

**CLARK COUNTY  
PLANNING COMMISSION MINUTES  
Thursday, May 16, 2013**

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

**6:30 p.m.**

**I. CALL TO ORDER**

**II. ROLL CALL & INTRODUCTION OF GUESTS**

DELEISSEGUES: Good evening, everyone. I'll call the Clark County Planning Commission to order for tonight, Thursday, May 16th. Can we have roll call, please.

USKOSKI: PRESENT

BARCA: HERE

GIZZI: HERE

QUTUB: HERE

MORASCH: ABSENT

DELEISSEGUES: HERE

**III. WORKSESSION HELD 5:30 – 6:20 P.M. – NO MINUTES AT WORK SESSION**

**IV. APPROVAL OF AGENDA & MINUTES**

DELEISSEGUES: Approval of the agenda --

JOHNSON: HERE, Dick.

DELEISSEGUES: I'm sorry about that. If there's a staff someplace, do we have any changes to the agenda? Apparently not.

BARCA: Motion to approve the agenda.

USKOSKI: Second.

DELEISSEGUES: All in favor.

EVERYBODY: AYE

DELEISSEGUES: Approval of the minutes for April 18th. Motion to approve.

GIZZI: I move that we approve the minutes from April 18th.

BARCA: Second.

DELEISSEGUES: All in favor.

EVERYBODY: AYE

**V. ELECTION OF CHAIR & VICE-CHAIR FOR 2013-2014**

DELEISSEGUES: We're going to take time for administrative matters here. We're going to have election of chair and vice chair for 2013 and 2014 since we haven't gotten to it for the last I don't know how long. So go ahead, Commissioners.

GIZZI: I'd like to nominate Ron Barca for chair.

USKOSKI: Second.

DELEISSEGUES: Any other nominations?

QUTUB: I nominate Valerie Uskoski for vice chair.

DELEISSEGUES: Valerie. Is there a second for --

GIZZI: Second.

DELEISSEGUES: Any other nominations? Okay. We'll move the nominations be closed. Somebody?

QUTUB: I move the nominations are closed.

GIZZI: Second.

DELEISSEGUES: We need to vote somehow or other. Since there's two candidates, we probably ought to get some pieces of paper and put some names on it and do it quickly.

USKOSKI: I've got some sticky notes here.

MCCALL: You've got some sticky notes here?

BARCA: Yeah, we're covered.

MCCALL: Thank you.

GIZZI: So, Dick, how do you want us to do this? Do you want us to write chair and vice chair underneath both at one time, or do you want to do them separate?

DELEISSEGUES: Well, let's do the chair and then the chair can go from there.

GIZZI: Chair then.

DELEISSEGUES: So I'll collect them.

GIZZI: We only have one nomination for chair.

DELEISSEGUES: No, we have two.

GIZZI: No.

QUTUB: No.

GIZZI: We have one for chair and one for vice.

QUTUB: Yeah, that's what it was.

DELEISSEGUES: Oh, okay. Yeah, put them both on there then.

GIZZI: Do we get extra points if we spell Valerie's last name correctly?

DELEISSEGUES: Just put Val.

USKOSKI: Yes, you do. But the real question is can you get it, Jim?

GIZZI: I can. I know I do.

DELEISSEGUES: It's probably no surprise, but Ron has been elected to chair and, Valerie, you are the vice chair, so congratulations.

BARCA: Meeting adjourned.

DELEISSEGUES: I'm glad I voted for you.

BARCA: Well, I'm so unprepared to take over right at this moment.

DELEISSEGUES: Too bad.

BARCA: Yeah, too bad.

DELEISSEGUES: Go for it.

## **VI. COMMUNICATIONS FROM THE PUBLIC**

BARCA: Okay. So we have covered through Item V of the agenda and we're going to come up to Item VI, communication from the public.

So we are at the point in time of any communication from the public that is not related to the agenda before us. This is the time in which we ask the public to come forward and to give their commentary, so any items not on the agenda this evening. Okay. Not seeing any public come forward from that.

## **VII. PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION**

### **A. OPEN SPACE & TIMBERLANDS**

We are going to go into the published public hearing items, and we are going to start with open space and timberland. Staff report, please.

VANDLING: Good evening, Mr. Chairman. Jim Vandling, Clark County Forester, Department of Environmental Services. First of all, I'd like to express my apologies to Marilee for having her reprint the entire staff report again in a final form; however, the correction which Commissioner Johnson caught during our work session has been corrected on the Davis application.

And I just want to ask if there's any questions from the work session in anything that was presented there a couple weeks ago that I could clarify for you now before we briefly discuss the staff report?

BARCA: No.

VANDLING: Okay. So I'm presenting staff's findings and recommendations to the Planning Commission which will forward a recommendation to the Board of Commissioners for approval or denial of these applications mentioned in the staff report. We're doing this --

MCCALL: Sorry, it's a little disruptive, but now everyone can see.

VANDLING: We're doing this pursuant to RCW 84.34 and Clark County Code 3.08. This is the 28th year the County has been reviewing these applications, and it is now the 19th year the County has been reviewing the applications under the mandate of the Growth Management Act which involves the public process.

This year we had 24 applications total. 17 of those applications - the majority - were in for the timberland classification, and we had 7 requests for open space designation in one of our open space classifications.

I've summarized all of the findings within the body of the staff report on Exhibit A - as we've been doing for the past four or five years - and as you see all 24 applications have been approved.

It sounds like this is a pretty slam dunk process, but it is not, this is the easy part. The difficult part for these folks is getting here and then staying with the program and staying with the measures that keep them in compliance with the program, and that goes on for years. So what we're basically doing here is allowing them to take the opportunity to accomplish what goals we have set out in our code to bring the open space program into some sort of long-term existence in this county.

Unless there are questions within the staff report regarding specific applications, I'm here to answer anything that you might want to ask.

BARCA: So, Jim, just for the record, we have 24 total applications, we have all approvals, no denials?

VANDLING: No denials.

BARCA: No denials. Okay. So everybody that went through the process and reached this point has been approved?

VANDLING: That's correct.

BARCA: Any questions of staff? So then we will open it up for public testimony. I have a list of names printed for the open space and timberland sign-up sheet. If you have commentary based on the open space and timberland, you can come forward when I call your name. If you're satisfied with the testimony, you don't have to come forward. We'll start off with E.R. Horne.

HORNE: We're satisfied.

BARCA: Thank you, Mr. Horne. Nita Frasier.

FRASIER: We're satisfied.

BARCA: Thank you. Tom Frasier.

FRASIER: Satisfied.

BARCA: James A. Styres.

STYRES: I'm satisfied, but I'd still like to make a comment if you don't mind.

BARCA: Absolutely. Come forward, sir. For the record, please state your name and address when you sit down.

STYRES: The full name is James Alan Styres, Junior. I live at 18615 NE Yacolt Mountain Road. Now here's my concern, and I agree with what the Board has said, but this land was under timber. When my folks passed away, me and my brother divided it and we made sure that he got more acreage so it stayed the big section and eliminated one parcel. Because he had his two little parcels and now he's got one big parcel, and I got a six and a half and it was still under timber, and all of a sudden it was taken out. I don't know why. And I just would like an honest answer why it was taken out to start with.

BARCA: I think we can answer that question for you. Mr. Vandling.

VANDLING: That would have more than likely come from an audit done by the Assessor's Department. I don't have that audit in front of me, I have the application and the timber management plan. We can look into that before the Board hearing.

STYRES: I'd appreciate it.

VANDLING: And we can get all the information that we have on file, that we have access to anyway.

STYRES: Well, I just wondered why it was taken out and just not carried on over because I wanted to stay under timber.

VANDLING: Well, see, the parcel total is 6.5 acres; correct?

STYRES: Right.

VANDLING: And if there's a house on it --

STYRES: There's a house.

VANDLING: -- then the house is an automatic one-acre deduction.

STYRES: Right.

VANDLING: And so it was for 5.5 acres is what the application was is that I saw.

STYRES: Right.

VANDLING: So if it had been in 6.5 acres in timber before, and your question is why was it taken out, that's what I want to know too.

STYRES: Well, the whole piece, the 21-acre piece was under timber, and my brother had a 5-acre piece and a 2-acre piece. So what we did, I took 6 and a half acres off when the folks passed away, gave him the rest of it and he incorporated his other two pieces into one piece. So it all is one piece now instead of --

VANDLING: So you did a boundary line adjustment?

STYRES: Yes.

VANDLING: You did a boundary line adjustment. And then when it had to -- when that piece had to go into your name, did you do an excise -- did you go through excise with the Assessor's Department?

STYRES: Did a whole bunch of stuff.

VANDLING: The chances are an excise transaction was part of it. And if that was part of it, then you had to reclassify from a DFL into timberland itself because you had a house on it. So you can have five acres alone in timber, but if you have a house, one house, according to the State one-acre rule you have to have six acres. So that is perhaps the root of the application in itself.

BARCA: So do you have --

STYRES: Well, I was just curious why.

BARCA: Right.

VANDLING: Right. Correct. And I'll be able to get you the complete answer to that easily.

STYRES: I would appreciate it.

VANDLING: You bet.

STYRES: Thank you.

VANDLING: So we'll have to pull your excise tax return and look at that. And that's not normally part of what I ever see, but I'll find out.

STYRES: Okay, thank you. And I appreciate the Planning Commission. Thank you.

BARCA: Thank you. John Bork.

BORK: I'm satisfied.

BARCA: Cori Anderson.

ANDERSON: I'm satisfied.

BARCA: Very good. And Doug Walker.

WALKER: Satisfied.

BARCA: All right. That concludes the sign-up sheet. Is there anybody else in the audience wishing to speak to the matter of open space and timberland? Not seeing anybody else come forward, return it back to the Commission. Discussion or a motion.

**ROLL CALL VOTE**

GIZZI: I make a motion that we approve the parcels as listed for current use assessment in the document dated April 23rd from Jim.

USKOSKI: Second.

BARCA: We have a motion, it's been seconded. Discussion on the motion? Seeing no discussion, roll call, please.

MCCALL: Motion to approve as presented. And first it would be --

BARCA: AYE

GIZZI: AYE

USKOSKI: AYE

QUTUB: AYE

DELEISSEGUES: AYE

JOHNSON: AYE

MCCALL: 6 yes, 0 no. Approved.

BARCA: So the motion's been approved. And now I guess I would just like to say once again from the Planning Commission standpoint, the work that staff does to prepare these to come forward is a testimony in that you see 24 applications and 24 approvals. And I genuinely appreciate everybody that goes through the process and the time that staff takes to work with them, it's an excellent program on both ends of the ledger.

QUTUB: And, Mr. Chair, I'd just like to comment, and it could have been maybe then during the discussion but I didn't think it appropriate. I just would like to say that we had a very good work session and that's why not very much is said here between the Commissioners because it was all explained to us. We had many questions then, but it was all explained, so that's why we're kind of quiet and saying yes. Thank you.

BARCA: Sir, we just closed this. Is there something relevant to the open space that you'd like to come forward and say?

SHOEMAKER: Just for those of us that aren't experienced. My name is Carl Shoemaker.

BARCA: Please, come all the way forward. We have to do this so we can keep record.

SHOEMAKER: Carl Shoemaker, 16100 NE 58th Avenue. And never having been into one of these meetings, just not sure the part that concerns me will come up. So when you do all this -- I know you can watch this on TV; right?

BARCA: Yeah.

