

**CLARK COUNTY
PLANNING COMMISSION MINUTES
Thursday, December 5, 2013**

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

6:30 p.m.

I. CALL TO ORDER 6:30 P.M.

BARCA: Good evening, ladies and gentlemen. We are going to go ahead and start the procedure for Clark County Planning Commission, December 5th, our public hearing.

II. ROLL CALL

BARCA: Can I get the roll call, please.

BARCA: HERE

GIZZI: HERE

JOHNSON: HERE

BLOM: HERE

QUIRING: HERE

MORASCH: HERE

USKOSKI: HERE

MCCALL: All present.

III. APPROVAL OF AGENDA

BARCA: We're going to move to approval of the agenda.

GIZZI: I make a motion that we approve the agenda as presented.

JOHNSON: Second.

BARCA: Been a motion and seconded. Any discussion? All those in favor.

EVERYBODY: AYE

BARCA: We also have approval of minutes. Did we have minutes? I didn't believe we did. No minutes at this time.

IV. COMMUNICATIONS FROM THE PUBLIC

BARCA: So before we start the public hearing items, this is the point in time in which we ask anybody from the public that wishes to come forward on items not presented in the agenda that this is your opportunity to come forward and speak to the Planning Commission. Is there anybody that has any items not on tonight's agenda that they wish to come and talk about?

V. PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

A. CPZ2013-00015 SURFACE MINING OVERLAY UPDATE

****CONTINUED FROM NOVEMBER 21 HEARING****

BARCA: Not seeing any, we are going to go ahead and we are going to move into the continuation of the surface mining overlay hearing. And just to remind the public, this is the third period of this

winterfest that we're doing.

MABREY: Fourth.

BARCA: Fourth period, okay, fourth period of the winterfest. And tonight does not include any additional public testimony or documentation to be brought in. So anything that you have save it for the County Commissioners, they'll be thrilled to hear from you, and we are going to go ahead and wrap up our policies tonight. Do we have any statements from anybody on the Board before we go forward?

MORASCH: Well, I'll be recusing myself as I have on the prior hearings on this. So with that, I'll just I guess get up and let you get to business.

USKOSKI: And I will echo Steve's comments on this.

BARCA: So that being said, as we go into the policy and then the specifics about the permitting process, let's start off by saying if there's an opportunity for us to just work off of the November 21st document that we received from staff. Is everybody in agreement to working off of that document?

QUIRING: I would agree to that, Mr. Chair, but I think the staff has something.

MABREY: Yeah. I just wanted to point out that in your packet behind your agenda and behind Jan's summary document about three pages back there's a one-page memo recommending a specific change to the part 40.250.020(B)(1), Applicability, in order to prevent any conflicts with the Columbia River Gorge National Scenic Area section which is 40.240.

BARCA: I'm sorry, Mike, can you point out which page on that it is?

MABREY: It's a one-page memo addressed to the Planning Commission dated today. It should be in your package just a couple of pages back.

BARCA: Ah, I found it.

QUIRING: It's the third page.

BARCA: I found it.

MABREY: Yeah. So that will come into play when we get to the standards part.

BARCA: So that will come in during the standards.

ORJIAKO: Yes.

BARCA: So I'd like to have a brief discussion about the procedure going forward. Throughout the recommendations document if we have a single recommendation and it does not have any alternate choices with that, are we agreeable to just include those without discussion and debate?

JOHNSON: You're talking about just an up or down vote on if there's not multiple positions; is that correct?

BARCA: Yes. So in the case of in our draft policies, so 3.5.1 has two alternative choices in that, I would ask that we go ahead and we'll poll the Board to see if there's preference for one over the other.

In the case of, well, let's say if we go to the second page, 3.5.5 there are not alternatives, that unless somebody specifically has a request to open that one up for discussion, it would be my preference that we just accept it or turn it down completely. Right?

GIZZI: A yes or no vote?

QUIRING: Yes.

BARCA: Yeah.

GIZZI: Yeah, I agree.

QUIRING: Yes.

BARCA: Then let's see if we can work our way through this one. So we are going to go ahead and start, Draft Policy Changes start at 3.5 Policies. We have two policy alternatives, one in bold which comes from staff and then one that has additional language from Mann. And where does everybody stand on these?

QUIRING: Do you want a vote or do you want a motion?

JOHNSON: Which one do you want to vote on?

BARCA: I'm trying to find out if --

QUIRING: I'm bold.

JOHNSON: I'm bold.

GIZZI: I am too.

BLOM: I couldn't hear. I'm sorry, I couldn't hear what they said.

QUIRING: Bold.

BLOM: Bold for staff recommendation?

BARCA: Yes, staff recommendation is bold.

QUIRING: Bold type.

BARCA: And that's where I fall on that.

BLOM: I agree.

POLL VOTE – 3.5.1:

BARCA: *So are we agreeable to say that our preference when we do the vote will be for 3.5.1 staff recommendation?*

EVERYBODY: *Yes.*

BARCA: Let's see, 3.5.2 there are alternatives to Section c. We have staff recommendation, Maul Foster and Mann. And my preference on that one I look at for Maul Foster.

QUIRING: I too.

JOHNSON: Mine would be staff.

BLOM: Looking at that one I would be okay either way. I'd love to hear reasons on that one just really quick as to the different sides.

BARCA: Well, let's get Jim's thoughts and then we'll see whether we discuss or vote.

GIZZI: It is one word. I mean it's only the word "public" and I don't understand why we would only worry about public roads. Shouldn't we be worried about all the roads? I would be leaning towards staff recommendation.

BLOM: And that was my initial lean too, but it's not I would go along with.

QUIRING: I think --

BARCA: So my thought process --

QUIRING: -- the reasoning behind -- okay.

BARCA: -- for me, throughout this document we're going to be looking at trying to create some type of balance between the individual landowners that are adjacent to and impacted by the mining interests and the concept about making this where it's workable for the mining interest themselves. We have jurisdiction in my opinion over public roads.

QUIRING: Public roads, yeah.

BARCA: And so knowing that what happens inside the mining operation, we really aren't going to be regulating through this particular policy document. That's my thought.

QUIRING: That would be mine as well.

JOHNSON: You've probably convinced me there.

GIZZI: I would agree with that, Ron.

JOHNSON: So I'm saying it's -- I'm more leaning towards Maul Foster voting on that one.

POLL VOTE RESULT – 3.5.2:

BARCA: So 3.5.2, Maul Foster.

BLOM: I agree.

POLL VOTE – 3.5.3:

BARCA: So let's go down to 3.5.3 then, we have staff recommendation or Mann. Preference?

QUIRING: Staff.

GIZZI: Mann.

JOHNSON: Staff.

BLOM: Staff.

BARCA: So and I would go for Mann, surface and groundwater is the specific difference.

QUIRING: 3 to 2.

BARCA: 3 to 2. (*Added clarification note: 3 votes for Staff recommendation, 2 votes Mann for recommendation.)

BARCA: 3.5.4 we have staff recommendation and we have Dentler.

QUIRING: In this case I prefer Dentler's because it provides clarity.

BLOM: I like the idea behind what Dentler said, I think I prefer that to staff, but I'd like to see that perhaps worked on a little bit more in conjunction with staff, something along those lines. He got it -- he just got a little bit wordy, I felt there was a little bit of unclarity in the Dentler's proposal, but...

BARCA: So -- go ahead.

JOHNSON: I like Dentler. I think it's a little bit more specific. I think it also looks at what the overall idea of what we should be doing with the SMO which is looking at protecting minerals in our county.

BARCA: Jim.

GIZZI: Well, I'm in the minority. I believe that really it's our job to protect anyone that lives in the county. I go with staff, but, you know, I'm in the minority, that's okay.

BARCA: So let me ask those that are in favor of Dentler, how is it that you think that we "shall not interfere with the continued use"?

QUIRING: Should not, not shall not. He's changed it to should. In legal language I think that does make a difference, doesn't it, Chris, or doesn't it?

COOK: And I'm sorry, where are we talking? Oh, shall and should.

ORJIAKO: On Page 2.

COOK: He has them both.

MABREY: Yeah, I think he allowed --

BARCA: Us to choose.

MABREY: -- you to pick which one you'd rather --

QUIRING: I would say should.

COOK: And it does make a difference. I mean should is this is what you ought to do.

QUIRING: Ought to do. Shall is what you will do.

COOK: But how you assure that something should not, those have contradictory meanings.

BARCA: And we are all about gray area when it comes to ordinances so we try and create those scenarios that nobody's in the wrong. My concern I guess at this point in time is we are looking at a situation where these are existing operations that have already shown to have impact on the choices that the County has made towards land use and the housing inventory that is out in the rural lands where the existing mining operations are at.

If we put ourselves in the place that says for the future they shall, no, they should not interfere with continued use, are we going to stop somebody from building their home? How would we possibly enforce this in the situation of where we're at?

QUIRING: But you're asking about the shall and the should --

BARCA: No. No.

QUIRING: -- or the future use?

BARCA: Accepting the word "should," is there genuinely any way that we could put ourselves in a position of saying that there's anything that we can do to assure the use when the conflicts are already going to be present?

JOHNSON: I think it's what angle you're looking at. And I think as for me, I -- we heard a lot of testimony on one side of this, but at the same time the purpose here is to find and protect the resource in this county. And so though we want to mitigate conflict, that's kind of to me a no duh.

I think in here somewhere that I look at that resource and I look at that industry and I look at those jobs and I see it weighted to where they're on the backside of it all in the name of the evil Storedahl or whatever. So I tend to think this looks more at the industry, and that's kind of where -- that's why I am in that camp.

QUIRING: Well, and we also heard a lot of testimony that there is interference, and I think that if we designate these areas and create some sort of policy here that recommends that it shouldn't interfere, it could be that somebody decides not to build a house near a mine until that mine is completed, until they've extracted everything that they need. Because people who are next to a mine are the ones that are concerned about, you know, what's happening now, but they didn't go in and, you know, they didn't just build their house there, you know.

BARCA: No, I think, Eileen, that's exactly my point. In many cases the housing inventory is already in place, but when we put this overlay on, we are basically saying that anybody who wants to go through the permitting process can now institute a mine adjacent to these rural houses and that we are saying that we, the County, should come up with assurances that it will not interfere. I don't know how we can do that.

And that's my concern about the choice of that particular language as opposed to staff recommendation which says "designed to minimize conflicts." It's a series of compromises that are designed to minimize conflicts. So that's my concern on the Dentler wording, and I don't think we have to spend a long time on it. If everybody that has the Dentler preference wants to remain Dentler preference, we'll go with that. Karl.

JOHNSON: Yeah, I want to remain with the Dentler, Dentler's take on it.

QUIRING: Dentler.

BLOM: Dentler.

POLL VOTE RESULTS – 3.5.4:

BARCA: *So 3.5.4 it's 3 to 2 in favor of the Dentler.*

BARCA: 3.5.5 there's no conflicts.

BARCA: 3.5.6 we have staff recommendation or CALM and Mann.

JOHNSON: I like the staff recommendation. Excuse me. I like the staff recommendation.

QUIRING: As do I.

GIZZI: I come down on the side of CALM and Mann. Rural residential doesn't seem to be consistent with mining in my opinion, key word being "residential."

QUIRING: "Existing" is the key word there.

GIZZI: There's no existing surface mining overlay shall not be designated within rural residential zones.

QUIRING: Or allow expansion, the thing that's eliminating is about the expansion.

JOHNSON: Yeah, the change.

GIZZI: I see that. I see that.

BLOM: I would go with staff on this one.

POLL VOTE RESULTS – 3.5.6:

BARCA: And staff for me as well. So staff recommendation 3 to 2 for 3.5.6.

BLOM: And you said 3 to 2, who is --

GIZZI: 4 to 1.

BLOM: 4 to 1.

BARCA: *Oh, sorry. 4 to 1. (*Clarification note: 4 in favor of Staff recommendation.)*

BARCA: So additional policies we have 3.5.7, 3.5.8, 3.5.9.

