impacted by the southeast quadrant road. My parcel number is 199473-000. We are owners in partnership with Jeff Johnston, another resident here in Clark County.

I just wanted to speak to say that my property again in layman's terms is just to the west and just to the south of Glen Thornton's property and Glen and I, we share about 900 feet of boundary and in this quadrant road we would have about 400 linear feet of roadway on our property of this proposed road, and with the St. Johns Road extension we would have about 6 to 700 linear feet of roadway, if that, it would be impacting us in that way.

But I just wanted to say that I in large part concur with Glen on that, I think the St. Johns Road is a viable option. But as part of the parcel that we have butts up against 72nd Avenue, I will deviate with Glen just a bit in that having a light there would be nice because right now people go by my property at about 50 miles an hour, so if I could have a selfish personal point, it would be nice to have people go a little slower passed the front of our parcel.

It's a passive parcel right now, it's bare land, but for a future development it would be nice to think that people weren't going by at that rate. But other than that that's just a minor detail. With my partner Mr. Johnston, we are completely comfortable and look forward to either one of those proposals.

I remember the work session a year ago and one of the things that wasn't mentioned with the design of the southeast quadrant was the queueing aspect with the proposed development that's at the northeast corner of 119th Street.

I think I remember hearing at the work session that why this southeast quadrant road was getting maybe the most attention was the fact that it seemed to be the best alternative in alleviating queueing close to the intersection, but I just wanted to add that because I didn't hear that spoken about this evening. But I appreciate you letting me make the comments. Thank you very much.

DELEISSEGUES: Any questions? Thank you very much. Anyone else?

DICHIARA: Hello. My name is Tom DiChiara with C.E. John Company. We are at 1701 SE Columbia Boulevard in Vancouver. We own the parcel on the upper right-hand corner of the intersection of 119th and 72nd, purchased a little bit over a year ago. I just wanted to quickly comment that we support the general quadrant alignment and to speak a little bit to the traffic signalization.

We've been working with staff to advocate for a signalized interchange along 119th where the quadrant road intersects to allow for future commercial development of the 20-acre parcel that we own up there, you can see it ghosted in there as an earlier plan. We've been kind of waiting for some of this to shake out before we advance our design work on the parcel and we can adjust things accordingly.

And we'll work with staff to adjust our main entrance there, but having a signal there is important to the viability of a commercial development of that site so that we have full access going on either direction. And frankly slowing traffic down a little bit there is a good thing for viable commercial development.

I don't have as much of a comment on 72nd, but we've also been working with staff on hopefully a signalized intersection on the I guess it's the north side of 119th there as well. Where the parcel kind of ends there where the church comes out trying to complete a little bit of that quadrant arrangement on the north side of 119th.

DELEISSEGUES: So without that signal, if there was any development in there you'd never get onto 119th if you waited for a break in the traffic, there's no such thing?

DICHIARA: Right. Yeah, if you were limited to right-in or right-out, it would be a big impact to the viability of that parcel being developed.

GIZZI: Now why do you say that, Dick? I mean you'd have the control of the intersection down below so you could easily get out when that light was red.

DELEISSEGUES: Oh, no, that's not the way it works.

GIZZI: Well --

DICHIARA: Yeah, I would agree. I think especially traffic going this way getting in and out, queueing up, if it's a major development at some point down the road, it's just we're not going to be able to attract retailers to a development if we can't provide good vehicular access.

DELEISSEGUES: If the light stopped the traffic, then the people turning right or left onto it take up the slack, so from the cross-streets all you need to do is go down 119th, 117th, Fourth Plain, they've all got signals and there's never a break in the traffic, especially during the rush hour.

GIZZI: So you're now suggesting that we adopt the same philosophy here and have lights everywhere and take 25 minutes to get out?

DELEISSEGUES: What I'm suggesting is that I agree with the alternative. If you don't, you can vote accordingly.

GIZZI: Okay.

DICHIARA: 800 feet is a pretty long distance between lights there. I mean we've had the conversation with staff, just to further comment on that, about the speed of traffic through there is one objective, but it's not the only objective to the property owners and the future viability of that real estate long term.

DELEISSEGUES: Any other questions of Tom?

MORASCH: Yeah. Looking at that map that's east, right, what's further east of your property and is there any chance of getting some kind of joint access with that property owner if they did the St. Johns extension that would move the signal further east?

DICHIARA: Further, I'm not sure if I've got your question just right.

MABREY: Sonja, can you move the map a little bit to the left.