SHOEMAKER: Yeah, it's all there on TV. Hi mom. Just that can you kind of explain a little bit to -- I mean most of these people came in here for specific reasons. I'm kind of here for a general reason because I'm up by Washington State University and just not sure when that agenda is.

MABREY: Right now.

SHOEMAKER: Next. Okay. Because when I was reading through this it kind of overlaps and is not self-explanatory other than this one sheet. Yeah, that's the one sheet I did not get. Appreciate it.

All right. Just thank you.

BARCA: Certainly.

**B. CPZ2013-00013 – NE 50<sup>TH</sup> AVENUE:**

SHOEMAKER: Keep it going. You're doing good folks. Stay with the business.

BARCA: Certainly. The next item on the agenda, CPZ2013-00013, NE 50th Avenue, a proposal to remove urban holding 20 designations along NE 50th, NE 159th. Staff report, please.

ALVAREZ: Thank you, Commissioners. Jose Alvarez with Clark County Community Planning. The proposal before you this evening is to remove urban --

PUBLIC: We can't hear you.

ALVAREZ: The proposal before you this evening is to remove urban holding on approximately 100 acres along NE 50th Avenue north of 159th. This property and the property to the north is approximately 200 acres, has been in the urban growth boundary since 1994.

The proposal is sort of being driven by a relocation expansion of a business, Smith-Root, that is looking to purchase and relocate their business to this northern property.

The removal of urban holding requires that capital facilities be available, the full range of public services be available within the area. The area is served by Clark Public Utilities water. There is sewer approximately 2,000 feet to the south from the intersection of 159th and NE 50th. There's a representative from the Clark Regional Wastewater District here to answer any questions. Also representative from the Smith-Root also here to answer questions that you may have.

We did receive some comments. We issued a determination of nonsignificance for SEPA and received a comment from George Fornes from the Department of Fish and Wildlife, it should have been forwarded that e-mail. I think their concern was the threatened coho and steelhead in the creek. And we recognize that and it should have been addressed in the SEPA and it would be addressed for any development through our critical areas ordinance regulations.

Again, the major issues for the removal of urban holding in the area are the provision of sewer and the transportation issues. There are significant impediments -- well, there's significant transportation issues in the area along Salmon Creek, 134th, 179th to the north. The analysis that's provided in the staff report shows that we would have sufficient capacity for transportation in the very near term, but that there would have to be some reprioritization of our capital facilities plan in order to address the trips in the five year plus range.

The issues with the sewer district or the extension of sewer, it's an expense. We had a meeting with the Regional Wastewater District. The estimate for extension of sewer to the property to the north is estimated about \$3 and a half million, and that includes a pump station along 50th.

Staff is recommending approval given the caveat that the sewer be provided, and those amendments to the capital facilities for transportation need to be addressed by the Board. Do you have any questions?

USKOSKI: Yes, I do. Do we have something in place -- does the sewer district have plans to install that pump station or does the applicant or the business coming in have the intention of putting that in place and later reimbursement, or are we looking at a sewer waiver?

ALVAREZ: We're still looking at the issue with the wastewater district to see their -- their commitment of funds would really be dependent on how long a time frame that they would be reimbursed if they were to front the bill. There are still discussions going on about how to pay for that extension that hasn't been finalized.

BACON: My name is Steve Bacon with Clark Regional Wastewater District. Right now the funds for

construction of the sewer facilities, they are not within our six-year capital program, that would be something that we would have to amend.

The \$3 and a half million would account for about one year's worth of our capital budget, so we would have to reprioritize our capital plan in order to do it. It's not outside the realm of possibility, but it is in order to put in the permanent solution would require some juggling on our part.

There are some temporary solutions that we've identified. We do have a sewer system down near 50th Ave. and Salmon Creek Ave., some temporary systems, some kind of an on-site pump station-type system would be able to utilize that at a significantly reduced cost. So there are some options available that don't require the full \$3 and a half million, but that is the current estimate for the permanent solution out there.

USKOSKI: So are we still looking at the possibility of doing a sewer waiver for the entire site where they put it on a septic system rather than doing some sort of a temporary connection?

BACON: I don't know whether code would allow that, so that would be a question for the County.

ALVAREZ: There is a provision in our code that would allow for sewer waiver depending on approval for the Department of Health. Again, our approval is contingent on the expectation is that the sewer would be provided.

DELEISSEGUES: Yeah, Jose, how big are these parcels, you know? It depends on how the size of the parcels in the development, some of them won't support, you know, if they're small parcels.

ALVAREZ: Right. And that would be the Health Department that makes that determination --

DELEISSEGUES: Well, I think they would.

ALVAREZ: -- or whether they approve that. Right. So the other issue with that is the sewer waiver also requires hooking up to the sewer when it becomes available. So it's just a matter of sort of timing and cost for the applicant whether they want to pay that cost twice within a short period of time.

GIZZI: And we also know that, you had talked about transportation concerns, but we also know that there are, I don't know, banked capacity for WSU that's reserved for this corridor as well. So it's already over, it's already technically overcapacity and we're talking about going further over, if I'm not mistaken.

ALVAREZ: Correct. We have things in the pipeline, WSU is one, there's several other developments, I think the approval for Wal-Mart along 139th and 134th that have banked capacity. And so that would be the other reason why we would need to make some reprioritization to our capital facilities plans to address the transportation needs in the area.

BARCA: Other questions of staff? Okay. So we do know that this is zoned business park?

ALVAREZ: Yes, the underlying zoning is business park. So with the removal of urban holding, that would be the effective zone.

BARCA: So any type of development that we would see coming in there would be recognized as this type of business park type of usage?

ALVAREZ: Correct.

BARCA: So the concept of piecemealing sewer into there would be considered a negative force towards trying to develop it as business park in this case?

ALVAREZ: Yes.

BARCA: And the portion of what's shown in red, that is the specific lot that Smith-Root is in discussion, is it the one that is furthest north?

ALVAREZ: This, yes.

GIZZI: Well, we can't see this.

ALVAREZ: Oh, the furthest red parcel to the north.

BARCA: Yeah. Red on red is not a good (inaudible), yeah. Other questions of staff? No, not at this time? All right. Then we're are going to go ahead and open up the public testimony on NE 50th Avenue, urban holding, and we'll start with the sign-up sheet. Steve Bacon.

BACON: That's me.

BARCA: That's you. All right. You already talked. Glenn Tribe.

TRIBE: Glenn Tribe, 15701 NE 57th Avenue. It appears that the main purpose of this is to allow Smith-Root to expand their business from where they're located now on 50th, or Salmon Creek Avenue up on top of the hill to the new location. And that's fine, I have no objection to them moving. I think more business is good. I do have several questions about the facility.

Number one, the big red zone here is much more than what Smith-Root wants. Now why are we including all of that red zone when Smith-Root only wants a small part? I don't understand what triggers this going into a bigger expansion there. Maybe someone knows that.

I've talked to some of the folks along 50th Avenue there and they have no -- the small homeowners have no interest in selling, they're happy where they're at, they're not going to sell, they don't know what it's all about.

But if you go down to the corner of 159th Street and 50th Avenue, there's a big large blue sign there now that appeared like flowers in Spring that says there's 50 approved lots available on the 20 acres. Now I don't know where the 20 acres are, if that's the zoned area that you can see, the biggest area of that, that may be. There's an old farm there and it probably wants to go into development for other reasons. But I don't know how there can be three approved lots available where before it was 20-acres urban.

The speaker with the County on sewers speaks of sewer availability for Smith-Root being a six-year plan. And I know a little bit about sewer lift stations, and that would probably take that long with a temporary use of the existing facility, which I think is a very, very long stretch to think they're going to use that existing facility.

That existing facility was put in to service a small housing development right on the corner of 50th Avenue and Salmon Creek Street. And the houses there dump into a little holding basin, and then there's a pump station there that the County owns that pumps it across Salmon Creek south up into a gravity line, and to think that more sewage should be put into that I think is a far, far stretch. The other question, would the other existing properties along 50th Avenue be allowed to tie into any sewer that is put from the Smith-Root site onto the new facility down at near Salmon Creek?

As near as I can tell, Smith-Root is only interested in the one lot or one property, I guess 10 acres, 16112 NE 50th Avenue, and the other property in the complete red zone must be of desire for other people unnamed in this report. And maybe the intention there is the County's willingness or desire to make more industrial or semi-industrial property available for use in that area, that may be the reason, I don't know that. That's all the questions I have, and I'd appreciate your response to these.

BARCA: So would you respond to the questions.

ALVAREZ: Sure. So the rationale for bringing in the parcel south of what Smith-Root is looking to develop is that if we're going to extend the public infrastructure to that parcel, it would make sense to bring those in to help defray the cost for bringing in the infrastructure.

TRIBE: Meaning the sewer?

ALVAREZ: Exactly. For your second question about the development at 159th and 50th, you said there was -- I don't know of any previous approvals. Like I said, the property has been in urban holding 20 since 1994, so I can't imagine any lots that were approved prior. There might be something approved prior to that, but it hasn't been recorded that I can see from this, so I don't know if that information is correct.

TRIBE: Well, you might want to drive by and take a look, it's a very large blue sign. It says three tax lots available for sale and it's owner financed.

PUBLIC: Legal lots.

TRIBE: Legal lots.

ALVAREZ: And it's this property here?

TRIBE: Well, it says 20 acres. Now I don't know how much that one --

ALVAREZ: That's 20 acres. Well, you can -- the minimum parcel size in the business park zone is five acres, so you could theoretically divide it into four lots for business park.

TRIBE: They mentioned three on their sign, so it could be.

QUTUB: They might want to keep one.

DELEISSEGUES: Unless they keep one, right.

ALVAREZ: Did I answer all your questions?

TRIBE: No. I'm still wondering how you're going to get the sewer out away from Smith-Root. The gentleman back here mentioned the facility at the corner there where the small housing development is that was put in to service that housing development.

ALVAREZ: Right. And I think Steve can answer better than I can.

BACON: So the two questions I remember hearing anyways, were about using the existing system and whether or not others would be able to connect to the sewer system.

The existing system down there in the corner has a low pressure sewer system. Each individual lot has its own pump and it pumps into a common force main and then up the hill. For a temporary use to tie into that system, adding one more pump at the Smith-Root site, or even ten more pumps along the way, wouldn't impact the use of that system. I mean we have those systems in our area with thousands of connections to them. So because of the way the system is set up, the possibility of more than one pump running at the same time is relatively small. So you can put a lot of pumps on a fairly small pipe.

As far as other people connecting to that system, it would depend on the amount of use they were talking about. If you've got a large industrial user in there, they would not be able to run on a system like that because there would just be too much water flowing out of the system.

For the permanent fix, the \$3 and a half million dollar fix, there would be actually a large pump station placed at the bottom of the hill there. And there's already an easement in that subdivision for a full-blown sewer pump station to be built, and that would handle, you know, hundreds, if not thousands, of acres of property regardless of the zoning, you can get into a full-blown pump station. So there would be plenty of capacity in the system for others to use it.

In this particular case, we've got an urban growth boundary that runs on 50th Avenue, the provision of sewer service outside of the urban growth boundary. So on the entire east side up to 159th would preclude us from serving that area with sewer because that area is not within an urban growth boundary. There would have to be either a public health or a public use exception in order for the

properties on the east side to tie into that line and utilize the sewer service.

TRIBE: You're talking about the ones to the south of the red zone there?

BACON: Yes. On the east side of 50th Avenue.