POLL VOTE – 3.5.7:

BARCA: The first one, 3.5.7, inclusion, yes or no?

QUIRING: NO

JOHNSON: NO

GIZZI: YES

BLOM: NO

BARCA: And I'm a yes, so that one's out.

BARCA: 3.5.8, inclusion?

QUIRING: NO

JOHNSON: NO

BLOM: With -- go ahead.

BARCA: Sure, talk about it.

BLOM: With this one with the exception of the first -- I think just the first sentence I think is important, and I would be in favor of including that as a general policy that it's going to be approached as a countywide process.

QUIRING: Isn't it already? And what's "regional"?

BLOM: And remove it. Thank you. Yes, I had crossed off "regional."

QUIRING: It already is a countywide process, that's what we're doing.

BARCA: And we already have in place the idea that it will be a Type IV --

QUIRING: Yes.

BARCA: -- item I think. Jim.

GIZZI: It's not going to make any difference. I'm for leaving it in.

BARCA: John.

BLOM: With whatever -- no.

POLL VOTE RESULTS – 3.5.8:

BARCA: 3.5.8 is out.

BARCA: 3.5.9.

QUIRING: NO

JOHNSON: NO

QUIRING: I don't think that we have the ability to do this. I mean Thurston County may have done it, but...

BLOM: It comes down to resources, and I agree --

QUIRING: Yes, it does.

BLOM: -- that there's just -- we don't have the resources to do it, so no for me.

BARCA: So that's 3 nos. I would like to see it held up.

GIZZI: As would I strongly, but...

POLL VOTE RESULTS – 3.5.9:

BARCA: So that's 3 for, so 3.5.9 is struck. I'm sorry, I said 3 for, it's 3 against.

BARCA: EXISTING POLICIES RECOMMENDED TO BE DELETED. Is there anybody on the Planning

Commission that wishes to add any of these back into the document?

BLOM: I think the capital improvement plans, the very first one should remain.

GIZZI: I agree with that.

QUIRING: I'm a no.

BARCA: So "Capital improvement plans should take into consideration maintaining and upgrading public roads adequate to accommodate transport of mineral commodities." As I read that basically it says that we're going to create public subsidy to keep the roads in place.

JOHNSON: Yeah, that's correct. I don't agree with that one coming back in.

BARCA: So without that then in essence we're saying that where the roads are not adequate, then permitted mines would not go forward because the roads are not adequate unless the mine owner agrees to do the road.

QUIRING: Exactly. Yeah.

BLOM: No, I disagree with your assessment of that. I mean that's like saying that putting sewer in so a new industrial area can go as public subsidy, I mean that's a public service. If we're using aggregate to build roads, that's for the public good; if we're maintaining roads to allow the businesses to operate, I don't have an issue with that. But I don't think you can say that's a subsidy unless we're going to say that sewer and water are also subsidies.

BARCA: So if it's on the capital plan, who is paying for it?

BLOM: The same as who's paying for the sewer and water, I mean it's coming from the public, absolutely.

BARCA: And I think in case of the sewer they recoup it, right, through sewer rates?

BLOM: I would say the same thing with through having local aggregate product available that there's cost savings and there's tax revenue and jobs created as a result of having those mining operations able to function.

BARCA: So there may be some ancillary way that income moves back into the county coffers, but as far as who pays for it specifically we're saying that it goes on the capital facilities plan, that the developer of the mine does not have to pay for it.

BLOM: We're saying they should take into consideration, we're not saying that it has to be paid for. We're saying that if we're looking at there's two roads that could be improved to serve a rural area, one of them would allow for the movement of aggregate and mining products and another one would not, but taken into consideration - what it says here - that the choice would then be - all other things being equal - to improve the road that would allow for the transportation of mineral resources.

QUIRING: Can I ask Mike a question. What was the reasoning behind this deletion? Is it covered somewhere else? Isn't there somewhere else that talks about roads when we look at the process?

MABREY: No. It's been a policy for a number of years.

I don't know that it's one that we actually follow in the course of developing capital improvement programs. We typically make improvements to urban arterial roadways. We do do overlays and maintenance on rural roads, and in fact one of the roads serving Livingston Mountain was recently repaved, and so perhaps it happens in practice. I'm not sure that it is a countywide policy that makes a whole lot of sense. I think it's fine either way frankly.

COOK: Is this on? Yeah. I would think that this is the kind of thing that would be in the transportation element rather than --

MABREY: Yeah. True.

COOK: -- in this portion of the plan, wouldn't it?

MABREY: It would make more sense there.

QUIRING: I think it's mentioned somewhere, isn't it? When we get there, we'll see it maybe.

MABREY: Well, no.

QUIRING: It's not in here?

MABREY: No, no, no, that's the transportation chapter will be coming back to you next year, and it does have some prioritization considerations for funding.

COOK: Something to look forward to.

ORJIAKO: And your recommendation may be that this be moved into the transportation element if you so choose.

QUIRING: Yeah, that's what I would recommend.

JOHNSON: I would recommend that too. John, what do you think of that?

BLOM: I'm going to stay with what I initially recommended that it stay in here. That's fine, I'll be the lone one.

POLL VOTE RESULTS – CAPITAL IMPROVEMENT PLANS POLICY:

BARCA: *So anybody else wishing to bring it back in? It looks like 4 no.*

BARCA: We're on Page 3.

QUIRING: I think that we should add, we should maintain "Surface mining other than Columbia River dredging shall not occur within the 100-year Floodplain."

BARCA: I agree with that.

QUIRING: And Dentler proposing an exception to the projects -- oh, yeah, that whole sentence there.

JOHNSON: You're saying add Dentler's --

QUIRING: And the exception for the habitat conservation --

JOHNSON: -- exception?

HOLLEY: One at a time, please. I can't take both of you talking at the same time.

QUIRING: We're supposed to do that anyway.

BARCA: You scared them.

HOLLEY: I know.

BARCA: I know.

HOLLEY: If you guys want a record.

BLOM: I would agree with Eileen with the inclusion of the second sentence, or of having that be in the proposal to the Board, whatever Dentler -- the Dentler proposal.

POLL VOTE – SURFACE MINING W/IN 100-YEAR FLOODPLAIN:

JOHNSON: So this would add would say "***Surface mining other than Columbia River dredging shall not occur within the 100-year Floodplain, with an exception that projects with an approved Habitat Conservation Plan.***"

QUIRING: Correct.

JOHNSON: Correct?

QUIRING: Yes.

JOHNSON: Yeah, I'd go with that.

BARCA: So that sounds like 4. Haven't heard from Jim.

GIZZI: I wouldn't agree.

BARCA: So 4 to bring it back, 1 opposed, so that one's coming back.

BARCA: And the statement directly below that, "The county shall allow continued mining at existing active sites."

JOHNSON: Well -- go ahead.

BARCA: We had some testimony in the last hearing concerning the idea that permits can become dormant but still active and at any point in time they can be fired back up, there's no sunset to them which puts us in a position of not being able to know whether or not we can do any other type of development in the adjacent area.

We had several landowners who came forward and said they bought houses adjacent to dormant facilities, that then at one point in time the facility fired the operation back up and that was the first time in years that that had taken place.

So although this particular wording doesn't have anything specific in it that I wanted to bring forward, I did want to bring up the point that it seems like we need to look at the concept of whether permits are just forever or whether there's some kind of timeline for people to have certainty about whether they're next to an operating facility or not next to an operating facility, and I didn't know where else to put that so that was in my notes right there. Any other items in the deletions?

Hearing none, we'll move to Page 4, STRATEGIES FOR MINERAL RESOURCE LANDS. We have two proposals. One is staff "***Develop a program for coordinated monitoring and enforcement of conditions of approval for active mining sites, and then we have Mann's proposal.***"

POLL VOTE – DEVELOP A PROGRAM FOR COORDINATED MONITORING & ENFORCEMENT:

JOHNSON: I'd like to see staff's.

QUIRING: Staff.

BLOM: Yeah, staff.

GIZZI: Immaterial at this point. I would go with Mann's with the exception of the last sentence. I think that the County should have an active role in listening and enforcing the mining conditions that seem to be maybe at times not being followed. I think that it's incumbent on us to at least have an ear and a potential voice in part of that process as those facilities are in our county and it's our citizens that are subjected to the livability issues that are caused by that. Clearly there are regulations in place, but if they're not followed, it seems like there's nobody that anyone can turn to and I think that that is partly our role.

BARCA: And as I look through the Mann proposal I don't think that we're going to be able to

adequately create the funded by permit fees enforcement program, so I'm looking to agree with going at least to start with the staff recommendation. ***So staff recommendation for the develop a program statement.***

POLL VOTE – PROCEDURE & DRAFT CRITERIA TO AMEND SURFACE MINING OVERLAY S.1.b:

BARCA: And then we come down to B, Procedure & Draft Criteria to Amend the Surface Mining Overlay. Start with it looks like S.1, that statement is not in contention.

BARCA: And then we have a, staff recommendation or the Dentler.

QUIRING: Listening to Dentler's testimony and what I have read, that those resources would be determined by their -- by a mining company's standard of what is sufficient for the intended uses, I could probably go with either, but...

BLOM: I was along the same thinking. I'm not sure why they would mine it if it didn't meet the applicable specifications for its use, that seemed to be a bad business decision, so I went with Dentler.

GIZZI: I did as well.

BARCA: So we have a majority for Dentler proposal. And then we come down to b, and, once again, staff recommendation or Dentler proposal.

QUIRING: I suggest the Dentler because it gives more clarity and it actually follows a. I mean it follows what a sort of says again about, you know, "sufficient to economically justify development based on," he's eliminating that. But "the size of the deposit, the depth of overburden," those are all included in his. And then adding --

BLOM: I was --

QUIRING: Excuse me.

BLOM: No, I'm sorry.

QUIRING: Just and then they "suggest that mining is economically viable," you know, all of those things.

JOHNSON: I think again Dentler goes to the heart that it's a business decision and why would you not -- why would you develop something that was not significantly economically justified, so to me it's another layer of, you know.

COOK: Can I intrude here. I just would like to point out that what you're talking about now are criteria for the overlay, not criteria to develop it. So a landowner who is seeking the overlay may not intend to develop it himself or herself or itself at all.

QUIRING: Well, the adding of the "and characteristics" I think helps to clarify because that would, you know, that would lend to somebody not having gone in and, you know, there are some characteristics that are there, may not know "the quantity."

GIZZI: Yeah. I mean I'm not an attorney, but there doesn't seem to be a lot of difference between these two, basically saying it's economically viable or suggests that it's economically viable. I'd go with Dentler because that seems to be the preferred alternative, but I don't think there's much difference either way.

BARCA: *So 1.b. will be the Dentler proposal.*

BARCA: And we are on Page 5 now and we are looking at c. Now on my version the Maul Foster version is struck, is that just a typo?

MABREY: No. Their proposal is to eliminate that provision.

BARCA: Ah. So we have the proposal from the staff, "The site is accessible and haul road conditions are suitable for safe truck travel or will be improved to meet County standards" versus the idea of no inclusion of that at all.

And, once again, looking at this as our conditions for creating the overlay, I think this gets us right back to the heart of the matter about whether something is on the capital facilities plan or it's not.

MABREY: Could I suggest the *inclusion of the word "public" in before "haul road" to be consistent with your decision previously on the Policy 3.5.2.c?*

POLL VOTE FOR AMENDMENT:

BARCA: Okay, that's good. I was going to add that as a separate motion, but thank you. Everybody agreeable to that?

GIZZI: Yes.

JOHNSON: Yeah.

BARCA: I think to me due diligence on capital facilities planning tells us that we have to at least acknowledge the fact that there's not enough money to go everywhere, and if we're going to put the overlay in place, we need to have some method of allowing the development of the resource and meet the County's safety standards, so I think we need this in.

QUIRING: I guess I would just say --

GIZZI: I agree with that, yes.