MORASCH: We can't really see what's on the map here.

MABREY: I don't know if there's any more. Move it to the left, please.

QUTUB: It's the synagogue.

DICHIARA: The synagogue was just recently constructed just to the right of our property and you can see there, what you just had up there, go the other way, and then just maybe shift it over just that way a little bit.

WISER: It won't go to the left or right.

GIZZI: I'm seeing a white border so maybe it doesn't move any further.

MABREY: Yeah, that may be the edge of the world.

DICHIARA: Yeah. The synagogue is right there on the right-hand side of the parcel so that that was recently developed. They do have an access point part of an encumbrance on our side is that if that access is changed that they would be able to recirculate through to an unsignal, a signal that would access off of our property so there may be some internal reconfiguration.

And then you can see to the top of the screen there the other church is to the top which owns that whole parcel and there's a potential intersection off of 72nd up there that's yet to be worked out.

DELEISSEGUES: Any other questions?

DICHIARA: Thank you.

MABREY: In response to what I think what you were asking about St. Johns there's not a fixed location, but if you were to line it up with the driveway that's serving the synagogue and the future commercial center and the church, it would go through Mr. Thornton's house basically.

QUTUB: Oh, not good.

GIZZI: Right. But if you look at this map, I mean you can look, I don't want to design this thing here and we can't, then I think the St. Johns alternative shows that you can avoid his house and still maintain -- I mean you could actually come out in this exact same spot.

MABREY: Right. Sure. Yeah, exactly.

GIZZI: Come on, the thing hasn't been fully engineered yet so it's possible to move that end up at the same light on 119th and still extend down to St. Johns is certainly possible.

DELEISSEGUES: Is there anyone else in the audience who wishes to testify on this? Seeing none, we'll return it to the Planning Commission for deliberation and now you can give us your speech.

QUTUB: I think he was talking to you.

GIZZI: I don't have a speech.

DELEISSEGUES: It sounds like you did.

GIZZI: No, I don't have a speech.

DELEISSEGUES: Your engineering analysis.

GIZZI: I don't want to take over deliberation without giving folks a chance to deliberate and then I'll make a motion.

DELEISSEGUES: Steve.

MORASCH: Oh, okay. I was hoping to hear Jim's deliberation first, but if you want me to go first. Well, I guess I just don't feel like I've got enough information to really make a good decision or a good recommendation because there are things about this St. Johns extension that sound appealing.

And we've got a report here from HDR, a respected company, that lists St. Johns extension as one of their recommendations and I'm not sure I've got a good grasp of why a decision was made it sounds like a year ago to go with the other alternative over St. Johns.

So at this point I would either want to table it and get some more information or probably make a recommendation of denial just because I don't really have enough information at my disposal to make a comfortable recommendation for approval.

And it's the Board's decision, I mean they can take our recommendation or not, but we're charged with making recommendations and if a proposal comes to us and the recommendation's really already been made and narrowed down to one option without adequate information as to why other options were eliminated, I really don't see how we can make a good recommendation.

GIZZI: So I'd make a motion that we deny this.

DELEISSEGUES: Wait a minute, we're not quite ready for that.

GIZZI: I'm sorry.

QUTUB: I would just say that I guess we could pass it on with no recommendation but then that alleviates our say.

MORASCH: Even if we pass it on with a denial, the Board is free to overrule that or adopt whatever they want. It will get passed on to them either way.

DELEISSEGUES: You know what, I'm not sure that our role is to do engineering analysis on alternatives. I agree with you, Michael, that we're here to take a recommendation that was made by a consultant that we paid money for to do exactly that and if the County Commissioners are satisfied that that job was done and done well and they're happy with it and our job is to either add it to the arterial atlas or not as-is, then we can vote it, we agree that we should add it or we agree not to and then in which case as Steve and Jim say the Board can do whatever they want to do.

But I don't think we need another hearing and I don't think we need more information and I don't think we need to make that analysis, I think we need to make the recommendation based on what we have in front of us and what's been done, and if you want to recommend that they take another look at it and they decide not to, that's fine, that's within our role.

GIZZI: So is that what you're saying, Mike, that the Board of County Commissioners are the ones? Because you said "they" and I don't know who you were talking about.

MABREY: As I look over the minutes of the Board of County Commissioners work session they did not specifically eliminate either of the alternatives.

GIZZI: I just think that's important to understand.

MABREY: I think they had some concerns about slowing traffic, they talked about roundabouts and they talked about making sure we got the right-of-way that was going to be needed all the way into the future, they wanted a smaller roadway footprint, fewer lanes at the intersection with 72nd Avenue and access concerns, median concerns.