TRIBE: Yeah. Yeah. Yeah. Well, my property is on down 159th Street outside the urban growth boundary, so we would not be able to attach onto the sewer line?

BACON: Correct.

TRIBE: Now there was a property right on the very corner, it would be the southeast corner of 50th Avenue and 159th, right there, and they recently tied onto the sewer, or was it water. Oh, excuse me.

BACON: It must have been water.

TRIBE: It was water. I'm sorry, water. But they're outside the urban growth boundary?

BACON: Uh-huh.

TRIBE: What would be the capacity, gpm capacity, of the existing pump station in the housing development?

BACON: There isn't a single pump station there, there's individual pumps at each house. So each house can contribute about 50 gallons a minute into that system, but the pumps all run at different times, so each house has its own little, it's just a small pump.

TRIBE: But isn't there a collection system from those several houses?

BACON: The individual pumps all pump into a joint use mainline out in the street, so...

TRIBE: So each individual house pumps its sewer across the creek up into --

BACON: Yes.

TRIBE: Individually, each one?

BACON: Yep.

TRIBE: So how would a temporary arrangement be made from Smith-Root? They're going to have their pump to pump across the creek and up?

QUTUB: Yeah.

BACON: Yep. They would pump down into that same joint use main, and just like all those other houses, it would just pump up over.

TRIBE: So other properties in the red zone there that may come along that want to tie into this sewer arrangement, they would have to have a pump capacity sufficient to pump all the way down 50th Avenue, across the creek and up into the gravity line; is that correct?

BACON: Correct.

TRIBE: It sounds kind of honky to me.

BACON: It would be -- I mean even the ones in that little subdivision, that's a temporary. I mean the permanent fix is the big pump station and the gravity sewers in the area. That subdivision wanted to go in long before there was any other development in the area. So as part of that, the agreement to allow them to go in, it had to be a temporary system.

TRIBE: But we're talking temporary now for six years and allowing others to use the same temporary system.

BACON: Yes.

TRIBE: I don't think that's very good planning.

PUBLIC: Hey, Glenn, can I join you up there for just a quick second, because you know the topography for just like I do. That road goes, bends down the hill is where Smith-Root is going, it's on the backside of that ball field.

BARCA: So we'll have an opportunity to have everybody come up and give testimony, and we can't catch this for the microphone and the public to hear it in general. So please just wait and we'll give you an opportunity. So, Mr. Tribe --

TRIBE: Yes.

BARCA: -- have you had your questions adequate --

TRIBE: Yeah, I think I've expressed my feelings, and I think you're getting into a can of worms. And if you allow that to go in, then you better spend the 3 and a half million and put in a sewer system there that is adequate rather than tying onto a halfway job.

BARCA: Any questions for Mr. Tribe?

DELEISSEGUES: No.

BARCA: No? Thank you very much. The next name on the list Nita Frasier. Oh, it looks like the Frasier's have left. Dan Steinmueller.

STEINMUELLER: Hello. My name is Dan Steinmueller and I represent the property to the north.

BARCA: Please, address please.

STEINMUELLER: 16713 NE 50th Avenue. And my family would just -- we would like to be included in this only because -- and we don't need the sewer by the place, we have no intention of developing it. We're hoping that the university will acquire it at some point.

But by not including us, you are essentially tying our hands if there were to be some research partnership or something with the company that's going on two sides, or we're bordering them on two sides, we can't do that being in urban holding, but I do understand the constraints.

So that's all I have to say. I'm not against the project at all. I want to keep those jobs here in Clark County and I think that's what's the important issue here. So that's all I have to say.

BARCA: Any questions for Mr. Steinmueller?

USKOSKI: No. But I was hoping Jose would address the inclusion or exclusion of that parcel.

ALVAREZ: Again, the rationale was that including the parcels north would double the size of the area that we're looking to expand the urban holding. And given the transportation constraints, we were just trying to balance the needs between transportation and sewer.

And, you know, you're sort of at a competing interest where you want more development to offset the cost while providing the sewer. In the short run for transportation, you want to limit the amount of trips until you can make that investment to expand the capacity. And so that essentially that's the rationale.

And I can completely understand the argument to include it, but that's just where we ended up with. But, I mean, it completely makes sense that if you're going to extend the sewer to the property to the north, I mean it won't take very long to bring that, to remove the rest of the urban holding on your property through a similar process, but, yes, I understand that.

STEINMUELLER: Well, and the point is there is no urban holding beyond us to the north, so... And on this traffic is being presented in somewhat of a whatever manner that he's not -- the trips aren't new.

This business relocating is only less than two miles away, and the trips are all going to go through the same way they're going now. So other than maybe a job creation, future job creation above what they have now, we're not really talking about any trips, and I'm certainly not talking about any trips. So I think traffic is addressed when people apply for to put something on the property. But I've addressed my concerns.

I just am concerned that we can't enter into any kind of a research or otherwise agreement with anyone as long as we're in urban holding, and that's the way I understand it. So I just wanted to put my two cents in that I think -- the other point would be on the sewer and everything. If you look here, that would be the end of the line at the end of that there. So if they extend it when they put it in, there it is. And when they make the road improvements and everything else, we don't have to keep putting out money later on. Any more questions?

BARCA: Thank you. And I believe Tom Frasier, yeah, I thought he had left. So we are to Britt Killian.

KILLIAN: Is there a question?

BARCA: If you would like to speak, this is an opportunity. If you're fine with just listening, that's fine as well.

KILLIAN: No, I'll speak. I'm Smith-Root representative. We --

BARCA: Please start with name and address when you sit down.

KILLIAN: My name is Britt Killian, Smith-Root representative. We're at 14014 NE Salmon Creek Avenue. I would just like to say, that as previously stated, we won't be generating any new trips. The impact that we have currently is pretty small, we are currently 70 employees. We don't -- I mean we do have some delivery vehicles, but as far as the traffic impact goes, I don't think we're going to be making a large impact in the area.

Yeah, we do need sewer up there, but I think that the temporary solution works best for us only because it would -- in the capital plan we could phase this in over time, you know. It would certainly help us in the short-term getting in, getting in there and getting our feet settled and then being able to repay, help repay what we've created here. Any questions about what we do?

DELEISSEGUES: No.

BARCA: No questions? Okay, thank you, Mr. Killian. Mark, is it Brislawn?

BRISLAWN: Good evening. Hi. My name's Mark -- is that close enough?

BARCA: That's what I got down here.

BRISLAWN: Mark Brislawn.

BARCA: Brislawn.

BRISLAWN: Residence address is 14405 NE Salmon Creek Avenue, and I'm the property owner of the parcel that Smith-Root would like to develop. I've just got a couple of things I'd like to touch on here. I've been a -- I live about a quarter-mile from the Smith-Root facility down on Salmon Creek and have been a neighbor for 25 years there, and they're a real neighbor-friendly company. They actually invite the neighbors to their company barbecues. They're just a real good, solid company, and they've been in business for 42 years and they've been employee owned since 1964.

I've owned the property up on 50th Avenue for about 14 years and I feel it would be a very good fit for Smith-Root. They'd like to stay in the Salmon Creek area, they don't want to move out of that area. And the property that's zoned BP in that area is quite limited as you know. And other than the sewer issues, you know, it would be a good fit for them.

So if we could get past that, I think it would be a, you know, they'd be a good addition to the area and we'd keep the jobs in that Salmon Creek area. A lot of the people that work there live in that area, so it would minimize their trips and, you know, obviously I'd like to see it go forward. Any questions?

BARCA: Any questions?

DELEISSEGUES: No. No questions.

BARCA: Thank you very much.

BRISLAWN: All right. Thank you.

BARCA: Ardis Lyons. David Actom.

ACTOM: Just want to listen.

BARCA: We are to Andy Fields.

FIELDS: I'm satisfied.

BARCA: Satisfied. And Mark McGough.

MCGOUGH: Satisfied.

BARCA: We have one more on the list here, Merilee Laurens.

LAURENS: That's me.

BARCA: And if you'd like to come forward and give testimony, please step forward.

LAURENS: Hi. I'm Merilee Laurens, I live at 16403 NE 50th Avenue, and I am the one that has the property right next to where they want to build this. And I'm the one that -- Jose Alvarez has been an absolutely wonderful person to work with with a very emotional thing for me with -- I've lived here for 20 years. I have -- I have a house that I really like with a pole barn and my studio, and I look out at the property where there used to be horses. And where they are proposing -- this is the view I look at now, and this is the view that they're talking about wanting me to have.

And I went and looked at the Smith-Root people, they were very nice, yes, they were. But, you know, one of the things that I know about them is they also they homesteaded that property. That's their property there, that's Smith, and they've got their own little problems that they have with trying to -- wanting to -- why they want to move. They -- one of the brothers owns the property and one of the brothers runs the company, and I think that they're -- that that is one of the things that is motivating them to do this.

I didn't know we were going to be talking so much about that situation, because I thought that perhaps -- I got the indication that we were supposed to be talking about dividing up the parcels and how this was going to be redesignated as, you know, lifting the urban holding.

When they first -- when they first put the holding on here, it was my understanding that the reason why they did that is that they were hoping to develop it with the Washington State University. And that at some point in time that they -- that the properties that we had in that patch - the 11 parcels that they're talking about - and also on Mr. Steinmueller's property that he has quite a bit, he would -- that they were going to be looking at putting that property -- putting things that had to do with the university there, like part of the campus, and that's why they had made it be kind of light commercial. And we've been paying light commercial taxes on it for the period of time with the -- I mean they -- I can't remember if that's the exact, if that is the exact terminology for that, if it's called light commercial or light --

ALVAREZ: Business park.

LAURENS: What?

ALVAREZ: Business park.

LAURENS: Business park, yeah. So, I mean, that is -- even though it has had a hold on it. I think that this thing has gotten pushed forward because Smith-Root is looking at buying the property and now they're looking at lifting the urban holding. That sign that went up on 159th went up two days ago after they got the notice of this meeting. So those people seem to be wanting to sell their property.

I don't think that, you know, for me personally, I will be landlocked into where I -- where I -- were they to put that Smith-Root there because my property goes parallel with it. I look out and my property is on the bottom part of that and the Gardner School is right in front of it. That's my property right there. There's a wetland in back of my property that goes around, and that's where Mr. Steinmueller's property is around in there. The Gardner School is right in front of my property. I have an easement to my property to get down to my property.

The wetland that goes there -- and then the gentleman that was talking before that was off of 159th, his property is around there, but you can't build anything right in there around that where that water, where that wetland is. Yeah. So you can kind of get a better idea of how -- the property that's next to me that Smith-Root wants to build on is higher than my property. So they are already looking at -- it already completely will block any view of Mount St. Helens or any of that. But it's also on the area of my property that is my -- where I live, my family room, my kitchen, my bedrooms, everything is facing that property because my property -- the properties go like this, the house is like this, so you're looking out at that.

And for me, they also said in the way it was zoned is that it could go up was 100 feet, which is like, I don't know, five, six stories high. Even if they're not going to do that, I think that there needs to be some sort of ramification, there needs to be some sort of designation as to how high, what the specifications are for if we're going to develop this property. I don't think that a machine shop should be there. They have a machine shop, I went, I took pictures, you've seen them. They've got delivery things, they've got big boats, they've got 70 employees. They go -- I don't care how quiet they may think they are, it's not going to be as quiet as it is now.

I don't believe that the property was ever meant to be -- when they originally did this, did the hold on it, that it was ever thought that there was going to be anything like that put in there. I think that they thought about when they did the urban hold 20 years ago, that it was with the thinking that when the WSU kept expanding, that they would either put homes there or things with deliveries or something of that, a bookstore or something like that that had to do with the college.