QUIRING: -- you know, we're talking about overlay, we're not talking about developing. There would be a later step, would there not, if this were developed that would address a situation of the road? It wouldn't be permitted, would it?

MABREY: I think that that's the argument that the industry would make; however, in your deliberations on Livingston Mountain you decided to eliminate areas simply because the conditions of the road were not acceptable, so...

BLOM: I think if we're looking -- I would go to not include it to go with the Maul Foster and Dentler proposal. Because if we're looking 15 years down the road, there might be a site that we want to put the overlay on that shouldn't be permitted at this time but it should still have that overlay to that element of protecting that resource, because in ten years a lot could change and that could become accessible by that time. So I would go with excluding c.

BARCA: And I think the context of this of saying "or will be improved to meet County standards" is the agreement. When you say you're putting the overlay on there, you are acknowledging that we're committing those roads to improvement, to those standards, as opposed to saying that we're going to put the overlay on there and we just hope things work out.

BLOM: I think improving the roads should be a condition of permitting, not of the overlay.

BARCA: So that is the philosophical choice.

JOHNSON: Yeah, I agree. I think that we're talking about two different things. And even you kind of diminish planning when you say, well, maybe they will, maybe they won't. Well, I'm sure they will. The fact is is that we're talking about an overlay, we're not talking about permitting a mine, and so I'm not sure where I see the value in an overlay. So I would like to strike it.

BARCA: Eileen.

QUIRING: That was my original, yeah.

BARCA: So you're in favor of striking?

QUIRING: Yeah.

BARCA: And, Jim, for the record.

GIZZI: No, I'm not in favor of striking.

POLL VOTE 1.c:

BARCA: *So it's 3 in favor of striking.*

BARCA: So now we're at d and we have three choices; we have staff proposal, we have the Mann proposal and we have the Dentler proposal which is to strike it in its entirety.

So at the concept of creating the overlay, "sixty percent (60%) of the area within one thousand (1000) feet of the proposed mineral resource land is characterized by parcels of five (5) acres or larger." Mann proposal is "one-half mile."

BLOM: And it changes lots as opposed to area which that was a major difference for me. I would go with staff recommendation on this one.

BARCA: That was mine as well.

GIZZI: As would I.

QUIRING: I can go with the staff on this too.

JOHNSON: I would vote to strike it, but...

POLL VOTE - d:

BARCA: *So we have 4 in favor of staff proposal for d.*

BARCA: Other Design Criteria Proposed. We have e, f by CALM. E, f by Mann and a g by Mann, h and i by Mann. So is there appetite to include these criteria?

GIZZI: Well, in reference to g, h and i they talk about mining operations in here - actually I'll echo what these folks have been saying - we're talking about surface mining overlay, so it doesn't seem appropriate to mention these here because I'm certain that they would be part of the permitting process for the mine. So to mention these restrictions here, I don't think g, h and i really need to be included here.

BLOM: I don't disagree with any of these proposals, but I don't think they're necessary at the overlay point, so I would not include any of them.

JOHNSON: I agree.

QUIRING: I agree.

POLL VOTE RESULTS – DESIGN CRITERIA e THROUGH i:

BARCA: *So we will not add any of the other design criteria e through i.*

BARCA: So we're moving to 2, "Amendments to the plan map to remove the Surface Mining Overlay shall demonstrate," then we have a, b, c and d without any alternate proposals. Are we all agreeable?

POLL VOTE - 2:

QUIRING: YES

JOHNSON: YES

GIZZI: YES

BLOM: YES

BARCA: Page 6, Draft Surface Mining Overlay Standards. So now we are into the permitting standards. ***A is stands on its own.***

BARCA: We move to ***B.1, stands on its own.***

MABREY: That's the area where we'd like to add the sentence regarding the Gorge National Scenic Area that is the subject of the memo.

BARCA: So as we move towards a vote on this, this will have the amendment as proposed by staff, are we all in agreement to add staff recommendation?

GIZZI: Mike, I assume that section 40.240 is to make it be in compliance with the scenic area?

MABREY: Section 40.240 is the whole code as it applies to the scenic area and it's probably 150 pages long.

GIZZI: That's what I mean.

MABREY: Yes.

GIZZI: So this brings it into --

MABREY: This just refers back to it because in a couple of sections where it refers to mining it tells you you have to comply with the standards of 40.250.020. But there are some slight differences in terms of what's allowed in the Gorge area, and they don't allow batch plants for asphalt for instance. So they wanted it to be clear rather than trying to go back and modify their standards or -- they don't really have any operational standards, they just refer back to ours. So where there's a few little conflicts, this would just eliminate those conflicts by deferring to the Gorge standards.

GIZZI: Then I agree, yes.

BARCA: So can I get a verbal agreement or disagreement on these, please.

POLL VOTE 40.240:

BLOM: Yes, agree.

JOHNSON: Yes, on the memorandum.

QUIRING: Yes.

BARCA: So we have 5 approval of staff recommendation to add the Gorge note to B.1.

Now that takes us to B.2. We have three proposals, staff recommendation, CALM recommendation and Mann recommendation.

JOHNSON: I like staff.

QUIRING: I do too.

GIZZI: I think that not taking into account expansions is probably a mistake and I agree with CALM.

BLOM: I would go with Mann only because I don't think alterations should be taken into account, but I would agree with expansions.

GIZZI: I could go with that.

BARCA: And I agree with Mann. So we have 2 for staff.

GIZZI: Nope, I would change to Mann.

POLL VOTE – B.2:

BARCA: So we have 3 for Mann proposal, 2 for staff. The Mann proposal goes forward.

BARCA: So we are on B.3, there is no alternate language.

BARCA: We go to C.1, no alternate.

BARCA: C.1.a, we have staff recommendation and we have Dentler recommendation. And just before we get into this, my preference would be to accept Dentler with the exclusion of the word "crushing" as we would see crushing in the conditional use component later on, that's where I would like to see --

BLOM: That's the same as my thoughts on that as well.

QUIRING: So you're saying because it's mentioned in the other place?

BARCA: As a conditional use.

GIZZI: No, this isn't. This --

BARCA: This is Permitted uses and I'm saying that I can accept the Dentler proposal as long as "crushing" is excluded from it. So the specific wording would be "Extractions of rock, stone, gravel, sand, earth and minerals and the sorting and stockpiling of such materials."

QUIRING: They have to do which they say they can't do.

GIZZI: Well, I'll be the lone man out here. I think that mining is probably the perfect description of an activity that should be subjected to a conditional use permit, not just permitted as a factor of the zone that it happens to have or the overlay.

BARCA: So are you saying --

GIZZI: I don't think any of these should be listed under permitted uses.

BARCA: None of them.

GIZZI: I think mining activities should be subject to a conditional use, but I'm pretty sure --

BARCA: So you're not in favor of either staff or Dentler proposal?

GIZZI: No, I'm not.

BARCA: So those that are in favor of the modified Dentler, can I just go through it one more time to be clear. Eileen.

QUIRING: Yes --

BARCA: Karl.

QUIRING: -- of eliminating the crushing.

JOHNSON: I don't want to eliminate crushing, but I'll go with it. I think I find it hard to understand when we're extracting rock, stone, gravel and earth and the sorting and stockpiling that that is any less intrusive than crushing, it's the same to me. So I would like to keep it in, but I could be, you know.

BARCA: You're willing to --

JOHNSON: I'm willing to live with that.

POLL VOTE RESULTS – C.1.a:

BARCA: -- go with that. And I already heard John. ***So that's 4 in favor of the Dentler proposal with crushing eliminated.***

BARCA: So now we are at 1.b, we have staff recommendation, we have Mann recommendation and we have Dentler recommendation. And for all of these to me there was the omission of the

word "active" for the on-site mining, and my concern would be specifically around the idea of those operations that go dormant. It's a temporary accessory building, but when the operation goes dormant, we don't seem to have anything in here that says what that looks like as far as whether it stays or goes, so... Discussion.

QUIRING: Well, I think that in our hearing we determined that there is no word "dormant" first of all. They may not be actively extracting rock at that point in time, but if they still have a permit on it, it seems to me that their building should be able to remain there until they come back and they're finished.

BARCA: So do you consider that temporary?

QUIRING: Yes.

BLOM: If we're talking about a construction trailer, you know, temporary office, I don't see that -- honestly I don't see the need for them to pull it off for six months. I don't see how that's bothering if you have one of them, you know, little portable office spaces, I don't see why they should have to pull it off and bring it back a year later. So I would go with staff recommendation.

JOHNSON: There's a b on the back.

BARCA: Yes, there is a b on the back, that's the Dentler proposal. So we have 1 in favor of staff recommendation.

JOHNSON: I'll also go with staff.

BARCA: That's 2.

QUIRING: Yeah, I'll go ahead and go with staff.

BARCA: 3.

GIZZI: As would I.

POLL VOTE RESULTS – C.1.b:

BARCA: ***So that's 4 for staff recommendation.*** And my caveat is that I would still like to see some type of condition for dormant facilities and whether a temporary building remains or not, but that is the conclusion, staff recommendation for C.1.b.

BARCA: Now we go to 2, Conditional uses, and we are without conflict on a, b and c.

BARCA: And then on d we have three choices, "rock crushing, processing and stockpiling" which is the staff recommendation. We have "rock crushing" by itself which is Maul Foster. And then it's struck completely for Dentler turning it into a permitted use.

BARCA: I believe we just moved through permitted uses and we agreed to strike rock crushing. So we are looking at either staff recommendation which would put us in conflict, or the Maul Foster proposal which has rock crushing by itself.

QUIRING: Maul Foster.

BLOM: Maul Foster.

JOHNSON: Maul Foster.

BARCA: And, Jim.

GIZZI: Yeah, I've already said.

BARCA: Yeah, you've already said that you don't think any of them should be.

GIZZI: No, these are conditional uses.

POLL VOTE RESULTS – C.2.d:

BARCA: Yeah, so they should all be there. ***And I am for Maul Foster. So it's 4/1 for d, Maul Foster proposal.***

BARCA: Now we are on to D, Standards. 1, no alternate proposals.

BARCA: 2, Setbacks, we have four choices, staff recommendation, Mann, Maul Foster and Dentler.

MABREY: I'm sorry?

BARCA: We didn't say anything.

MABREY: Oh, okay.

COOK: You did.

QUIRING: Yeah, you were talking.

MABREY: Well, I'm sorry.

QUIRING: I like the Maul Foster a.

BARCA: And I'm also in favor of the Maul Foster.

BLOM: I had said staff as I was reading through this, but I could go either way, so I'll go with Maul Foster.

GIZZI: Well, so again it's immaterial, but --

BARCA: It's for the record.

GIZZI: -- we had heard in the hearing I think by County staff that no request had ever been rejected, so to me it seems that there should be some control on this and I would go with Mann's recommendation, but it's okay.

BARCA: For the record, Karl.

JOHNSON: I would want it replaced with Dentler.

POLL VOTE RESULTS – D.2.a:

BARCA: ***So we have 3 in favor of Maul Foster, 1 for Mann and 1 for Dentler, so Maul Foster for 2.a.***

BARCA: We go to b, there appears to be no alternatives.

BARCA: We're moving to Page 8, Number 3, no alternatives.

BARCA: And then Number 4 we have four choices, staff, CALM, Mann and Streeter.

JOHNSON: I would recommend staff.

QUIRING: I'm for staff.

BLOM: So as a question for staff, on the Chapter 173-60 WAC, is there anything that would preclude measuring from further in the property line? I would tend to go with Streeter just based on the testimony that was heard about if the property line is in a valley but the house is directly across. How does that WAC deal with that scenario or does it? And if it doesn't, then I would go for Streeter.

MABREY: I'm not sure that I know the answer to that.

COOK: I don't know, but I can look it up right now and will do that.

BARCA: We're going to take a moment.

COOK: It might take more than a moment. You might want to move on to another item.