I don't know of any discussion really that was specific to St. Johns extension frankly. The problem with St. Johns extension boils down to who's going to build it, who's going to develop that property and build that road through a forested wetland, we don't have any financing or budget to do it, it's not part of this project.

MORASCH: I have a question. So if the Board didn't make a decision to narrow this to one alternative, who did? Because as I'm reading this HDR report they've got both the southeast quadrant road and the St. Johns Road on the bottom of their report.

I mean I might agree with Dick if we had an HDR report that said this is the best one and here's why, I might agree with Dick that we should just then pass that one on unless we find a flaw in the report, but I don't see a report that says that. Am I not reading this right?

MABREY: Well, it was subsequent to the Board's work session that decision was made in Public Works. I believe it was Pete Capell that made the decision that this is what we're going to go forward with.

DELEISSEGUES: Mike, was it because of the funding like you're mentioning that there's no alternative to funding it another alternative?

MABREY: I would assume. I can't speak for him. Certainly they were thinking that --

DELEISSEGUES: It would certainly be a factor.

MABREY: -- if they were going to pursue the St. Johns alternative, it was going to mean realigning the existing intersection way up to the north to minimize the impacts on the forested wetland on the east side of that current intersection which would require a significant amount of investment.

DELEISSEGUES: Though it looks like another alternative might be to table this and have somebody from Public Works that's involved in the decision to come and tell us why they made that decision.

MABREY: All I know is they asked me to take this forward as an amendment.

DELEISSEGUES: As a done deal. I mean they're not here so we can't get answers.

MABREY: Right. If you want to know --

DELEISSEGUES: If Jim wants to know some things and Steve wants to know some things, there's nobody here that can answer the question.

MABREY: Yeah.

DELEISSEGUES: So what's your pleasure? We can --

GIZZI: Well, you know my pleasure so I'll let other folks have the first crack at it.

DELEISSEGUES: No, be a little more --

GIZZI: I mean I would make a motion that we deny this.

DELEISSEGUES: Deny?

GIZZI: I do, yeah.

DELEISSEGUES: Well, then if you do that, then we have to make another motion of what we think we should do. If we're going to do our job, you make a recommendation to the County Commissioners if we think that we ought to have the County put this on November or something and have Public Works come and give us enough information to make the decision or --

GIZZI: I'm comfortable with that.

DELEISSEGUES: -- just outright deny it.

QUTUB: Is November too far?

MORASCH: Well, I think that's the next available because our --

QUTUB: It is because it's just too full in September and October?

MORASCH: -- schedule's pretty tight in September and October, yeah.

GIZZI: Yeah, I don't think there's any time constraints on the design. I think the developers have time constraints at least clearly want to have some level of comfort that a light on 119th is going to happen and I don't think anybody here is saying that that's not going to happen, I think it's just a little bit of concern around how we've arrived at this decision that doesn't seem to me to be the logical choice.

DELEISSEGUES: Is there any more discussion? If not, Jim, go ahead and make your motion.

GIZZI: I'll make a motion that we, you say I can't make, well, I'm going to make a **MOTION** that we deny what we have here today.

DELEISSEGUES: Deny the staff recommendation for approval. Is there a second? Is there another motion?

QUTUB: I **MOVE** that we **table** this until the November meeting where we can hear from Public Works about why we were not offered more than one alternative or why they chose this alternative. They need to testify and tell us why they chose this.

DELEISSEGUES: Is that something that is not going to cause a big problem with anybody in the audience or anybody else if this is delayed until November as far as we're concerned? Seeing none.

MABREY: I don't know what the design staff is doing but I think it can --

MORASCH: I'll second that.

DELEISSEGUES: Moved and seconded. Any discussion on this motion? Roll call, please.

ROLL CALL VOTE

GIZZI: AYE

MORASCH: AYE

QUTUB: AYE

DELEISSEGUES: I vote NO because I support the staff recommendation.

WISER: 3/1.

OLD BUSINESS

None.

NEW BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

None.

ADJOURNMENT

All proceedings of tonite's hearing can be viewed on the Clark County Web Page at:
<http://www.clark.wa.gov/planning/commission.html#agendas>

Proceedings can be also be viewed on CTV on the following web page link:
<http://www.cityofvancouver.us/cvtv/>

Chair

Date

Minutes Transcribed by:
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Sonja Wisner, Administrative Assistant