I would, of course, I know that there's a lot of, people have a lot of different opinions about this. The roads go like this, they're not meant for a lot of traffic. The business with the sewers. Just the whole development itself I think needs to really be thought through a lot better in a more efficient way and in looking at how it works with the rural feeling that we have there now. I don't think that if you had five acres of property, that you would want to have this place built next to your house. And that's it for me.

BARCA: Questions?

LAURENS: You've got any questions?

USKOSKI: I do for Jose. Do you want to address when that site would come in if this was lifted, when the Smith-Root property came in for development, what would be done for screening standards?

ALVAREZ: So they have started a pre-application process. I think previously we -- since it was the same zoning there wasn't a screening between properties, but I looked at that and there is change. So there would be screening for the residents from the residents on the south side of the property line.

USKOSKI: Do you recall what classification that was?

ALVAREZ: I don't. The other thing is that when this property was designated in '94, I believe it was to be office campus. And last year we - through the employment zone - changed it to business park which allows a little more of the industrial type of uses.

BARCA: So I think we always struggle with the issue of compatibility when we're moving out into areas that have traditionally been rural or residential rural faced with the idea of a different style of zoning such as this. We're not in a position to be able to create employment opportunities in lands designated as residential or rural, so the zoning change must be put into effect to allow that type of use.

LAURENS: I've read their application for building, their pre-application, and within it it says, you know, that there are no guarantees with it and they have certain things they have to do. Well, in the pre-application there's \$148,000 worth of things that they have to do with no guarantees of so that they can get the permit to build, like water samples and artifact samples and all that sort of stuff but...

So which leads me to the other part that of my concerns on the Smith-Root part and on my personal part is if in fact their property goes there, am I going to have to be responsible for having to do the same thing over again if I want to sell it to a commercial property that as a commercial property?

BARCA: You, yourself as the landowner?

LAURENS: Right. Yeah. Or the person that's buying it would have to do the same thing; right?

BARCA: At the time of application somebody is going to ultimately be responsible for that, and that happens throughout all of the business park applications.

LAURENS: Well, I noticed in the Board meeting on Tuesday where they had -- they've taken that, the application process, and about trying to waive some of the fees for application processes for things. And it was also noted on their application that maybe some of the fees could be waived, and the council put it on the table until May 28th. And I'm just wondering if that applies in this situation as well?

BARCA: Possibly. It's not May 28th yet. So concerning your parcel, I think the best thing that you can do for us and to bring forward to the Board of County Commissioners is to be able to express what the impacts are. And in the context of sewer and transportation, that is a large part of our discussion is that once we open this up for a single development --

LAURENS: Exactly.

BARCA: -- then the entire 100 acres is basically opened up for those same impacts.

LAURENS: Exactly.

BARCA: And so this is what we're trying to gauge here and this is what we do is trying to create the record to bring before the Board of County Commissioners, so they who make the genuine decision on this matter will have as much facts available to them as possible.

LAURENS: And I submitted this with my pictures --

BARCA: Yes, we have it.

LAURENS: -- that has my questions. Yes. And so I think I've covered everything on there. And I really appreciate you listening to me, and I hope that you did.

GIZZI: So you understand the process is that this will happen again in front of the Commissioners. Yes?

LAURENS: Yes, I understand that.

USKOSKI: And I would also encourage you, if this ends up going through both like with the

Commissioners and the urban holding is lifted, maybe trying to work together with Smith-Root to get some buffering in there as a good neighbor just to help mitigate the impacts, the visual impacts to your facility.

LAURENS: Because their property, I mean, sits up higher than my property as it is now, so it would require some pretty healthy trees.

USKOSKI: Yeah. But you can spec out certain trees that grow faster than others. And who knows what you guys might be able to come up with, but something I would imagine is going to be better than nothing. And if you guys can work together, that's always a better option than --

LAURENS: I would -- I would like for you to think about if that's -- if that is the kind of business that you want to have come in here. Is that the kind of business that we're talking about that we -- whether they're good business partners or whether they're, you know, nice people, is that the kind -- do we want a manufacturing business going in there? Is that what this is going to be? Or are we talking about wanting to have building something, you know, company, you know, where you've got -- if it's -- you know, a year ago it goes into being a business and before that it was a campus.

So, you know, I think that the people that are directly affected by it within the area have legitimate concerns, because I don't see this as particularly making any money for anybody. I don't think that, you know, the idea that that company is just going to move up the street, it just doesn't pack it for me, you know. It just -- I would rather see something else go in there.

I mean I could see if there was a business going in there, but a manufacturing business is, you know, working on boats and -- I mean it's not like it's quiet there. I mean I was there, they've got a shop, they've got a working shop, it's, you know, they've got mechanical stuff going on there too, so...

BARCA: Well, we're not trying to fool you. It's business park, it's zoned business park, so...

LAURENS: But it wasn't zoned business park until a year ago.

BARCA: Right.

QUTUB: But it is now.

LAURENS: It is now.

BARCA: Right. Office campus which was a zoning that the County eliminated to try and smooth things out and to make them more efficient for zoning purposes created a broader spectrum of what could be put in there. I think Valerie's discussion about the idea of trying to work with Smith-Root should this pass through the Commissioners --

LAURENS: Yeah, I can understand that.

BARCA: -- is a viable option. What is before us is not to change the zoning, only a matter of lifting the development overlay or holding or not.

LAURENS: What I would like to see is to have some more direction as to what they can and can't do rather than just saying it's, well, now it's business park.

GIZZI: Well, County staff has, and Jose would be able to help you, there is quite rigid definition of the types of businesses that can be operated in a business park environment.

QUTUB: You can get that code --

GIZZI: Easily.

QUTUB: -- and see exactly what can go in.

LAURENS: But what about changing the code?

QUTUB: Well, it is business park, and so you can look that up in order to find out.

LAURENS: And how did it change to being a business park and why weren't we notified of that?

QUTUB: I don't have an answer for that.

LAURENS: Thank you.

QUTUB: I wasn't here.

LAURENS: Yeah. Well, I've been here for 20 years and I didn't know about it.

QUTUB: I mean I wasn't on the Planning Commission.

LAURENS: And we were all under the impression in our area where we live where you're talking about these parcels that it was campus - and it wasn't -- I thought, you know, campus is a lot different than a business park - and that we thought it was going to be part of the Washington State thing, and I really wish that you would look at that angle because I don't -- well, I just don't think it's fair, that's what I think. It's not fair.

ALVAREZ: So the zoning changed last year through the employment zone. The EZ task force that looked at all of the zoning and the uses allowed in our industrial, light industrial, business park, office campus zones and made the recommendations to make that change. When we do the sort of broad wholesale changes, I don't know that we notify, do notice specifically to each of the areas, it's sort of a broader notice in the Columbian and published that way.

LAURENS: Well, you can just imagine how I feel about that can't you now.

BARCA: Yes.

LAURENS: And also in relationship to -- there's a school that is right in front of me, that's called the Gardner School, and they have a wonderful diverse little school that's there and the staff there is great. And I think that having a business park right next to that school is not so great either, that's my feeling.

USKOSKI: So just one quick question for you. Were you under the impression with the previous office campus zoning that there could only be a WSU facility there?

LAURENS: Not only a WSU facility, no, but that was why they called it -- that's why I thought they called it campus, the campus.

USKOSKI: That it would be an educational facility?

LAURENS: Yeah, that they were going to be -- because they -- when I first moved there and they made that urban thing, is right when they were building the campus there. And the delivery thing, delivery route for WSU, is right there on 159th at the corner of the place where the people have just put their property up for sale, right across from that is where they have their deliveries. So that was what the indication was and that was my understanding and, you know, I kind of do my research.

USKOSKI: Jose, do you recall some of the different things that office campus zoning permitted as far as uses? From what I recall it was fairly broad spectrum, that it wasn't limited to just an educational facility.

ALVAREZ: Right. I think Oliver was on the task force, but the idea was more of a campus setting and more sort of office buildings with less of the sort of light manufacturing.

ORJIAGO: For the record, Oliver Orjiago, Director of Community Planning. I think Jose answered the question. The office campus also contemplates limited, call it limited light manufacturing uses. But I think when this was put in place in '94, the emphasis was to because of the university and the value of the university as a research facility, that this will be a research area with some limited light manufacturing uses.

So the uses that are allowed in the office campus is also broader, did also allow for some retail uses if you were to go back and look at the uses that are allowed in the office campus. That is why when the task force that looked at our code combined the OC and the BP together, because the uses are very, very similar and it makes it difficult to distinguish from office campus to business campus, so that was one of the rationale that went into their thinking and their recommendation and the outcome.

USKOSKI: Thank you.

BARCA: Any other questions?

DELEISSEGUES: No questions.

BARCA: Thank you, Ms. Laurens.

LAURENS: Thank you.

BARCA: That completes the sign-up sheet. If there are anybody else in the audience that would like to come forward and testify on the 50th Avenue urban holding, this would be a great time to come forward.

KILLIAN: Would it be all right if I --

BARCA: Mr. Killian, you may come forward again.

KILLIAN: Do I have to restate my name?

BARCA: That would be great.

KILLIAN: Again, my name is Britt Killian, representative for Smith-Root. Just to address some of the concerns that were brought up previously. I think, our company is primarily research and development. Whereas, we do have some light manufacturing that goes along with some of the products that we make; however, the bulk of what we do is research and development. And in fitting with that research area that we would hope that the university eventually would go in. And we were -- our director has been looking and talking to the campus as possibly working together as research and development in the future.

And as far as the school goes down below where we would be at, I think it might be a great opportunity for some of the diverse school children to come up and possibly tour our facility, you know, as part of the educational programming maybe. And part of our giving back to the community is to let them in and possibly see what we do for the fisheries community.

But the manufacturing that we do it is limited, you know, I'd say it's a small portion of what we do. The bulk of what we do is engineering and basically just electrical research for the fisheries community, so...

QUTUB: Mr. Chair, just in a nutshell then, if you were to meet somebody and they asked you what does Smith-Root do, can you in a nutshell say?

KILLIAN: We provide electric, electrified equipment to help fisheries research community collect fish, anesthetize fish, deter, I mean right now we're working on a product to stop Asian carp from infiltrating the Great Lakes. I mean there's a diverse product offering that we have, but in general it's to serve research facilities for fish and wildlife.

QUTUB: Thank you.

KILLIAN: Any other questions?

BARCA: Are we good? Thank you. Anybody else from the public that would like to come forward? Mr. Fields.

FIELDS: Thank you. My name is Andy Fields, address is 15819 NE 319th Street and that's in Battle

Ground. And I'm here on behalf of the Gardner School of Arts and Sciences, the aforementioned small school to the south of the property to be developed.

And I think for the purposes of the Planning Commission, I'd just like to underline the caveat that Jose put on the staff recommendation that the traffic and wastewater remediations are the primary concerns that we have. And I think that in the course of tonight's discussion what I've heard about the wastewater - at least in the short-term - puts me at ease.

I think that the traffic conditions on NE 50th are already dangerous to our population. And the idea that with the lifting of the urban holding there would be future business park development that may occur faster than changes to the infrastructure, I think that that would be -- would really put -- would put our students and families, as well as everybody else who's living on NE 50th, in a dangerous condition. There's no shoulder, there's no turning lane, it's a small country road, and that would be my biggest concern with lifting the urban hold at this point.