QUIRING: Why don't we do that.

GIZZI: Shall we come back to 4 then?

BARCA: So we'll suspend deliberation on 4.

BARCA: Go to 5. We have three choices on 5.a, staff recommendation, complete strike from Maul Foster and Dentler and then the Streeter choice about operation times. And I think between staff and Streeter --

GIZZI: Three holidays added into Streeter.

BARCA: Did they add --

JOHNSON: Yeah, Easter, MLK and Veterans Day.

BARCA: -- Easter, MLK Day and Veterans Day. Oh, if there's no activity on Sunday, that pretty much covers Easter, doesn't it?

GIZZI: It would.

BARCA: So we're really down to MLK Day and Veterans Day, both of those being observed on Mondays.

QUIRING: Unless of course we go with Maul Foster and Dentler.

BARCA: Of course. I was just trying to differentiate between staff and Streeter.

QUIRING: Yes, they're just adding some Monday holidays where they're long weekends.

JOHNSON: I'm inclined to go with Maul Foster and Dentler.

PUBLIC: Our kids are home from school.

GIZZI: And I prefer Streeter.

QUIRING: Maul Foster.

BLOM: Streeter.

POLL VOTE RESULTS – D.5.a:

BARCA: And I will go with Streeter as well. ***So 5.a will be the Streeter proposal.***

BARCA: We'll go to b, we have staff recommendation, Mann and Streeter. And the difference between staff and Streeter was the start time on the Monday through Friday at 8:00 versus 9:00.

MABREY: That would be Saturday.

BARCA: Saturday, excuse me. Thank you for that clarification.

JOHNSON: I would like to see staff recommendation.

QUIRING: Staff.

BLOM: Staff.

BARCA: I'm staff also.

GIZZI: I would go with staff.

POLL VOTE RESULTS – D.5.b:

BARCA: ***Staff recommendation for 5.b.***

BARCA: And nothing on c for alternatives.

BARCA: We look at d, we have two there, staff or Mann. And I think to me the clarification that Mann puts into it, "Noise levels must comply with night-time noise requirements," is an important component. I'm going with Mann.

BLOM: I agree, Mann.

GIZZI: As would I.

JOHNSON: I would go with staff.

QUIRING: Yeah, I'm staff as well.

POLL VOTE RESULTS – D.5.d:

BARCA: ***So 5.d, Mann, 3 to 2.***

BARCA: We go to 5.e, we don't have any alternatives for (1). On (2) we have staff recommendation, CALM recommendation and Mann recommendation.

BLOM: Very strongly staff for me on this one.

QUIRING: I'm staff.

JOHNSON: Staff.

GIZZI: I would agree. I don't think we can limit business functions to public projects.

QUIRING: Days of operation and hour, but...

COOK: Mr. Chair, I think I've found what I need here.

POLL VOTE RESULTS – D.5.e.(2):

BARCA: Let me just close this one out then. ***So 5.e.(2) we'll go with staff recommendations, 5 in favor.***

BARCA: And now we are going to go back to Page 8, we're going to go to 4.

COOK: So WAC 173 Chapter 60, which is what is referred to here, is Environmental noise. And 173-60-090 says, and that's the Enforcement policy, "Noise measurement for the purposes of enforcing the provisions of this chapter shall be measured in decibels with a sound level meter with the point of measurement being at any point within the receiving property." So this chapter of the WAC already takes into account Ms. Streeter's thoughts.

QUIRING: Of the valley.

COOK: Yeah.

BARCA: So staff recommendation appears to be the same intent as Streeter's. We had some discussion about whether there was a difference. So now that we know that there's no difference between staff recommendation and Streeter's, can I just go through it again, please on who's in favor of --

QUIRING: Yes, staff.

JOHNSON: Staff.

BLOM: Staff.

BARCA: Jim.

GIZZI: Can I ask Chris a question?

COOK: Sure.

GIZZI: In the Mann proposal it says "whichever is lower," wouldn't that be implicit? In other words, if there was some type of a dispute or difference between the WAC and SEPA, wouldn't it be the lower of the two or the more restrictive of the two I should say?

COOK: Yeah. If there are two different requirements and one of them is exceeded or violated, then it's violated.

GIZZI: So then I would go with staff because it seems to be consistent with Mann.

POLL VOTE RESULTS – D.4:

BARCA: ***So we have a 5 agreement, 5 vote agreement on number 4, staff recommendation.***

BARCA: Which means we're now going back to Page 9 and 5.e.(3) there was no -- all right. Maybe I'm wrong on that. The wording looks like we have (3) and then there's a (4) from CALM. I'm a little confused on that. Are (3) and (4) segregated from each other and CALM just added a (4)?

MABREY: Yes.

GIZZI: Yes, they're trying to --

BARCA: So let's go through (3) then. 5.e.(3) there's no alternatives, we're accepting of that then. And then 5.e.(4) we have a proposal from CALM.

GIZZI: And actually I think when I was referring to County or staff earlier about there never being a refusal, I think they were referring to this, a request for outside of normal operations.

ORJIAKO: Yes, that's correct.

GIZZI: Sorry about that. So this is basically trying to put some type of numerical limit on how many times projects can go outside of normal hours I would believe.

BARCA: So we are either looking at putting empirical data forward that says there is a threshold that can't be gone beyond by the responsible official, or we're allowing the responsible official to take the heat and make the decision.

QUIRING: I say we make the responsible official responsible.

JOHNSON: I agree.

BLOM: Agree.

GIZZI: I'd like to see numbers.

BARCA: So we have 1 in favor --

HOLLEY: Which one did you agree with?

BLOM: I agree with Eileen --

JOHNSON: Striking it.

BLOM: -- with striking it, yes.

QUIRING: Striking it.

BARCA: So we have 4 in favor of striking, 1 wishing to have it remain.

BARCA: Now we also have it looks like three proposals for "In an emergency, the responsible official may waive the requirements," that looks like staff recommendation, it doesn't have a particular number next to it.

MABREY: We're going to suggest that that go in as in this case Number (4).

BARCA: So we would be numbering that one then as 4. So our choices would be staff recommendation, CALM recommendation and Mann recommendation, 5.e.(4).

QUIRING: Go with (4), I mean with staff.

JOHNSON: So can a County declare a state of emergency by itself if there's such a thing?

MABREY: I don't know.

QUIRING: Maybe (inaudible).

ORJIAKO: I don't know. I know that the Board can adopt emergency ordinance, but I'm not sure that the Board can declare emergency on their own. I don't know.

JOHNSON: I say stick with staff here.

BLOM: I agree, staff.

QUIRING: So we got 1, 2, 3.

BARCA: And that is my also. For the record, Jim.

GIZZI: I'll be okay with that.

POLL VOTE RESULTS – D.5.e.(4):

BARCA: **5 for staff recommendation, 5.e.(4).**

BARCA: We have two proposals for 6, Stormwater and erosion control, staff recommendation or Mann. I think the staff recommendation points out clearly what we have to get through.

JOHNSON: I agree.

QUIRING: Yes, I agree.

BLOM: I agree.

GIZZI: I don't think it hurts to have applicable federal and state requirements, but I do believe that they're probably embraced in 40.385.

QUIRING: But we don't -- yeah, we don't permit, the state --

GIZZI: I'm allowed to have my opinions, though; correct?

QUIRING: Yeah, I'm just saying.

GIZZI: I'm just saying.

QUIRING: (Inaudible).

POLL VOTE RESULTS – D.6:

BARCA: **So we have 4 in favor of staff recommendation for 6.**

BARCA: 7 has no alternatives, we're accepting that.

BARCA: We come down to 8, notification. So we have staff recommendation, we have CALM recommendation, we have Streeter recommendation.

And I'll have to say at this point in time I went through a lot of the public testimony on this, I looked at my notes again, we had a lot of conflicts from the public about what their choices were. I'm really wondering whether there are some other options that industry could have brought forward that might have helped clarify, because right now we're looking at people that are dependent upon technology and people that avoid technology and whether they're --

GIZZI: Or they don't have access to it. Maybe not avoiding, but don't have access to it; correct?

BARCA: Perhaps.

JOHNSON: Well, doesn't staff kind of cover that with one-half mile by mail at least seven days or by electronic communication, so at least you get two forms of communication going there. Or maybe -- wait.

COOK: That would only be one.

JOHNSON: That's only one. They would only have --

COOK: Yeah, if it were an "and" it would be two.

BARCA: Right. And that was going to be my point. I think we're looking at the idea of technology and low tech.

BLOM: If I can add one thing onto that, one of the things that we heard in testimony was someone that was outside of that half-mile radius but was still impacted by the sound. I would like to see an option for people outside of that half mile to opt-in by e-mail just like you would do any kind of marketing. Say, hey, I just want to see, I bet that would be a low cost to industry if you say, you know, I want to know when they're going to blast, I might be a mile away but it would be helpful for me to know. So if they can go on and say send me some kind of notification, that that would not be burdensome on industry but would allow the people that are maybe a half mile and ten feet away to still get notification.

JOHNSON: So can we add an "and" and do that? I mean are we allowed to do that right now?

BARCA: Yes, of course. We can modify any of these to our own intent. Can I get an agreement that we want to see the low tech and high tech options put together. Is there anybody opposed to that?

GIZZI: NO

QUIRING: NO

JOHNSON: NO

POLL VOTE RESULTS:

BARCA: So if we can agree upon that, can we work with the idea then that we add the mailing and the electronic communication with an option to be included on an electronic communication list if you are outside of the half-mile limit.

JOHNSON: So that opt-in clause would be from the homeowner or property owner --

QUIRING: To --

JOHNSON: -- to the e-mail --

BARCA: Listing.

JOHNSON: -- listing, so it would be fairly simple to do.

BARCA: That the mine operation would be required to distribute 24 hours prior to blasting. Is that wording acceptable?

JOHNSON: Yes.

QUIRING: Well, I didn't really get the wording, but...

GIZZI: I'd like to hear it one more time.

QUIRING: If outside the limits, opt-in for electronic notification?

BARCA: That's correct. ***So if you are outside of the one-half mile limit, you would not receive***

mail but you have the ability to request opting into the electronic communication at least 24 hours prior to blasting.

COOK: So could we put that after the word "limits" in the second line there. Something like "one-half mile of the mining limits, and to any other person who requests electronic notification."

GIZZI: Well, but then that would also, unless I'm misunderstanding what you're talking about, Chris, wouldn't that then also include them in the mail portion? And it wasn't I don't think --

COOK: No.

BARCA: No.

MABREY: Well, let's try this way. On the last line, so "or by electronic communication to anyone requesting such notice at least twenty-four (24) hours prior to blasting."

BLOM: That really gets at -- that describes what I --

QUIRING: Because that would be both people inside and outside.

MABREY: It could be anyone anywhere that wants an e-mail about it.

BLOM: And that leaves the default that mail, which that was part of the intent. But I think the default should be mail, but if someone wants to get e-mail, that should be an option available. Thanks, Mike.

BARCA: Well, let me clarify then what we've just said. Are we saying that everyone is an opt-in on electronic communication? I don't think that was my intent.

JOHNSON: Any.

QUIRING: No.

JOHNSON: Any.

QUIRING: Any.

GIZZI: Well, but Ron's point is that he was expecting that those within a half mile would not have to opt-in.

BARCA: Right.

GIZZI: Although I don't know how they'd build an e-mail list if they didn't, but...

JOHNSON: No. What I was hoping for here was try to -- I say I'm fine with staff's recommendation, that at the very least a half mile, seven days prior with snail mail and 24 hours with e-mail. But that if somebody outside of that wanted to opt-in, that that would be fine too, the e-mail list would have already been created for. It seemed to me that was a simple thing that they would just have to add a name to a list. It doesn't -- I don't think it causes that much more regulation than we're already asking.

QUIRING: And I actually think we should kind of limit it by in a sense those that are just outside the area rather than the universe being able to opt-in.

JOHNSON: But, I mean, I'll take your word because I know what you're saying. But even if the universe was trying to opt-in, we're just adding a name to a list, and so I understand what you're saying, but...

QUIRING: It could be a real troublesome name.

JOHNSON: That's true too. So I'm fine with that.

BARCA: Do you need us to paraphrase this again for you?

ORJIAKO: Yes.

GIZZI: Well, Chris thought she had some language and I think I was the only one --

COOK: I don't have it anymore.

GIZZI: Oh, okay.

BARCA: And I think we're pretty clear up here. So let's see if we can pass this down. So we're going to say **"Notice of blasting events shall be provided by the operator to property owners within one-half (1/2) mile of the mining limits by mail at least seven (7) days prior to blasting and by electronic communication at least twenty-four (24) hours prior to blasting. Any persons outside of the one-half mile limit may request to be included in the electronic communication."**

COOK: Requesting doesn't mean that they will be.

JOHNSON: They opt-in.

COOK: "Any person outside --

QUIRING: They opt-in to.

COOK: -- **who requests** --

BARCA: Who requests.

COOK: -- shall be notified by electronic communication," something like that.

BARCA: I can work with that word. Is everybody agreeable to that?

EVERYBODY: YES

BARCA: So we knocked that one out.

GIZZI: Now and just to be clear, you struck the word "or" and put in "and"?

BARCA: Yes.

QUIRING: So they're going to have to mail and e-mail.

BARCA: And inside the half mile, yes.

JOHNSON: Yeah. If you just want e-mail, you don't have to have both.

QUIRING: Well, it doesn't say that. It says they're going to have to mail seven days and then they're going to have to e-mail within 24 hours.

BARCA: So we are at 9, and it appears like we have three choices for Number 9. This is 5 -- no, I'm sorry. It's Number 9 on Page 10, we have staff recommendation, we have CALM's recommendation and we have Mann's recommendation. And I believe even though Mann's didn't get a 9 next to it, it is dealing with the same issue?

MABREY: Yes. Well, part of the same issue.

BARCA: So to the point that it doesn't appear to stand on its own.

QUIRING: What are the federal and county standards regarding lighting?

COOK: Well, there's one right in this provision. I don't know of others. There may be.

QUIRING: Well, this lighting that doesn't cast a significant light, that's what you're saying?

COOK: Well, that's a standard right there.

QUIRING: Yes. But I'm looking at the 9, the thing by CALM, and they've added the word "lighting" after "smoke." So I'm wondering what standards of lighting, federal or state or county

standards?

MABREY: And then they're proposing specific language for lighting in the following sentence and in b below.

BARCA: Yeah.

QUIRING: Well, but that's part of the staff's anyway, the lighting shall not cast. So you think that, I mean is that the reasoning then why they've added "lighting" up, that word there?

MABREY: If you look in addition to that, they've added some language under b --

QUIRING: Dust and Smoke.

MABREY: -- all lighting shall be limited --

QUIRING: Oh, okay.

MABREY: -- to the lowest intensity which allows the permitted, yeah.

QUIRING: Okay, I see.

JOHNSON: I'm fine with staff's recommendation.

QUIRING: I'm fine with staff's as well.

BLOM: Staff.

GIZZI: I'd like to see the additional verbiage that CALM has.

BARCA: And I was kind of in favor of the very simple Mann proposal. So we have 3 in favor of staff at 9 and we move forward with that. So now 10 we have four proposals, all of them residing on Page 10, staff recommendation, CALM recommendation, Mann recommendation and Maul Foster.

QUIRING: I'm in favor of Maul Foster and Dentler.

BLOM: I'm in favor of staff on this item.

GIZZI: As am I in favor of staff.

BARCA: And I can work with staff.

JOHNSON: Maul Foster and Dentler's proposal.

POLL VOTE RESULTS – D.9:

BARCA: ***So we have 3 in favor of staff and that carries then.***

BARCA: We are on Page 11 and we are looking at Item 11, two choices, we have staff or Maul Foster. I'm just going to say right up front, I don't really believe we have to be as prescriptive of telling them how to clean, that it just must be clean, and I'm in favor of Maul Foster.

QUIRING: Maul Foster, me too.

JOHNSON: Maul Foster.

BLOM: Maul Foster.

GIZZI: Sure.

POLL VOTE RESULTS – D.11:

BARCA: ***5 for Maul Foster on 11.***

BARCA: We move on to 12, we have three proposals, staff, CALM and Mann.

BLOM: I'm in favor of staff proposal.

JOHNSON: I'm in favor of staff proposal.

QUIRING: Staff.

BARCA: We have 3 for staff. Jim.

GIZZI: Well, I believe that there should be some calculation presented. I'm in favor of CALM. It says "The applicant shall identify the source or potential source," but it doesn't talk about calculating that and showing people their calculations so that you're able to see where they come from. I think it's important to understand to have the calculations in order to understand how they approximate it. So I would go with CALM.

BARCA: And I'm in favor of the Mann proposal because I think this is one of those places where we need to show the balance between the existing wells and aquifers and have an understanding of just by permitting, we aren't necessarily writing off those wells.

POLL VOTE RESULTS – D.12:

BARCA: ***So we have 3 in favor of staff proposal on 12, it goes forward.***

BARCA: And now we are E.1, a, b, c, d, e are all without alternatives.

BARCA: Our first alternative is at f. We have staff and Maul Foster, "Location of internal access roads and primary haul routes."

QUIRING: I go with Maul Foster and Dentler.

BLOM: Agreed.

JOHNSON: I agree too.

BARCA: That was what I had written down. And, Jim.

GIZZI: I think the location of the internal access roads is appropriate for surrounding properties to at least have information. I agree with staff's recommendation.

POLL VOTE RESULTS – E.1.f:

BARCA: ***So we have 4 in favor of Maul Foster.***

BARCA: G is without alternatives.

BARCA: We have two choices on h with staff proposal moving from Page 11 to the top of 12, and then the Mann proposal after that.

QUIRING: I agree with the staff's proposal.

GIZZI: I don't think it's a bad idea to have a monitoring and mitigation plan if there are wells within one-half a mile. I agree with Mann. I agree with Mann, I'll leave it there.

BARCA: And I would --

BLOM: I would --

BARCA: Go ahead.

BLOM: I would agree with Mann because I think there could be impacts that aren't anticipated, so some kind of monitoring is important.

BARCA: And this gets back to what I had just said previously, that I think for our balance, I think we need to acknowledge the fact that people are drawing water from the same aquifers that they're sharing, so I'm in favor of Mann. Karl, for the record.

JOHNSON: Staff.

POLL VOTE RESULTS – E.1.h:

BARCA: *So we have 3 in favor of Mann and h goes forward.*

BARCA: And now we have i. We have a CALM/Streeter joint proposal, and then we have a staff/CALM joint proposal.

GIZZI: No, that's j though.

BARCA: Is it j?

GIZZI: Yes.

ORJIAKO: Yes.

BARCA: Oh, pardon me. I is without an alternative, it's a matter of whether we include i then.

BLOM: I would not include it.

QUIRING: I would not.

BLOM: It's covered by the WAC standards in my opinion.

JOHNSON: I agree.

GIZZI: I would include it because I think a baseline is important.

POLL VOTE RESULTS – E.1.i:

BARCA: *So we have 3 to strike and that's the majority, 2 for it, so i is struck.*

BARCA: And now we're at j, staff/CALM joint venture. And I saw components of this that I liked and components that I didn't, and I don't know how anybody else feels. So I think we need to first of all say, is there any of this that anybody would like to see in and then we can go through it piece-by-piece. I am in favor of keeping it in some portion, so...

GIZZI: I agree.

BLOM: In some portion, yes.

BARCA: So we will go through it. And now let's go through (1), include or strike. To me we've not received any kind of testimony about life of the mining operations. I doubt that we would get that as that being sensitive information towards the business.

QUIRING: Maybe. Probably.

BLOM: In the first line, before we get to (1) because I understand your point, but I think maybe before we get there saying "as available." So "traffic impact analysis including the following elements as available, or as directed." Because I think it would be good to have an idea of the estimated life of the quarry or mine if we can get a rough idea of that, or some of these other elements depending on the location and depending on the resource may or may not be able to identify that. So it's not a bad idea to say, well, let's get it if we can, but if we can't it's not going to be required.

BARCA: Let me understand what you're saying. Are you saying that the entire traffic impact would then be an option?

BLOM: No, as directed by the director of Public Works. So if there was an item on the traffic impact analysis that we choose to include here that in a specific case may not be applicable, that it could be at the discretion of the director of Public Works left off of that particular traffic analysis. And that's dealing primarily with item (1) I suppose.

GIZZI: Well, would it be acceptable to say "estimated life of the quarry/mine as available" or "if available"?

QUIRING: Well, yeah, but I think he's talking actually about the line above I think.

BLOM: And then what Jim proposes gets to -- that's what I was referring to, but I think what Jim is suggesting gets to my intent, so I'm fine with that.

QUIRING: So you're not talking about putting the "as available" in the comment j?

BLOM: That was my initial proposal. But looking at the other items -- because I think there could be some of these other items that we may want to include that may not be available in every case.

QUIRING: Yeah. I would strike (1), that would be my vote.

BARCA: So let me address what John is saying. And I think certain components of this I think are fundamental to a traffic impact analysis, trip generation, trip assignment, capacity analysis, I think those are like the fundamental building blocks.

ORJIAKO: Item (5).

BARCA: Item (5), safety analysis, right.

QUIRING: That one definitely.

COOK: These are all the sorts of things that traffic engineers typically do.

QUIRING: Deal with, yes.

BARCA: Yeah. The only one that I thought was perhaps out of boundary was (1).

ORJIAKO: (1).

QUIRING: Yeah.

BARCA: Yes.

BLOM: The reason why I think (1) should be included if possible is it makes a difference of how much wear is going to be on a road. If it's a small mine where you know it's only going to be operated for two years, it's going to be a lot less wear on there than if it's a large resource where you know these trucks are going to be going on it for 25 or 30 years, and that's my reason for wanting to include it if that information is available.

GIZZI: Yeah, I think it's a good point.

BARCA: Well, let's just do the vote on whether as a group we choose to include it or exclude it. Are we all right with that?

GIZZI: So we would include "Estimated life of the quarry/mine if available" --

QUIRING: That's what we're voting on.

GIZZI: -- is that correct?

BARCA: Or delete it altogether.

QUIRING: Or not.

BARCA: That's my proposal is this is an up or down for Number (1).

GIZZI: But if it's up it includes the words "if available"?

JOHNSON: No, I thought that was in the first part.

BARCA: No. Let's regroup. So there's a proposal to modify Number (1) to add the words "as

available" to the end of "Estimated life of the quarry/mine as available." If we accept that modification of the wording, I believe we still need to have an up or down vote on whether (1) is included in the traffic analysis.

GIZZI: Agreed. Yes.

POLL VOTE – 3.1.j.(1):

BARCA: So the terminology "as available" can be included for Number (1). And now let's take the vote on whether (1) exists or is deleted.

GIZZI: Stays.

JOHNSON: Delete.

QUIRING: Delete.

BLOM: Stays.

BARCA: ***And since I launched this discussion by saying I thought it should be deleted, I go with delete also, so 3 to delete.***

BARCA: Now is there any of the rest of the wording of (2) through (7) that anybody feels needs to be modified?

GIZZI: No.

QUIRING: 15 year, I mean is that a customary --

MABREY: Yes. All of this language came from the Public Works Department so CALM simply included it in their letter, it came after I did a draft. And I had intended to do a traffic impact analysis part, but I didn't have it done, so...

BARCA: So then I think we're at up or down with (2) through (7). We can take them individually, or if we're agreeable we can just do them all together. Are we okay with doing them all together?

GIZZI: Yes.

POLL VOTE RESULTS – E.1.j.(2) through (7):

BARCA: Anybody wishing to delete (2) through (7)? ***Then we are all in agreement to keep (2) through (7).***

BARCA: Let's go to k which is an addition added by CALM. I think this is redundant to --

JOHNSON: I agree.