BARCA: Would you for the record give us a little indication about your hours of operation and the number of vehicles that come in and out of the school?

FIELDS: Sure. The school's in session from September through June and five days a week. Classes start at 8:30 and wrap up at 3:30. There's extended care available before and after school, so there's a steady stream of arrivals from I would say about 7:00, 7:15 until 8:45. And then it's fairly quiet until the preschool crowd gets done, and then there's a shot of traffic between 11:30 and 12:30. And then it's quiet again until the school day ends at 3:30 and there's a shot of traffic, and then a trickle from there. There are some Summer activities, camps and whatnot that happen, but for the most part it's a different traffic flow cycle at that time of day or that time of year.

BARCA: Any questions for Mr. Fields?

DELEISSEGUES: I'd just point out that lifting the urban holding doesn't necessarily mean that there will be development without further review of each of the people that come that want to develop part of the parcel, and that review will include traffic and concurrency. And that at that time when there's a specific development review, I think your concerns would be addressed, and certainly you would have an opportunity as a neighbor to weigh in on it, so hopefully that would occur.

FIELDS: Right.

USKOSKI: Just to build on what Dick said also, that if somebody was to come in with an application that would cause a safety problem to be exacerbated that's not part of their frontage or directly along their property, they couldn't necessarily be forced to fix that safety problem a half a mile away, but they could be denied based on that basis. So I don't know if that alleviates your concern, but the new incoming developments would not be allowed to cause a safety problem or add to an existing safety problem, but that would have to be corrected before they would be permitted.

BARCA: Other questions?

FIELDS: Thank you.

BARCA: Thank you.

DELEISSEGUES: Yeah, thanks.

BARCA: One more call to the public, anybody wishing to testify on 50th Avenue? Okay, not seeing any, we will return it back to Planning Commission. Questions of staff? Okay.

So we have not really addressed traffic impact much, we talked quite a bit about the wastewater sewer capacity, and I am interested in staff's discussion of this. From what I've been able to read in the report from April 24th prepared by David Jardin concerning the urban holding lift, there appears to be some average daily trips going beyond capacity, if that's as I read it. Perhaps, Mike, you can clarify

whether I'm reading that correctly or not.

MABREY: Well, I think you can read the caveats, he states them fairly clearly. I think part of his concern is based on the fact that there have been a significant number of trips that have been vested by WSU which could develop over the years regardless of the state of concurrency at the time.

And there has been some upzoning of property down south around south of Salmon Creek - kind of in that pocket between I-205 and Salmon Creek Avenue - which is not really accounted for because it hasn't come in for permits yet, but it's gone to its general commercial zoning. He evaluates what the likely trips are from both the Smith-Root development and the remaining 90 acres, it's certainly an approximation. Until you get the actual developments come in, you won't know what those numbers really are.

And I guess as I read it - in the short-term - it will probably function as one or two developments come in. But essentially there are two-lane roads out here, we don't have a funding plan in the next six years to make any repairs or improvements to any of them. It would be nice to think -- there are 50th Avenue and 179th are both in the 20-year plan, it would be nice to think that we could actually get them funded and built inside of that time horizon, but we'll see.

BARCA: Any other discussion about roads?

GIZZI: I just think that's the topic. I mean transportation in that corridor is clearly the mitigating factor, and I just don't see it addressed in the DKS Associates report. I don't know. That clearly is the -- meaning, I don't see a solution addressed here - I'm sorry - there is no solution proposed. And we're not talking about a solution as part of this development, and yet we are lifting the urban holding and opening parcels up, so...

You know, transportation is a concern for sure. I mean you've already got a very unusual intersection down there where you hit a stop sign, if you want to continue on 50th you take a left, you go to a stop sign and you take a right and wind up the hill, I mean it's an odd place. Yeah, traffic is a concern.

MABREY: The one project in the area that is likely to be built in the short-term, and it's not in this six-year plan, but it's in the draft for the next six-year starting, you know, that would be revised this year, would be some improvements to that bridge over Salmon Creek on 50th Avenue just south of Salmon Creek Road, Drive, so... I don't know that -- I don't think it includes realigning the whole thing, it's probably more of a structural repair, but...

GIZZI: And the guy that lives across the street at the T might not want the bridge to go through his living room.

MABREY: Right.

BARCA: Okay. So my concern really comes in the idea of what kind of road that we are starting with. And I'm going to quote from Mr. Jardin's report on the Roadway Evaluation, NE 50th Avenue, "This geometry is less than the County's 2-lane rural minor collector. Further, the design volume of the road classified roadway is less than 5,000 vehicles per day."

We're looking at 30 percent coverage of development driving the average daily trips up to 7470 trips. We would want to act in that regard, and that puts us in a position of having to create a capital project. This is very reminiscent of our work session earlier where without having a targeted plan, all of a sudden we would have a need to act. So the funding would have to come from the general road funds without impact fees to try and create a scenario in which this can actually take place.

To me it seems like leaving out that large section of business park north of where Smith-Root appears to want to develop is leaving jobs on the table, but we don't have a plan. We're acting in a reactive fashion because we got an application rather than planning for and funding our project where we can

say that we actually want to create the jobs here and we have a way to go ahead and go forward and do this.

Temporary sewer hookups would work - as we've said - but we are going to ask a lot of people to spend money on temporary sewer, and then turn around and ask them to buy into the permanent solution when we put it into our capital plan and finally are able to act on the appropriate amount of capacity necessary to open the whole thing up.

So I think staff's testimony that says, this is why we made this as big as we did as a project because this was the minimum amount that we needed to do to get the Smith-Root proposal in but we're leaving a significant chunk out, and I really wonder if this is how we want to proceed as a planning organization. Anybody?

USKOSKI: Yeah. I guess I'll add to that that, you know, I feel that with leaving that business park - the remainder - outside of or not lifting the urban holding on it, that argument is somewhat invalidated when it's based on the transportation issues in light of our work session earlier, that you can't have your cake and eat it too situation. That we've looked at the option of taking away those traffic impact fees, making it up in the general fund or out of the road, County road fund.

So to not lift the urban holding on those parcels when they have expressed the interest in being able to partner with research and development - primarily on the idea of the road capacity - especially if including those parcels could help distribute the cost of the pump station for a permanent fix on the sewer, it's somewhat invalidated there for me.

ORJIAKO: Commissioners, as you deliberate - again, Oliver Orjiako - if it is the recommendation of the Planning Commission that the Board considered the bigger BP areas that was not included in the transportation assessment, staff will take that recommendation to the Board.

I think the rationale for looking at this limited area -- we would have done a couple of scenarios for you in terms of options, we could have looked at the Smith-Root in particular, that is the ten acres. You are correct, what we have not done in the past is preplanning, but often it is a property development application that triggers property owners coming to the County and asking us to consider lifting urban holding.

They could have looked elsewhere, but they wanted to be on this side, and we looked at providing whatever we can to see how this will work.

The issues, you're correct, is part sewer and transportation. And the Board could reprioritize whatever project that they would like the County public road work to work on, they could make improvement to 50th a top priority, that's going to be a policy call on the Board. However, we looked at what would be more reasonable in the short-term and gradually look at what improvement will be made in the future as pressure comes in developing that entire area that has the BP urban holding on it, and that was really the rationale of why we decided to segment it and look at this little, much smaller area.

If you look at the other triangle piece to what will be to the west, how much is usable? Jose, you can put up the other picture. You can see that very little is going to be usable on that piece, it's very much, it's very wet. And I cannot tell you, if I may -- this is now residential, we don't know how soon these properties are going to come online. But as you already know, we are going to look at it on a case-by-case basis as application come in what are the transportation issues that we have to address before it is approved.

If we come before the Planning Commission and ask you to look at the ten acres, you will also raise the same issues. Why couldn't we look at the entire area and consider lifting the urban holding? Why are we looking at only ten acres?

That will also prompt the sewer district to run a very small line to sub that ten acres, that to us, again,

isn't good planning. We wanted to look at a much larger area and whether that would be much, much easier to offset the cost of providing the sewer line. Yes, this is an area that is within the sewer district. They will eventually do and put in the appropriate infrastructure when that is warranted, but we can't force them to put in what is needed at this point. It could be done gradually, and eventually, you know, tie into a much bigger system.

I hear what you're saying. We're trying as much as we can, yes, but it's application driven. I'm not making an excuse for that, but that's the nature of some of the things that we respond to. But it's to your purview, you can make a recommendation that the Commissioners consider this entire area in terms of their policy call for lifting urban holding.

We look at both, in the short-term what are the traffic implications for lifting urban holding, and that's the area on what is the long-term. Again, I'm not preaching to you. But in the short-term if you lift urban holding on all the applications - and I will be speculating that applications come in - it will impact Salmon Creek Avenue as well as 179th. Do you want to put a moratorium on there in the short-term? That's a call that you can make a recommendation to the Board and we'll see what happen, but that could be the ultimate outcome. So we're looking at this, you know, is it piecemeal, but I think it's rational to look at it in the way that we did. That's all I wanted to add as you deliberate.

BARCA: Questions for Oliver?

DELEISSEGUES: Well, can I make an observation. You know, I agree with you, Oliver, I think that the two conditions that we are looking at are transportation and wastewater disposal. The regional wastewater disposal authorities says they can handle it on a short-term, and probably on a long-term because of the intermittent use of the line. Not all of the development - if it were a full development - would be contributing to the sewer line all at one time, so they feel they can handle that, and that's not unusual.

As far as transportation goes, I agree with you. There's so much wetlands in there, not only Salmon Creek we can see on the aerial photo, but the land adjacent to the stream side that's going to be also limited in development because of the environmental constraints on stream side development. So there's not going to be a whole lot of development in there even if it's, quote, unquote, fully developed.

And as you point out, each individual project that comes in for consideration is going to have to be weighed on its merit whether or not the transportation is adequate, whether or not the sewage is adequate, and safety, some of the other concerns. And certainly the neighbors will have an opportunity to come in and voice their either approval support or question the project at the time.

So there's nothing unusual about lifting the urban development on property like this. And it looks to me like with the constraints on this particular property, the risk that we might be taking, if any, is very limited. So in my opinion I would go ahead and support staff recommendation for approval.

QUTUB: Is that a motion?

USKOSKI: Well, I guess one question for you, Dick --

DELEISSEGUES: Not yet.

USKOSKI: -- what are your thoughts on the parcel to the north of the Smith-Root property? You know, they've expressed some interest in being included.

DELEISSEGUES: Oh, I think so. I think what they're doing is moving from one location to the other. So the immediate impact wouldn't be almost zero net gain as I understand it, now maybe I'm wrong there. But in the short-term I don't see any impact at all that can't be handled by the existing infrastructure.

BARCA: I believe Valerie's question was the area beyond the Smith-Root.

DELEISSEGUES: Oh, well, we're not dealing with that right now, but...

BARCA: That was her question.

USKOSKI: We could.

DELEISSEGUES: I don't see any problem with that. The two issues would be transportation and the sewage. And the sewage, regional sewage disposal thinks they can handle it. But as you point out and I've pointed out, Oliver's pointed out, each one of those, you know, would be subject to I think a pretty thorough review when the project was proposed.

So lifting the urban development to me right now, or the urban holding would make sense because that gives people an opportunity to weigh in and contribute to the infrastructure that's needed eventually to support the whole area. And the more we have of good, quality proposals that come in and meet the requirements, the more contribution we're going to have to improving the sewer and the transportation.