BARCA: -- something that we already agreed upon about being approval by the director of Public Works.

QUIRING: Yep.

JOHNSON: I agree.

QUIRING: I agree.

GIZZI: Where was that?

BARCA: Was it 11?

JOHNSON: It was 11 where it was access and cleaning.

BARCA: Yeah. I wrote down that I thought it was redundant, but I didn't --

COOK: Number 10 on Page 10.

BARCA: Ah. Thank you, Chris. Yeah. Are we in agreement on the redundancy?

QUIRING: Yes, I am.

JOHNSON: Yes.

BARCA: Jim, for the record.

GIZZI: I don't agree it's redundant, no. I don't think it is.

BARCA: So you would like to keep it?

GIZZI: Yes.

BLOM: I would strike it.

BARCA: We have 4 to strike.

COOK: Excuse me. Never mind. Pardon me.

POLL VOTE RESULTS – E.1.k:

BARCA: ***So we have 4 in favor of striking k.***

BARCA: 2, 3, 4, no alternative proposals.

BARCA: We're on the bottom of Page 12 and the top of Page 13 for 5. We have staff recommendation and then CALM recommendation.

QUIRING: I'd go with staff.

JOHNSON: Staff.

BLOM: Staff.

GIZZI: I would go with staff.

POLL VOTE RESULTS – E.5:

BARCA: ***We have 5 in favor of staff recommendation.***

BARCA: And now we move to Page 13 to 6, and we have three options, staff, Maul Foster and Dentler which says "Use existing notice provisions for Type II and III." Type II and III, are they still relevant under our discussion of doing a Type IV format?

COOK: Well, Type IV is for overlay designation, but if you --

BARCA: Oh, only for overlay, pardon me.

COOK: -- if you turn to Page 12, Number 3 is a Type II-A, so that is absolutely relevant. And I don't -- I guess there isn't a specific notice provision for the designation.

MABREY: Well, the difference here is that for an application under Type II, it's 500 feet in the rural area --

COOK: Right.

BARCA: Right.

MABREY: -- as opposed to here we're recommending a mile plus along the haul route, and the difference between staff and Maul Foster is just a wordsmithing. I actually prefer their language if the concept is acceptable, so...

BARCA: And I had already picked Maul Foster.

QUIRING: So did I.

JOHNSON: Maul Foster.

BLOM: My only question on this one is they are required to identify a primary haul, and then also are they required to identify a secondary? My concern is if they identify one as a primary and find that another one, another route actually ends up being better, I would tend to lean towards staff until you said you like their language. So that's why I preferred yours originally was because what if the primary ends up not being the primary and then those people have not been notified.

MABREY: Yeah, that certainly could be an issue and an interpretation problem. So if you're concerned that most of the traffic could initially be assumed to go turning right instead of left, yeah, it would affect a different group of people. So to be broader you would stick with staff's I suppose, or change the language to include primary and secondary, however you want to do it.

BLOM: My preference would be to change the language to primary and secondary haul routes.

BARCA: Discussion?

JOHNSON: I'm fine with the language of Maul Foster.

QUIRING: Me too.

GIZZI: As am I.

POLL VOTE RESULTS – E.6:

BARCA: ***We have 4 in favor of Maul Foster as written.***

BARCA: So now we're going to go to F, Monitoring and Enforcement. Everything in here is underlined --

QUIRING: Meaning?

BARCA: -- proposed by CALM.

GIZZI: All of it is proposed by CALM, Mike?

MABREY: Yes, the whole section there, 1 through 4.

QUIRING: I'm not for including it.

BARCA: I had some concerns about whether all of these conditions could even be enforced. So I think the need for some type of monitoring and enforcement is necessary, I don't think that we would be able to execute what we have in front of us.

BLOM: I think from the testimony that we heard in some way there needs to be better enforcement of the standards that are out there, but I don't think this hits the mark or is within our means to be able to do. So I would agree with both in striking Paragraph F, Section F.

GIZZI: Well, I know it's a surprise, but I wouldn't agree with that. I've already said that I think monitoring and enforcement is something that we should build into this policy, but --

BARCA: Right.

GIZZI: -- I'm the lone voice out here.

BARCA: So I think we're in agreement to strike. But I would like to make a proposal to add a recommendation to staff for some type of monitoring and enforcement language that could be proposed that would try and address some of the concerns that have been put out there already from our hundreds of hours of testimony from the public, because I believe you'll be hearing it all again through the Commissioners and the questions will be raised. Is there anybody opposed to asking staff to go with that?

QUIRING: I don't oppose it. But I, you know, like for instance this says hearings to be held within

12 months, and when something is permitted or conditionally permitted, and then you hear something and you have to have a hearing within 12 months, you're revisiting something that has already been --

BARCA: Get closer to the microphone.

QUIRING: -- you're rehearsing something that has already been permitted for instance. I mean I just think it's -- this is a bit redundant. To have enforcement, we should have, and monitoring. But we've already decided that we can't have a person that is going to be over all of this, because that was suggested earlier and we don't, I guess we don't have the resources to do that basically.

I don't oppose having some sort of monitoring. I just don't think that we need to have ongoing hearings for a permitted use unless there are problems which would go to a maybe a hearing's officer or something. I don't know.

GIZZI: Well, I thought that was Ron's suggestion was doing away with this language but adding something in to direct staff to try and find a way to work in monitoring and enforcement.

QUIRING: Some way, yes.

GIZZI: I thought that's what he said.

BARCA: You're agreeing with us.

QUIRING: Yes, basically. Just a cautionary note.

BARCA: So I don't believe I heard from you, Karl.

JOHNSON: Well, I mean it goes without saying. I obviously -- this is I just think it's another layer of bureaucracy that hinders the industry. And I realize that somehow this has not been working correctly. But at some level I just am trying my best to keep the focus on protecting jobs in an industry, and when we start laying this kind of stuff on with, you know, specific details about how this is going to happen, I think we start to hinder jobs, and so that's where I stand. So I am not for even adding that, that's going to work its way out, but I'm obviously in the minority here too, so...

PUBLIC: Driving crappy trucks is not a job in a community with resources.

BARCA: So, John.

BLOM: I would agree with what you proposed that some kind of recommendation, but I would also echo the same cautionary, there shouldn't be another hearing. I mean the hearing's been had, the decision's been made, whatever was said at the hearing needs to be enforced.

QUIRING: Yeah.

POLL VOTING RESULTS:

BARCA: So just to recap then. ***We are striking monitoring and enforcement as proposed by CALM, asking staff to revisit that with the hopes that something goes forward to the Commissioners that tries to address the needs for monitoring under the process.***

BARCA: So we're now down to Temporary Uses and Structures, C, then we go to 3, Exceptions. And it looks like 3 and b are CALM recommendations; is that correct?

MABREY: So this should be bolded in one version, and then CALM is suggesting that there not be any changes to add "or mining" to the temporary use exceptions.

GIZZI: So these are staff recommendations and CALM has struck the words "or mining"?

MABREY: Correct.

ORJIAKO: Yes.

QUIRING: So why are we seeing this again when we've already addressed temporary --

MABREY: Well --

QUIRING: -- structures?

MABREY: -- this is a change --

QUIRING: Is this a different section?

MABREY: -- within the temporary use section that would basically treat construction trailers and temporary office-type trailers within mining sites the same as we treat them in construction sites. Right now there's some ambiguity about whether that applies. And the recommendation from the mineral lands task force was that we add the language "or mining" in this section to make it clear that in mining sites you could have trailers and --

BLOM: So if I'm understanding, their proposal isn't actually on here, it's the CALM without the deletion of "or mining," am I following you correctly?

MABREY: I guess what I would say is they would rather keep it the way it is now where mining is not even specifically listed, and the mineral lands task force recommended that we add "or mining." I didn't pick up on it because it was sort of one of those off-the-table issues that we weren't too focused on, but...

BLOM: So I would be in support of the mineral lands task force recommendation that the mining be included, yeah.

BARCA: So that is Item b without the struck language of "or mining."

GIZZI: Yeah. I feel like we have to have it in here because we allowed temporary. I think they would be in conflict if we didn't have mining here. So I'm also in support of including it.

QUIRING: So it's 3.b, it's 3 and b that we're talking about?

BARCA: 3 and b without --

QUIRING: Without striking "or mining site"?

BARCA: -- striking "or mining" phrase. And are you okay with that?

QUIRING: Yeah.

POLL VOTE RESULTS:

BARCA: ***So we have 5 in favor of the mineral lands task force recommendation for 3.b.***

BARCA: We have the next portion is struck out and there's no alternatives. And so anybody with a problem with that?

GIZZI: No.

BARCA: We have closed this document out. Thank you very much. We're going to take a ten-minute break. Good work.

(Pause in proceedings.)

BARCA: Okay. Welcome back. And we are ready to go. Can I get a motion, please on the draft.

ROLL CALL VOTE – DRAFT POLICY CHANGES AS RECOMMENDED:

JOHNSON: I motion that we accept the draft policy changes as accepted and as amended through our discussion.

QUIRING: I'll second it.

BARCA: So we have a motion to accept the recommendation alternative proposal as amended by the Planning Commission. So no more discussion? Roll call, please.

JOHNSON: AYE

QUIRING: AYE

GIZZI: NO

BARCA: AYE

BLOM: AYE

BARCA: We have something to move forward to the Commissioners. So we are now going to move to the Biannual Code Review, and we invite our other Commissioners to rejoin after such a long absence.

USKOSKI: I've missed you all.

BARCA: Mike, thank you for your work and hanging out with us, it's been many hours. Let the record show that Commissioner Uskoski has rejoined us.

B. FALL BIENNIAL CODE REVIEW CHANGES AND REVISIONS

BARCA: And, Jan.

BAZALA: Good evening, Commissioners. Jan Bazala, Planner II with Community Development. Once or twice a year staff brings forward miscellaneous code changes. Most of the code changes are identified by staff in the course of review of various permit applications or researching questions from customers. Some of the changes to the cell tower section however are initiated tonight by a law firm representing the cell tower industry, they weren't initiated tonight, but it's on the docket, so...

So in your packets you should have Attachment A which has the complete text of the code changes. And also in the updated packet you should have a new letter from the Busch Law Firm which is a law firm representing the cell tower industry. And also there should be a revision to Item 21 which was given to you at the work session, but it's back in your packets again. So when we get to Item 21, we'll look at that revision instead of the one in the original Attachment A.

So the Attachment A is broken down into a few different categories. There are SCRIVENER'S ERRORS which correct obvious mistakes. REFERENCE UPDATES which update references caused by other changed codes or agency processes. There's some CLARIFICATIONS sections that are intended to make existing code language more clear. And, finally, there are some MINOR POLICY CHANGES which may have relatively small impacts to existing County policy.

The Board of County Commissioners had a work session on October 16th and directed staff to proceed with these changes. The Planning Commission held a work session November 21st. SEPA determination of nonsignificance was published in the Columbian on November 6th and no comments were received.

In addition, the text of the proposed changes was presented to the Development and Engineering Advisory Board. Although they did not provide an official recommendation letter, they were on record as supporting all the changes as written. So there's nobody here from DEAB to testify just because of the lateness of the evening.

So without further ado, I would propose, unless there were any questions on the scrivener's errors, that I was just going to not cover those unless you had any particular questions on Items Number 1 through 5. All right.

Then we'll move on to the section on REFERENCE UPDATES which begins on Page 5 of Attachment A. Item Number 6 is some updates to the Clark County Weed Code, but since that is not a development regulation, you guys don't have to review it.

Number 7 is to update the SEPA grading threshold in the grading code to 1,000 yards to reflect some recent categorical exemption changes. Not too long ago SEPA categorical exemptions were raised up to 1,000-cubic yards for grading and the reference in the grading code was missed rather embarrassingly. So it's not a policy change, it's just an update to the existing code.

Item Number 8, in the urban holding use table is to update a reference to an outdated light industrial code section. This is really kind of a scrivener's error. The industrial code section was renumbered not that long ago, so there's an old reference to an industrial code section that needs to be changed.

Number 9 is to update the ADA sidewalk obstruction minimum clear space from 36 to 48 inches. Basically this is in the transportation code. It requires that if you have a five-foot wide sidewalk and you have something like a telephone pole or a mailbox in the sidewalk, that you have to maintain at least 36 inches, that's the old standard. But the Federal standards have bumped that up, and so now it's required that you need 48 inches of clear space around an obstruction. So we don't have a whole lot of choice but to comply with that Federal ADA standard, nor would we want to not comply.

Number 10 is to update the transportation table. This is a table that has references to Standard Details Manual drawing numbers. Basically Standard Details Manual consists of a lot of technical drawings of road cross-sections, among other things, and recently they've updated the Standard Details Manual, renumbered their drawings. So we're just going to update the numbers in the table to comply with the actual numbers that they are in the Standard Details Manual now.

Also in this table there are some revisions to the extreme right-hand column which is the total planter LID utility strip that's left over. Some miscalculations were done because of the way curbs were not included in some of the cross-sections, so those -- most of those numbers have decreased by a foot. Actually, not most of them, just a few of them.

So Number 11 are some updates and clarifications for stopping sight distance in the transportation code. Basically this section of code talks about sight distance at intersections and driveways and other technical sight requirements. And this has needed some updating for a while because other guidance manuals such as AASHTO and WSDOT standards have changed and the County wanted to update these to become more consistent with those updated standards. Also there was some confusing language that was in here and it is hoped to be more clear.

Oh, there he is, Ejaz Khan is here at the last minute. If you have any questions on that, it's rather technical and I don't know much about them, so... Just know that the DEAB has reviewed all of these and they kind of understand what these -- the ramifications of these and they are fine with them, so... I don't know if you have any other questions on this item or not.

BARCA: I think just keep rolling and we'll interrupt you if we need to.

BAZALA: All right. Great. Number 12 is to change a reference to design requirements for permeable pavement from the Standard Details Manual to the LID Technical Guidance Manual. Right now the transportation code talks briefly about alternative surfaces such as pervious pavement or permeable pavement and it references the Standard Details Manual.

It was hoped that the Standard Details Manual would provide a detail that shows how you do permeable pavement, but it's so variable that it's not easily contained in one standard detail.

So instead the reference is to the LID Technical Guidance Manual which is technical guidance put out by Ecology and I believe Washington State University. So it's got, you know, pages and pages

of guidance on how to do permeable pavement, and it really does depend on the site and lots of other site-specific details. So we're just going to refer people to that guidance manual instead.

Now we're moving on to CLARIFICATIONS, and I'm on Page 14. This item is to clarify text in the resource and rural zones referring to the re-subdividing of a remainder lot of a previously approved cluster subdivision. In the rural and resource zones we have and still do allow cluster subdivisions.

COOK: We don't have clusters in resource.

BAZALA: Not in the resource. We still allow them in the rural zones, we don't allow them in resource anymore, but there are still some of those out there. And so the idea with the cluster subdivision is to cluster the residential development on small lots and preserve a large remainder lot and that serves as the purpose of either wildlife habitat or agriculture, and the idea is not to develop to the overall density.

So if you have 50 acres and your zoning is 5 acres, you could have 10 one-acre residential lots and one 40-acre undeveloped remainder. You can also elect to have a residence on a remainder lot, and in that case you'd have 9 one-acre lots and one 41-acre remainder with a residence.

In 2011 provisions were added to allow previously approved residentially developed remainder lots to plat off that residence on its own lot, and in the resource zones the language was effective and it did what it was supposed to do. Because the intent of allowing the additional lot was not to allow additional development to occur on the remainder, it was only to segregate out that existing lot from the remainder so somebody could sell that lot independently of the larger lot and get financing as well.

So in the resource zones the text is basically sound, but in the rural section there was some sloppy language there that appears to allow further subdivision of the remainder lot and that was never the intent of that code revision. So we are fixing, closing up that loophole with the proposed text.

Number 14 is to correct an old reference to animal day care. In the MX zones there's a listing for animal day care, and the correct term is animal day use facility. There's a definition for animal day use facility; there is not a definition for animal day care.

Number 15 is to clarify lot coverage percentage in the employment zones. In the employment zones table there is a line that states that you can have maximum lot coverage of 100 percent in all the employment zones.

Then there's another line below it that says for some of the zones, you have to have 10-percent landscaping, 15-percent landscaping, so you cannot get 100-percent lot coverage. And it seems to be a little bit misleading to say that you can have 100-percent lot coverage when it's not feasible. So instead we're proposing language that says that the maximum coverage is determined by compliance with landscaping, stormwater and other applicable standards. So it's kind of a no-brainer I hope.

Number 16 is to clarify that the 18-foot setback requirements for garages applies only to the front of the garage. Typically that 18-foot setback assumes that the garage is facing the front of the lot and you're going to be parking the car in front of the garage, and so we wanted to have sufficient length of driveway so that you could park a car without intruding over the sidewalk. But not in all cases the garage does not face the front, and then in that case, we don't see why you couldn't allow a regular 10-foot setback, front setback, and as long as you would still have your garage doors coming in from a different area and not off the street.

Number 17, clarify that single-family residential accessory buildings are allowed in the commercial and mixed use zones, and that such buildings can be replaced subject to prior approval. There's been a -- well, the code currently does allow existing residences without any increase in density, but it doesn't speak about whether accessory buildings like garages can also be constructed. And it

also doesn't really warn people that if you remove an existing residence and then want to come back and replace it, it's no longer existing. So additional text here provides notice that if you want to remove a building, to get prior approval to do that and document that there was an existing residence and you want to replace it. So hopefully this should save some headaches for people.

Let's see. Number 18, now I'm on Page 26, explicitly list agricultural stands and markets and accessory residential uses as allowed uses in the employment zones. When the agricultural stands and markets code was passed a couple of years ago, the Board wanted to make it clear that they were allowed in all zones. And when the recent updates to the employment zones were completed, that list was overlooked. So we're just adding an additional line item, it's not a policy change, it's just clarification. And then we're also adding text very similar -- the same thing as what we did in the commercial zones, that if you have an existing residence, you can replace it and you can also build accessory structures in the industrial zones as well.

Number 19 is to clarify that rolled curb is not allowed on county roads other than the bulbs of cul-de-sacs. Rolled curb is the kind that you can sort of drive over. There's some benefits to it in that when -- once it's installed, you don't have to remove it to put a driveway adjacent to it, you can just drive up over the curb. However, in the past there's been problems with -- especially with narrower streets, people tend to drive up on to the sidewalk because you can, and that's, you know, you're blocking the sidewalk and creating an unsafe situation.

So, anyway, some years ago rolled curb was prohibited on all roads except for cul-de-sacs. And when the transportation standards were updated recently, a footnote that stated that was misplaced and we were kind of left a little bit with our pants down regarding vertical curb. Although, the Standard Details Manual already shows that vertical curb is -- that rolled curb isn't allowed, so this basically just covers our bases.

Number 20, clarify that the width of residential driveways can be limited when they have to be closer than 50 feet to an intersection. When you have -- well, there is existing code that says that your driveway is not to be closer than 50 feet to an intersection, but there are a lot of lots that are created that are less than 50 feet, so obviously you can't locate your driveway 50 feet from an intersection. So typically you've had to get a minor road modification to allow a driveway closer than 50 feet.

And we used to limit the width to 12 feet, but that's always caused a lot of grief for applicants and there's always been a lot of fights. And it didn't specifically say, the code didn't specifically say you were limited to 12 feet, but that was the policy. So because many people want to have a two-car garage, a 12-foot wide driveway doesn't really fit that bill. So the decision's been made to allow a 20-foot wide driveway without a road modification, so... The Public Works Director is on board with that.

Number 21 has been revised, and so we can refer to the revision to Attachment A. Basically this one is a change to allow four lots to be accessed, to allow four lots to be provided access to a street via a shared driveway without requiring a minor deviation. Historically the number of lots that can access a road via a shared driveway has been three, but the County's policy towards this number has gradually become a little more flexible.

A few years ago narrow lot standards were created, and in those narrow lot standards four driveways were allowed -- or I'm sorry -- four lots were allowed to be accessed via the shared driveway. And then when the road modification code was changed a couple of years ago, increasing from three to four was just, it just became a minor deviation.

So it's really there's no fee for it, it's basically you have to explain why you want four instead of three. And generally we really weren't able to say no to them anyway, so basically four has become the de facto new standard. So we're just going to propose that we allow four lots;

however, we're going to draw a more strict line at four. So if somebody wants to come in and do five, then that's going to be a more significant road modification than the old minor deviation was. So that's Number 21, revised 21.

So we'll go back to the other attachment, and we're now on Page 30, we're into CODE INTERPRETATIONS. And this is to replace the outdated term "riding stable" with "equestrian facility." There's an ambiguous term of riding stable in the urban holding use table. And now everywhere else in the code we got rid of that ambiguous term and defined them either as equestrian facilities or equestrian event center.

Equestrian event center is a big deal where you have seating for 100 people. Equestrian facility is more scaled back, what most people do which -- let's see. An "Equestrian facility means a facility or facilities used by the general public, and for which a fee is charged, for the boarding, feeding, and/or pasturing of at least six (6) horses, including training arenas, corrals, and exercise tracks," et cetera.

So we have made the call that the intention of a riding stable in the urban holding zone should be an equestrian facility and not a much larger equestrian event center. So this is -- that's the clarification we're making.

BARCA: So it's not a day use facility, equestrian day use?

BAZALA: No. Nor is it horsey day care. Number 23 is to allow reduced setbacks for retaining walls that are built internal to a subdivision. The landscaping code has a requirement that if you're building a retaining wall greater than four feet, that it has to meet the building setbacks for the zone.

And the intent of that requirement is that if you have your lot in your neighborhood and your neighbor wants to build a tall retaining wall, he builds it right on your property line and then suddenly you're looking, you know, it could be a very large tall retaining wall. And so the idea was to move the wall back a little bit to give people a little bit of privacy and maybe prevent some shading, things of that nature. But in some cases it's really kind of a hardship, especially if a developer is creating retaining walls as part of their subdivision.

So what we're proposing is that you can put retaining walls right on the property line as part of the development process of doing a subdivision. And also if your retaining wall is abutting the street right-of-way, then you're not really hurting your neighbor because you got a whole street that's separating you. Also we have made a provision that if you own both lots and you want to put a retaining wall right between your own two property lines, then you should be able to do that because it's your property you're affecting. So that's that one.

BLOM: Just one question on that one, on the retaining wall, if it's done prior to the lots being sold, is there anything that specifies whose job it is to maintain that or is that covered someplace else? I understand in a subdivision you put in a retaining wall it's right on the property line, two years later it starts to give, if it's right on the property line, who --

BAZALA: Well, I should say it's set back onto one property, so... And there are some minimal building code setbacks that have to be met so, but they're less than what the building -- than what the zoning code would require.

BARCA: So it's clearly owned by one property owner or another?

BAZALA: Yes. Yes. Number 24, now we're in the realm of MINOR POLICY CHANGES. Number 24 is to change financial guarantee method for the removal of firework stands, not a development code change, so you don't have to review it. Number 25 is updates to the fees for Public Works informational signs. Again, don't worry about it. Number 26 is another one that you don't need to worry about.

So we'll move on to Number 27 is to reduce the level of review for cell tower co-locates that don't substantially change the dimensions in all zones from a Type II to a Type I, and then to simplify some submittal requirements.

So there were some changes -- well, first off, there has been Federal legislation that basically does not allow a jurisdiction to deny a co-location. It doesn't say that we can't review co-locations, but the idea is clearly to, you know, facilitate the installation of these kinds of facilities.