So it's either do nothing and stick with what we've got and regress, or to remove the urban holding on that and take a look at proposals that come in and make a good determination as to whether or not they meet the requirements. And if they do, then we proceed, we move ahead in the county. And I think that's what really long-range planning should be all about is moving ahead and not coming up with all kinds of reasons why we shouldn't do anything, but that's my opinion.

BARCA: Other discussion? Well, we'll come to a vote here shortly. I think it's important for the Planning Commission to speak their mind as to the way that they end up voting so the record clearly indicates the debate and what we're looking at.

My thought process is if these employment lands are worth opening up, we should open up the entire parcel. We should make a commitment that we're going to fund the appropriate infrastructure and road and sewer to do it the right way and we will commit what resources are available, and when we don't have resources available, then we prioritize based on the need. Smith-Root has kind of forced the discussion in this area, and it's a fine discussion to have, but I believe if we're going to do this, let's either do it appropriately or don't do it at all.

My biggest concern is that there's a lot of school buses on this road, there's a lot of children, there's a lot of college students that go this road on a daily basis. The road is not adequate to take piecemeal development at the point in time when we're going to wait until the final project tips it over and then have to deal with it, because we will already be in a public safety situation long before then.

So if we believe that this is important to go forward and do for the county and job creation, then let's make the commitment to do it. Otherwise, let's just say we don't have the money, it's not the right time and we're going to sit on it in urban holding.

But to piecemeal a little piece here and then the next project comes in -- and it won't be the next parcel next to Smith-Root, it will be the one after that one that will leapfrog it, or it will be another project on another urban holding as a single project that will force it to lift out, and we will always be chasing this rather than being out in front of it.

So I believe in long-range planning is to make a commitment to an area and then to budget for it and to do it or don't do it. And I am open to anybody that wants to talk about that or make a motion.

DELEISSEGUES: Well, go ahead.

USKOSKI: Oh, I was going to let you make this motion, Dick, if you wanted to.

DELEISSEGUES: I'd move that we recommend approval of the staff recommendation to go ahead and lift the urban holding, and also to consider the area to the north as Valerie pointed out.

QUTUB: I second it.

BARCA: It's been motioned, seconded. Any other discussion?

QUTUB: I'd just like to say that Mr. Orjiako basically indicated that many times these come as applications and that's just how they come. And, again, to reiterate, each parcel that would be opened, each business that would come would have to justify, would have to be justified, and so it would be taken into account at that particular time.

We've heard testimony tonight that said there actually won't be all that many additional trips, in fact somebody said none, you know. The business is moving half a mile, two miles, whatever it was, so they're still traveling this way, they have been traveling this way, so that's why I second it and am for it.

**ROLL CALL VOTE**

BARCA: I think we're ready for roll call.

MCCALL: So I have a motion for approval of the staff report and to consider approval of the property directly north.

BARCA: NO

GIZZI: NO

USKOSKI: YES

QUTUB: YES

DELEISSEGUES: YES

JOHNSON: YES

MCCALL: I have 4 votes yes, 2 votes no. Motion approved.

BARCA: Thank you Planning Commission. Thank you staff.

DELEISSEGUES: Do we need a break?

BARCA: I think that would be great for us to take a break. It's about 12 after the hour, let's go ahead and reconvene at let's say 8:25.

(Pause in proceedings.)

**C. CPZ2013-00009 FAIRGROUNDS/CAPITAL FACILITIES FINANCIAL PLAN**

BARCA: We are going to bring the hearing back to order. And going down the agenda here, we are at CPZ2013-00009, Fairgrounds Capital Facilities Financial Plan. Proposal to amend Capital Facilities Financial Plan to include the master plan for Clark County Fairgrounds. Staff report, please.

ALVAREZ: Good evening, Commissioner. Jose Alvarez with Community Planning. Again, the proposal is to amend the capital facilities financial plan to include the master plan for the Clark County Event Center at the fairgrounds which totals just under \$39.8 million.

Just some background. The capital facilities financial plan is a plan for financing capital facilities identified in the Clark County 20-year comprehensive plan, and it includes transportation, parks and open space, stormwater drainage, water quality, wastewater treatment, county buildings and other facilities.

The 2004 and 2007 comprehensive plans included the event center, but it was omitted from the financial plan that was adopted in 2007 and it needs to be included in order to use real estate excise tax to pay debt service payments for the cost incurred.

One other thing, on Page 5 of the EXECUTIVE SUMMARY of the financial plan, the number 264,500,000

in both of the columns should be stricken.

MCCALL: Is this the correct document?

ALVAREZ: No, it's on the financial plan.

DELEISSEGUES: So the 307 is --

ALVAREZ: Correct. That's the new number and it's underlined.

GIZZI: Page 5.

ALVAREZ: That's all I have for the staff report. Do you have any questions?

BARCA: Any questions for staff? Appears not. So it's up to us now.

DELEISSEGUES: Do you want a motion?

BARCA: Well, if there is no discussion. We had discussion at the work session about the actual funding sources, and there was some discussion about whether or not all of those funding sources were solidified and genuinely available.

ALVAREZ: Oh, I think Mr. McCauley had mentioned that at that time that it was going to be something that we would need to find the funding for the new phases of the master plan. And that the inclusion is primarily to pay for the debt service that the cost associated, the revenues, that were going to be used for that aren't sufficient, and so the inclusion is needed in order to use the real estate excise tax dollars to make those debt service payments.

BARCA: So are we all up-to-speed now on what we're looking at?

GIZZI: So I make a motion that we approve CPZ2013-00009 to amend the capital facilities financial plan.

JOHNSON: Second.

DELEISSEGUES: Second.

BARCA: Karl seconded. So it's been motioned and seconded. Any discussion before we vote? I would just like to just say for the record, the concern that I brought forward at the work session is still valid for me in the idea that we are adopting this in just a fashion to be able to cover debt service, that the funding for the actual capital improvements from here on out are still up in the air. And as we go forward, I think not having a designated revenue stream to be able to make this is somewhat speculative on whether this is really a capital facilities plan or not.

I'm not opposed to this under these circumstances, but it's one of those planning efforts that we see come to us regularly and then repeatedly because we continue to struggle on finding the funding resources. So that's my commentary before we vote. Any other comments? Roll call, please.

#### **ROLL CALL VOTE**

MCCALL: Moved by Gizzi, seconded by Johnson to amend the capital facilities financial plan as presented by staff.

GIZZI: AYE

USKOSKI: AYE

QUTUB: AYE

DELEISSEGUES: AYE

JOHNSON: AYE

BARCA: AYE

MCCALL: 6 in favor, 0 against. Motion passes unanimously.

BARCA: Very good. Thank you, staff. And we'll move to Item D on the agenda, CPZ2013-00001, NE 47th Avenue. Proposal to amend the County Arterial Plan Map to change 47th Avenue between Minnehaha and 78th Street from a Collector to a Local Commercial/Industrial street.

**D. CPZ2013-00001 – NE 47<sup>th</sup> AVENUE**

MABREY: Thank you, Commissioners. Mike Mabrey, Community Planning. We have a capital project on this roadway from 68th Street to 78th Street that's slated to go to construction next year, and in looking at design considerations it came to our attention that the existing functional classification was probably not the right one. The adopted land uses on both sides of the roadway are industrial zoning. The roadway to the south through Cold Creek Industrial Park was built to the commercial/industrial street standards, so there are no striped bike lanes, there's two travel lanes and a center turn lane each about 14-feet wide. So this proposal would make the rest of the roadway consistent with what's been built out there already. Any questions?

BARCA: Questions for staff? Discussion?

DELEISSEGUES: Well, just one question, Mike, the collector is a function in a road system where local roads run into a collector. So I can't see how the roads are still running into this particular arterial, or this street rather, and why would the function change from collector back down to street or to local?

MABREY: Well, in this case there's not a significant number of intersections, it's not collecting traffic from the adjoining properties.

DELEISSEGUES: So it shouldn't have been a collector in the first place.

MABREY: It shouldn't have been in the first place, right.

DELEISSEGUES: Thank you.

BARCA: Seeing no other discussion.

DELEISSEGUES: Move to approve.

GIZZI: Second.

QUTUB: Second.

BARCA: It's been motioned and seconded. Discussion? Roll call, please.

**ROLL CALL VOTE**

MCCALL: Motion to approve by Deleissegues, seconded by Gizzi.

USKOSKI: AYE

QUTUB: AYE

DELEISSEGUES: AYE

JOHNSON: AYE

BARCA: AYE

GIZZI: AYE

MCCALL: 6 in favor, 0 against. Motion passes unanimously.

**E. CPZ2013-00003 NW 36T AVENUE/LAKESHORE AVENUE**

BARCA: Thank you, Mike. The next one on the agenda, CPZ2013-00003, NW 36th Avenue/Lakeshore Avenue, amendment to the County Arterial Plan Map.

MABREY: Yes. This amendment would change the classification of 36th, NW 36th Avenue and Lakeshore Avenue between Bliss Road and 78th Street from a principal arterial, Pr-2cb, to a minor arterial. The reason for this it's really kind of a housekeeping amendment in a way. We eliminated the Pr-2cb classification last year when we redid the road classifications.

The thinking there was that if it's a principal arterial, two lanes isn't really going to move anymore traffic whether you call it -- functionally it's going to act like a minor arterial and therefore let's not pretend it's something else. They both have, you know, similar limits to access. The road is essentially built out and functions as a minor arterial at this point in time and will continue in the future to do so. So our sense is that the appropriate classification is minor arterial, M-2cb.

DELEISSEGUES: Since you've eliminated the other one there's nothing left, is there, even if it's an arterial?

MABREY: Not too many other alternatives, yeah, right. Yeah, I'm not trying to box you in here, but making your work easier maybe. I don't know.

BARCA: Discussion?

GIZZI: No. I thought the work session covered this one pretty well.

BARCA: Motion, please.

DELEISSEGUES: Move to approve.

USKOSKI: Second.

BARCA: Motioned and seconded. Opportunity for discussion? Roll call.

#### **ROLL CALL VOTE**

MCCALL: Moved by Deleissegues, seconded by Uskoski.

USKOSKI: AYE

QUTUB: AYE

DELEISSEGUES: AYE

JOHNSON: AYE

BARCA: AYE

GIZZI: AYE

MCCALL: 6 in favor, 0 against. Motion passes unanimously

#### **F. CPZ2013-00004 NW/NE 99<sup>TH</sup> STREET**

BARCA: Next on the agenda, Item F, CPZ2013-00004, NW and NE 99th Street, amendment to the County Arterial Plan Map.

MABREY: This is similar to the previous item in that we've eliminated the classification of M-4b. The amendment proposed would change NW and NE 99th Street between NW 9th and NE 25th to an M-4cb which is a minor arterial which we think better reflects what's actually built out there because there's center turn lanes throughout most of the road segment.

BARCA: Questions for staff? Motion.

GIZZI: Motion to approve.

USKOSKI: Second.

BARCA: It's been motioned and seconded. Discussion? Roll call.

**ROLL CALL VOTE**

MCCALL: Moved by Gizzi, seconded by Uskoski.

QUTUB: AYE

DELEISSEGUES: AYE

JOHNSON: AYE

MORASCH: (ABSENT)

BARCA: Absent.

MCCALL: Oh, sorry, I didn't draw a line through it.

BARCA: AYE

GIZZI: AYE

USKOSKI: AYE

MCCALL: 6 in favor, 0 against. Motion passes unanimously.

**G. CPZ2013-00005 NE 139<sup>TH</sup> STREET**

BARCA: The next one on the list, Item G, which is CPZ2013-00005, NW 139th Street, amendment to the County Arterial Plan Map.

MABREY: This would make the entire roadway from Tenney Road to 20th Avenue a minor arterial. Currently the section from 10th Avenue to Tenney Road has no classification at all, and east of there from 10th Avenue to NE 20th Avenue it's shown as a dotted dashed line which means future. Well, that road's under construction, and by the time we get all this done at the end of the year it will more or less be there, so the thought is to get ahead of the game and change this classification now.

QUTUB: I move to approve.

GIZZI: Second.

BARCA: It's motioned and approved, seconded. Any more discussion? Roll call.

**ROLL CALL VOTE**

MCCALL: Moved by Qutub, seconded by Gizzi to approve.

BARCA: AYE

GIZZI: AYE

USKOSKI: AYE

QUTUB: AYE

DELEISSEGUES: AYE

JOHNSON: AYE

MCCALL: 6 in favor, 0 against. Motion passes unanimously.

BARCA: So, Mike, unrelated to the arterial change, I was just wondering when 139th actually gets built, is it going to have any capacity left?

MABREY: No comment.

BARCA: Thank you.

MABREY: It's going to look a lot like 134th does now though, just be the same thing moved up, you know, five blocks.

## **H. ADOPTION OF AN ORDINANCE REGULATION MEDICAL MARIJUANA COLLECTIVE GARDENS**

BARCA: And now we are coming up to the garden portion of the agenda, Item H, Adoption of an Ordinance Regulation Medical Marijuana Collective Gardens. Staff report.

SWANSON: Good evening, Mr. Chair. Axel Swanson, I'm staff for the Board of Clark County Commissioners, and with me is our Deputy Prosecuting Attorney, Chris Horne, who's helping me with this language. So in your packet and what we did at workshop you should have three documents. You should have the staff report, and then you should have a green ordinance which would actually put into place a zoning resolution to try to give some limited opportunity for this use, and then you'll have a blue one which would actually prohibit the use. I'm thinking I got that right. Did I get -- I didn't get that right. Yeah, the blue one would prohibit it and the green one would put some limited zoning in place.

So let me run through the history. I'll try to keep it short because I know we did a work session on this. But the law is confusing and in conflict with Federal law, the State law, and it's changed. And so as you know from the work session, in 1998 I-692 was passed by the voters, that allowed medical patients to grow marijuana for medical use and they were allowed to have up to 15 plants. And that law has changed and been expanded to allow for designated providers.

In '07 it was expanded for the things that could be the kind of ailments that it could be prescribed for, and also it allowed for designated providers. And what that means is if you are both a patient and a designated provider, you can have up to 30 plants at any parcel or anyplace and that's current law today right now, that's happening all over the state.

What happened two years ago in 2011, you'll remember Senate Bill 5073 was passed. And because using marijuana in any form - medical or recreational - is illegal under the Controlled Substances Act, the Governor had some real issues with the law being passed. And so she reviewed it and she vetoed many, many sections.

It would have been -- it would have put into place a pretty strong regulatory scheme that was managed by the State if she had signed it into law. But she was not comfortable with that because she got a Department of Justice opinion which said that State employees would not be immune from prosecution if they were doing the activities prescribed by law, so she vetoed many sections.

She didn't veto Section 5073 which allowed for collective gardens, and that's what we're discussing tonight. And I'll get into some of what's going on with I-502 that passing last Fall and what's happening in the state with recreational marijuana, but tonight we're just focusing on these collective gardens.

5073, that Section 403 of 5073 was signed into law. The Board of Clark County Commissioners passed a moratorium, and that moratorium has been in place since the law went into effect. And what that law allowed was for up to ten patients with a doctor's prescription to come together, share in the resources, the funding and the labor to grow up to 45 plants at any one location and they can have up to, I'm going to go from my head here, but I think 72 usable ounces of cannabis at any given location.

And what has happened with that piece of the law around the state is -- well, a couple of things, it's been implemented in very inconsistent ways. And I talk about it in the staff report, but some jurisdictions, counties, cities have sort of ignored it and just let it happen, and so, you know, it's probably happening in those jurisdictions with no regulation.

In some jurisdictions, like we've seen in the Puget Sound, they've actually taken it on and tried to regulate it like they would any business because there's a loophole in Section 403 that says you can't have more than ten patients at any time, but it doesn't define time. And so what's happened is some folks who are utilizing this section of law have said, well, anytime means anytime someone walks

through the door and then they're a part of my collective, they make a donation or a contribution, they get their medical cannabis and they leave and then they're not part of the collective anymore. So there's never really any end to that ten patients, so they basically set up storefront dispensaries.

So that said, we put a moratorium in place because that was the will of the Board at the time, and we needed to take some time, work through a work plan and try to create zoning for this. We also had the same concern which we've mentioned throughout the process with the conflict with Federal law. So obviously we've got a clear conflict between what is legal in our state and what the Federal law says is legal.

So what -- and I'll touch on 502 because I think there is -- I think the Planning Commission should consider that what's going on with that right now in their decision tonight between these two ordinances. I-502 passed in November. Washington State voters said that recreational marijuana should be allowed in our state and that the State should set up a very structured system for that, and that's happening. And the Washington State Liquor Control Board is currently making rules. In fact, just this afternoon before I prepared to come here, they issued the first set of rules, draft rules, for implementation of I-502.

The reason I think that's important is as we track that process, one of the main legislative intents behind what you're considering tonight in allowing these collective gardens was that for patients who rely on medical cannabis for treatment, there wasn't a lot of safe places to get that. And so this was an attempt by I think the legislature and the Governor in not vetoing that section to provide more resources, more availability of safe medical cannabis for patients.

And so the reason I bring up I-502 is that it is anticipated that there will be safe access to marijuana in the near future even for recreational use if the regulatory scheme goes into place as planned in early 2014. So I just put that out there that that is happening, the draft rules were issued today. Whether or not the Department of Justice intervenes down the road, we don't know, they haven't thus far. So I just want you to be aware of that and you can ask questions about that.

So I think I'll wind it down. What I would like to do, the green ordinance again, this is the one that basically would put some standards in place if that's the will of the Planning Commission to make that recommendation. We've got some limited zones we would allow it in and then we've got quite a few development standards that would be required.

The blue one would just prohibit it, and it's a little bit longer because what it does mechanically is it defines the use, and then systematically prohibits it in each of the zoning districts for Clark County.

And Chris can answer any questions about sort of the legal mechanics or the legal language in here if you have questions.

DELEISSEGUES: One question I have, Chris, maybe you were going to answer it, but does the law require a garden? I mean is it still optional, is the blue an option?

HORNE: I think that while the legislature has -- the statute - I think as Axel has pointed out pretty clearly - is not entirely even internally consistent and so there are problems with it. But even if it were entirely consistent, there is a provision within the Act that says that local governments can't outright ban collective gardens. The problem is there's still the Federal inconsistency.

And given the Federal government's admonition or warnings, it's not just what they indicated to the Governor even as late as last year - was it 2012 or was it late 2011 - the U.S. Attorney's Office still held strong with their position after a letter from Clark County was sent to them and asked, is this something that the Federal government will enforce?

And they not only said that we may enforce it, they went further than that and said that to the extent that local county agents assisted people in obtaining marijuana they would be, they could be, they didn't

say they would, but they said they could be treated as accomplices, much like if you act like the lookout man. You don't have to do anything, but the willingness to do something can make you an accomplice and you can be potentially, you would be guilty of a crime.

This becomes particularly difficult and why the Board has been concerned that even if you recommend they march down the path of providing limited availability in certain zoning districts, that staff have minimal involvement with this to ensure that we're not setting up staff to be putting in a context where they could ever be criminal suspects or accused of crimes, and so we've tried to be particularly careful.

Now you can create all kinds of potential arguments, but I think on a reasonable scale we've tried to do the maximum extent we could, recognizing that if by allowing this in any context, the Board legislatively is taking some action if they go forward in adopting one of the versions that would allow collective gardens in certain zoning districts. So I think that --

SWANSON: I forgot to mention - that is a great question - because I talked about the inconsistencies and what jurisdictions are doing, the ban is actually being tested in court right now. The City of Kent, other cities, even in our own jurisdiction, Camas has banned this use, but Kent was challenged. To my best understanding Kent won in the lower court, in Superior Court, their ban was upheld, but that's been appealed, and so there's still some uncertainty out there as to how that will finally end. But jurisdictions have banned this and it is kind of pending in the court system.

HORNE: Counties have both State law authority under Title 36, but they also have constitutional authority that was actually created in the Constitution itself to enact police-power regulations for the protection of its public. So there are of course limits because of the supremacy of the state, but I think the County has significant authority in this area.

This is the heart of what police-power authority includes, number one; and number two, as I indicated, given this Federal conflict because in a true debate between the Federal government and the State government about whose rules govern, we know the answer to that, under the U.S. Supremacy Clause Federal law takes precedence over State law. So the only question is, will the Federal government exert its authority and demonstrate that in court? And the problem, the conflict, that we're all facing right now is because thus far they've been conspicuously silent.

GIZZI: Now we talked about this quite a bit in work session and I thought that the final consensus was that the County's liability in regards to its personnel and conflict with the Federal government was virtually none, given the fact that we're not permitting a collective garden, we're putting constraints around where that garden is allowed to be placed. And I was pretty sure that actually the discussion included all three, and with Chris being included, that you guys were comfortable that from a liability standpoint we didn't have that problem here.

HORNE: And as I said, let me make sure I answer your question and say so clearly, it is true that this ordinance attempts to minimize, and in fact eliminate County involvement, we've created standards that have to be implemented.

At some point if people violate those, there are a number of security measures that will be required for a property owner if a collective garden is approved. There are a number of security measures to protect both neighbors, the property owner and surrounding persons who might be impacted by this, to the extent we have to enforce those, it creates issues. But you're certainly correct that we have intentionally taken steps to minimize any claim that County staff have acted in an accomplice role. So, yes, we have done as much as we can to eliminate that risk. To say that it's completely gone I think would be, would not be a commitment I could make to you.

GIZZI: Sure. Understood.

SWANSON: So you might notice there's no recommendation. Having been a Commissioner in the

past, I know how that feels. It's kind of like, well, you've been working on this staff, why isn't there a recommendation? So I want to take a shot at explaining that.

I really do see this policy decision for you and soon the Board of Commissioners as a real 50/50 split. And the reason for that is, like I said, since 1998 the voters have approved medical patients growing their own medical cannabis for their ailments. And since 2007 if I was both a patient and a designated provider, I can have - and many people probably do - have 30, up to 30 plants at their property. So really what we're talking about if there's some constraint to the dispensary cycle I explained earlier, is the addition of 45 plants, so...

HORNE: 15.

SWANSON: Up to 45, so an additional 15. So that's one side of the spectrum, you know. One can make the argument it's not that big of jump in policy to allow this use from what's going on now.

Now the other side of the coin is, why do we need it now that I-502 has passed? If the State's going to put in this regulatory scheme and soon you'll be able to go to a retail shop and get cannabis, why do we need this extra kind of middle of the road use? One can argue we don't. That you already can grow up to 30 if you're a patient with a doctor's permission and a designated provider. And then you also can go down to the State store and get marijuana for either medical use or recreational use.

So it really is, I mean, I can see it from both sides. It's not that far of a policy leap to allow the use from what's going on now in my opinion. But with the passage of I-502, how much more is it needed? You know, I don't know.

DELEISSEGUES: Well, another question. Well, under the development standards, I just wonder if anybody's done any kind of a preliminary cost estimate of what it would cost to meet all of these standards that are required for a garden?

HORNE: It will not be inconsequential. In fact, I've even taken off one or more because at some point the County and the enforcement of its police powers for this - and any other property owner who we impose restrictions upon or conditions upon their development - has the ability to raise the constitutionality of those, I was concerned.

But curiously the State development regulations for dispensaries, or for what I'll call liquor stores for medical marijuana -- or not medical -- but recreational marijuana are as strict, in fact substantially more strict. So all the things that the County would require, they have plus some, in fact plus a lot.

So the security they require and in a much greater degree. The fence or the security measures for windows and for doors they require, the 24-hour monitoring they require. It's all in their -- yeah. So, yes, we've looked at it. It will probably be -- for someone who wants to make this a collective garden as moneymaking or as an enterprise it will be expensive. I would suspect you're probably looking at, at least I wouldn't be surprised if you're looking at 5 to 7,000 to get in. Plus you've got weekly and monthly monitoring if you have ADT or if whether you have Xfinity or whatever, whoever does your monitoring for the motion sensors or for the basically burglar alarms you would require, those are going to be ongoing expenses.

DELEISSEGUES: Is there a liability insurance requirement?

SWANSON: In the draft rules for -- in the draft State rules that I saw today for the State's program there is a very lengthy section on insurance that -- there is not a development standard in here.

HORNE: Yeah, I was going to say, I don't think our ordinance has an insurance requirement.

DELEISSEGUES: It would seem to me you could win by passing the green one because nobody in their right mind would pay all that money to come up with a garden for 15 more plants. And if they wait a few days, they can use all that money to run down to the store and buy a whole lot of marijuana without

all this problem.

HORNE: As I said, or as Axel said, the policy issue for you it's probably not an obvious one, it's got balances that go both ways.

SWANSON: And I think a lot of people now who were focusing on this, you know, I can't speak for them, but I feel like with the passage of I-502 and the rules coming out that folks are focusing and concentrating on what the state is going to do with it.

The other thing I should have mentioned is that Senator Rivers introduced a bill this session, it did not go anywhere, but I've been told it will probably get reintroduced, and there's a lot of I think interest from local jurisdictions and others around the state. What that bill would have done is put the Medical Cannabis Act and what we're looking at here in terms of development standards potentially, it would have brought this into something very similar to what the Liquor Control Board is doing for recreational marijuana.

So it would have put it in a similar regulatory scheme controlled by the Liquor Control Board and really synced these two processes or these two types of uses up which I think would help a lot. It would help bring consistency around the state for local jurisdictions. Because, like I said, everybody's doing something different with the medical side of marijuana right now, so that may be coming back down the road anyways.

USKOSKI: Well, I guess at the end of the day I've got a lot of thoughts on this, but at the end of the day I have to come down that I don't think I would support anything that would put us in violation of the Federal law. As you pointed out, Chris, that trumps all, that we know where that comes down. And I think when you start picking and choosing what part of Federal law you're going to accept and follow versus what you're going to throw by the wayside, you're on a pretty slippery slope, so...

BARCA: And I appreciate that thought process. I look at us as much more of an advisory role, and I'm looking at the context that anything that we do here is not codified. It is just the getting all of the issues out and available for discussion, including the concept that says that should you go forward, we as an organization would recognize that there's potential to be in violation of the Federal.

I think it's important to have the discussion about what do the development standards look like. And I think what I'd like to do is I'd like to propose when we're done with discussion is we do a first an up or down vote on whether we just want to ban or not ban to see whether we go forward with the discussion about development standards, and that's the proposal I would like to make for the Planning Commission to look at.

DELEISSEGUES: Well, just one question. Is there any requirement for these development standards to be met, I mean by the State?

HORNE: The Governor was very clear in the approval, the limited approval of collective gardens that local counties retained, that any collective garden be subject to local police-power regulations that were adopted. So the court -- or I mean the legislature was very clear in authorizing counties to regulate and impose standards to protect their citizenry.

That would not even need to be stated because, as I said, it's both in State law and in the Constitution, but it apparently was sufficiently of concern that they wanted to make sure that counties knew or cities knew that they could impose regulations to protect their public.

DELEISSEGUES: But you say there are some that didn't do anything?

HORNE: There are some that just have ignored the issue.

DELEISSEGUES: So the answer is no. Okay, thank you.

HORNE: Sure.

GIZZI: So if I look at this from a broad standpoint, there's a pool of people out in the county, a finite number of people, each with a prescription allowed to grow 15 plants and they can grow these 15 plants in their house or -- well, they can grow these plants in their house anywhere, anywhere in their house, they could put a greenhouse on their property, it can be anywhere on their property as long as it's within zoning constraints, and they can do that. There's no controls, there's no nothing, it is you have a prescription, you can grow 15 plants.

What we're talking about here is taking some of that willy-nilly distribution of pot growing community and putting it into a set of standards that says that you can't do this next to the lady's house that was here at our work session that was concerned about it being done on that piece of property. So currently we're allowing people to grow 15 plants in the house next to her and she's opposed to that. Whereas here, if we were to look at this as a way to at least exert some level of control and consolidation of the supply in the county, I look at that as a plus in some respects.

I mean we're not increasing the supply, we're not making it more available because it's already available and they're all allowed to grow 15 plants, that's kind of the way I look at this. We're at least getting some level, some measure, some visibility, some controls around who it is that has access to growing these plants.

HORNE: The only thing I would note so that there's not a confusion is just because we regulate collective gardens, all the people who are personally growing for themselves still retain the right to do so.

GIZZI: Correct.

HORNE: So the people who are growing in throughout the county for their own use will continue to be allowed to do that even --

GIZZI: If they're good at it.

HORNE: Well, no. This ordinance won't --

GIZZI: If they're good at it. I mean my point is there are people that can grow tomatoes and there are people that try and they can't.

HORNE: It's called a weed.

GIZZI: My point is that for some people it's probably easier for them to go and purchase than it is for them to grow it themselves.

HORNE: Certainly.

GIZZI: So, I mean, that's the only point I'm trying to make. And then the other side of this is from, I hate to tie business to pot, but I mean the times are upon us. If we give some people in the community the opportunity to get some experience in putting together a collective garden facility, we may be giving some people an opportunity to have a viable business in the future that might be available around the state and other places.

SWANSON: I think those are valuable perspectives. And, you know, I get calls about sort of the willy-nilly growing approach. I've gotten calls from people who live and share a wall in a condominium with someone who's growing and they can't take it anymore, the smell.

GIZZI: That smell.

SWANSON: I've gotten calls from people whose neighbor is growing in the backyard and there's been theft issues and people running around. So I completely hear what you're saying. This may put some structure in place. Maybe some of those people decide to utilize this together as opposed to do that, I don't know what they would do --

QUTUB: Yeah, maybe --

SWANSON: -- they may or maybe not.

JOHNSON: If I may, I want to twist this just a little bit. This is coming from a 7th and 8th grade school teacher who said -- last year spice came out, and I was talking before, and spice was a synthetic, it was legal at the time. And one of my students came in and said, look, Mr. Johnson, this is legal, we can do this. It was the amino acid I believe was tweaked by one. And at that time - long story short - the FDA wasn't ahead of things, but it's the message. Look, the State seems to be going to handle this. What is our message? We allow. That's what the green sheet is, we allow. The blue sheet is no. No.

GIZZI: We already allow.

JOHNSON: Understand that. We don't allow, the State allows, and the message in Clark County to me is a beautiful message if you say at every corner we don't allow. Now I understand the legal constraints. I understand saying we can only do what we can do. But it seems to me that this is going to be handled more efficiently, effectively by the State.

What is our charge to the County? You know, you start saying what's the first thing, you know, when we send this to the Commissioners and say, well, we would like you to say we allow. And I just I struggle with that. I struggle every day because right now the message in my classroom is marijuana is legal, so therefore in 7th grade it's okay for me to use it. And at every corner I say, no, it's not. And not because it's illegal or legal, it's because it's going to kill you eventually, not only the marijuana, I mean the path that it leads for most kids.

We want to hide behind everything - and I'm kind of on my soapbox here - but we have to take a stand sometimes and we have to say no, whatever no means. You can mean as no as no can be and the State will say not. It seems we have the Feds saying, well, no. We have the State law that says, well, now we can, and we have a County that is saying, well, what are we going to do. Well, no, because out of this is a voice, and I really want you to hear me on this one because I'm not talking about the legal ramifications.

If you said the only thing we could do I would vote no because I want my voice on the record to say no way. What's our message? You know, you've got to see what's happening out there in the trenches and it's brutal because we're saying yes, so... That's probably too much of a speech for you.

GIZZI: No, it was great.

QUTUB: No, thank you.

DELEISSEGUES: Good point.

QUTUB: Appreciate it.

USKOSKI: Yes, I would concur. It was much more eloquently put than I would have.

QUTUB: Yes.

JOHNSON: That's why I speak once.

DELEISSEGUES: Mr. Chair, what do you want to do with this?

QUTUB: Why don't we do our up and down vote.

BARCA: Well, if we've had the opportunity to discuss the matter, I would like to start off by voting on adoption of the blue ordinance as the ban. And if we adopt the blue ordinance, we go no further in the discussion.

JOHNSON: I make a motion that we adopt the blue. I'm sure there's a more professional way to address that, but you can figure that out.

USKOSKI: I'll second that.

QUTUB: I'll third it.

### **ROLL CALL VOTE**

BARCA: So there's been a motion and a second to adopt the total ban on the collective gardens and make that the code for the County. Any more discussion before we vote? Roll call, please.

MCCALL: Motion by Johnson, seconded by Uskoski to adopt the prohibited blue ordinance.

BARCA: NO

GIZZI: NO

USKOSKI: YES

QUTUB: YES

DELEISSEGUES: Yeah, I agree with Commissioner Johnson and vote YES.

JOHNSON: Thank you. That would be YES.

MCCALL: I have 4 in favor and 2 against. Motion passes with 4 votes for yes.

BARCA: So there is the Planning commission recommendation. I would like to put on the record that I think ducking this now we'll see it again when the recreational rules come around and we can choose to be restrictive, but we're going to be facing very much the same discussion.

JOHNSON: And I want to put on the record that we did not duck it. What we did is we said, listen, the message is bigger than the legal pieces of paper. So I don't think we ducked it, I think we made a statement.

## **VII. OLD BUSINESS**

BARCA: And that takes us through the agenda. We are to old business. Is there any old business before the Planning Commission?

## **IX. NEW BUSINESS**

BARCA: Any new business to come before the Planning Commission?

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

DELEISSEGUES: I'd just like to congratulate our new chair and our new vice chair, it serves them right.

USKOSKI: So much for sympathy.

GIZZI: I was going to say, Dick, are you going to miss that?

DELEISSEGUES: Not a bit.

BARCA: And I think that rolled right into comments from the members of the Planning Commission, so let us be adjourned.

XI. ADJOURNMENT

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The record of tonight’s hearing, as well as the supporting documents and presentations can be viewed on the Clark County Web Page at: <http://www.clark.wa.gov/planning/PCmeetings.html>.

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

<http://old.cityofvancouver.us/cvtv/cvtvindex.asp?section=25437&catID=13>

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**Chair**

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**Date**

*Minutes Transcribed by:*

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