The State SEPA code has been amended to no longer require SEPA review for co-location in more zones including residential zones. So one of the reasons that we had to require a Type II review for co-locates was that SEPA was required, so it automatically triggered a Type II review because you had to -- SEPA is a Type II process. So every other permit that goes along with it also has to be a Type II, so SEPA's been changed. So we can now reconsider whether we need to provide public notice for co-locations being the cell towers are there, so are we getting a whole lot by providing public notice for co-locations.

And so we're proposing to make the Type IIs, the Type II co-locates that once were, now make them Type Is but they'll still have to be exempt from SEPA. If somebody provides or proposed a co-locate that substantially increases the facility, then it won't be subject or it won't be exempt from SEPA and it would still have to go through a Type II. There's a footnote in here that still catches that, so...

Let's see. So we have made some changes on Page 33 to when upgrades are exempt. So on Line Item 25 of Page 33 there are some changes that says that "maintenance, repair, or upgrade of previously approved wireless communications facilities," and we've added additional language that includes "support structures, and support towers; provided, that such activity does not substantially increase height, width, or mass of the facility." So that's the language that you've got in front of you.

In recent weeks I've been looking at this language, and the more you look at it and the more you dig into it, it seems to be a little bit vague as to what we would consider an upgrade. So I have been talking with Meridee Pabst in regards to how we could possibly clarify this, and she has some text that she might suggest in regards to clarifying this section about what should be exempt and what should not be exempt because an upgrade is sort of a vague term, what does that mean, so... So that is sort of a possibly a weak point.

Also I think in the Planning Commission workshop or work session there was some questions about, you know, what happens if you add ten feet and suddenly you need a light, should it still be exempt. So some additional work could be used on that I believe.

Further, we'll move on to Page 36 where this is the table that determines what level of review is needed. So in the left column or the co-location on existing support tower column, here's where we've made the changes from a Type II review for a co-locate in all zones, we've moved that down to a Type I. The tower is already there, the antennas are already there. Should adding more antennas be a Type II review that requires public notice? SEPA says no. SEPA infers no. The Federal government is inferring no, and so we are going to agree with that.

Now the middle column which is applies to attached wireless communication facilities on existing support structures. When I made these changes, I didn't fully realize that this column pertains to new antennas going on existing structures. So if we change from a Type II review, say like on the rural, in the rural zones, currently it's a Type II review so public notice is provided, if we change to a I as I have here, then a new antenna, a new facility would be located in the neighborhood and public notice won't be provided. So, you know, it might be appropriate that when a new site is created for wireless communication facilities, that people should be made aware of that. I will let you guys decide that. There isn't a whole lot we can do. We can review them.

A Type I review and a Type II review really have the same code requirements, the main difference is that a Type II review provides public notice. As long as the application is meeting the code, there's really nothing that the public can say to prevent it, it's just it's maybe a courtesy. If somebody really doesn't like cell towers, antennas near their house, they could elect to get out of Dodge maybe, but if they don't know about it, is that fair. So I would, in retrospect, I would have not proposed any of the changes in the middle column, I would have left it alone as it is, but that doesn't necessarily mean that that's required to be done. And Meridee might talk about possibly some options on that.

One item that really is an error, in the line item for urban reserve, urban reserve and urban holding line items were added because they were just a footnote that follows the table and it just didn't seem to be appropriate, so I added the urban reserve line and added the urban holding line. And in the far right-hand column for the urban reserve it went from a II to a I and that really should be a III in that right-hand column, and that's current policy, and nobody's proposing that we allow a new support tower with a Type I review, so please note that that is an error.

BARCA: So, Jan, are you leaving Number 27?

BAZALA: Let's see. There are some further changes, further, you know, on Page 39 which basically simplifies some of the submittal requirements for co-locations. Let's see. I think that's for co-locations, yes. So there might be a little bit excess information required in that section that we've agreed may not be needed. So with that, I'm done with that item.

BARCA: So before we move to 28, I'm going to ask that we have the industry representative come forward. Are there any questions for staff before we have industry representatives come forward?

GIZZI: Well, I don't know if it's better directed to Jan or to industry, to the Busch Law Firm, but I'm unclear on the difference you're drawing between a co-location and attached wireless communications facilities on existing support structures, so I don't really see the difference. I mean I can come up with a couple. I don't know if it's best for you guys to talk about that or --

BAZALA: Well, apparently there's some varying interpretations among different jurisdictions, and we have a definition of co-location which I can read to you, but typically I think of it as when you have existing facility with antennas and mostly a tower. When you have existing antennas and you want to add more antennas to that tower, that's typically what we consider a co-locate.

GIZZI: So I think typically a co-locate is AT&T has a tower and it's got antennas on it and Verizon Wireless wants to come in and put their antennas on the same tower, that's industry standard co-locate. So they're co-locating on AT&T's -- well, maybe it's AT&T's tower, it could be American tower, it could be somebody, but they're putting their facilities on the same structure or tower as another carrier --

BAZALA: Right.

GIZZI: -- so that's a co-locate.

BAZALA: Right.

GIZZI: So AT&T and Verizon are sharing, they're co-located on the same tower, that's my understanding.

BAZALA: Right.

GIZZI: So this WCF on existing support structures I don't exactly get.

BAZALA: So if you have a church steeple, you can put a cell tower -- you can put an antenna, a transmitting antenna on the church steeple. So instead of using a cell tower, you're putting these antennas and emanating a signal - I'm sure that's not the technical term - from other structures, so it

could be a water tower, it could be a church steeple, it could be other things like that.

GIZZI: So you're basically talking about a new I'll call it a cell site but it's on an existing structure.

BAZALA: Right. Right. You're not building a tower, but you are introducing antennas and broadcasting signals where there were none before.

GIZZI: So one of the things to take into consideration clearly is that when we're adding -- so now I clearly have the difference in my head. When we're adding or attaching these carrier facilities or communication facilities on to an existing support structure, a lot of times the reason the public wants to have input is maybe aesthetics.

So sometimes then -- and I realize that, you know, we can't -- the Federal Telecommunications Act doesn't allow anybody to say no, but it does allow people to say, hey, whoa, you know, let's at least try and disguise these antennas.

And we as a county have the ability to say, look, this is an important place for us, we can't keep the cell site out, but we could certainly put in place that the visual impact needs to be minimized through -- a lot of times they'll put up a flagpole. So instead of having this big nasty looking tower with arms sticking out of it, they've got flagpoles and the antennas are actually internal to the external shell of the flagpole.

So allowing attached wireless communication facilities on existing support structures, I think we should think about that quite critically, because how that's attached may have a lot of impact on people's view, it's considerably different than co-locating on an existing support tower.

So I bring that up because when we talked about this in the work session, it sounded as if we were only talking about changing modifications to existing cell towers, but that is not what this is.

BAZALA: Right. Right. That's correct. And that's why, you know -- and I kind of spaced it to be honest.

GIZZI: Because this is the addition of a new carrier facility but on an existing structure.

BAZALA: Right. Right.

GIZZI: I just want to make sure I understood.

BAZALA: Sure. And just, you know, just so you know, the code is the code. Whether it's a Type I or a Type II, the Type II review doesn't give us any more authority to make them disguise it other than what the code already has, but, you know, it does provide public notice. So just so you're clear on that.

GIZZI: And a lot of times - so I'll throw this out there - a lot of times public notice at least allows the -- it gets the carrier to understand that there is a lot of concern on the parts of the local people with the addition of this tower, and it provides the opportunity for some discussion to maybe lower the height of the tower or pull the antennas in a bit closer so they're not as visible. So, I mean, public input on new facilities is probably something that's important.

BARCA: So for clarification, then, as we go forward with this, if we're looking at the table which is on Page 36, are we all looking at this that the column that says "Attached Wireless Communication Facilities on Existing Support Structures" represents new wireless communication facilities on existing structures? So that is what we're intending for that column to represent?

BAZALA: Yes. And there's no text. We're not changing any of that heading up there.

BARCA: No. I'm just saying for our intention on how we're dealing with whether it's a Type I or a Type II is predicated on we're saying this is new.

GIZZI: I would ask if that's -- again, this was discussion. And if I'm incorrect, I'd welcome an

understanding on this.

BARCA: Hang on just a second. So we will get their interpretation. What I'm trying to do, though, is say that as we go into this deliberation, we have the opportunity to change this, but we have to at least all agree upon what that column represents.

GIZZI: Yeah, we have to understand.

BARCA: So when we're done with the testimony and we come back to deliberation, if we do not want it to represent new, I think it's going to be us that's going to state what it does represent then.

GIZZI: I think attorneys would determine what the verbiage represents. I think we could have our interpretation. I'd caution us to ensure that we're correct in our interpretation before we decide on this.

COOK: The table is an existing part of code, so this is something that's already there.

GIZZI: Correct, as a Type II.

COOK: Well, some are Type I; some are Type II existing.

GIZZI: Right. But it's the -- again, it's this interpretation of what does it mean that I think, you know, we need to be sure we understand.

COOK: And I think Jan told you how the development reviewers view it and how they apply it. They apply it to mean new cell facilities on some existing structure.

BARCA: Right.

BAZALA: And what might be of some help is in the co-location column, if the co-location column said co-location on existing support towers or structures it would be more clear in my mind that you can add additional antennas on to a water tower if you've already got some there as a co-locate and then it could be a Type I. But if -- and so we could say in the middle column instead of "attached WCFs," we could say "new attached," maybe that would make it more clear.

BARCA: And that's exactly my point is we're going to come to an agreement on what this table actually means and that's what we're going to pass forward to the Commissioners. We have the ability to modify this table if we don't think it's clear enough.

GIZZI: Yep, I agree.

BARCA: So that was my point of saying right now that's what the interpretation of that central column is which is how you make your choices on what type of review you give it. That being said, I think it's time.

PABST: Good evening, Commissioners. I'm Meridee Pabst from Busch Law Firm and we're commenting on behalf of AT&T tonight. With me is my colleague Ken Lyons, and he is the jurisdictional relations director for the Pacific Northwest region for AT&T. He has considerable experience processing wireless permits under the County's code, and he's also been involved in many code rewrites since the new Federal law was adopted. He's also the one who really understands AT&T's network and technology, so all the hard questions I'll refer to him.

LYONS: Thank you.

PABST: We'd like to just first thank you for the opportunity to comment tonight. We really appreciate that Clark County has a biannual code amendment process, not every jurisdiction does. And we also appreciate the County's willingness to listen to everyone's perspective about what would make the code better. I'd also like to thank staff, particularly Jan, he's a pleasure to work with as usual, conscientious, responsive and, you know, looking to find a good solution for everyone.

I think we'll start with the issue we just were talking about and in order to sort of keep on track with that one. Our initial thinking in these revisions to the typing of these permits is that both of the first two columns, the co-location and the attached, are now exempt under SEPA, and SEPA is in general a public notice process to alert nearby residents of potential environmental impacts from a project.

At the State level, the policy decision has been made that public notice is not required for these types of facilities in the first two columns. So to us it makes sense that they're moved to Type I even in the middle column for the attached facilities. We also understand Jan's concern about the neighbors' concerns when an entirely new facility is added to the area.

And to sort of continue on with your discussion about defining the center column to be the new attached facilities, we had discussions prior to the hearing that it might be useful, too, to change the language in the first column to indicate that that's for co-locations on either existing support towers or existing support structures. So that would clarify that if a second carrier is coming in on a support structure where a WCF already exists, that that would be a Type I in all cases and that it would only be the new facilities that would be in the middle column.

And then our second thought on potentially addressing Jan's concerns - short of keeping them as a Type II review - is to adopt an approach consistent with what you'll see below under General Commercial and Limited Commercial. If you follow those lines across, in column two you'll see they're designated as a Type I or a Type II permit review, and the footnote tells that the distinction between the two classifications is whether there's a residence on an adjacent parcel.

So that sort of typing gets right to the issue of whether there's going to be a next door resident who's concerned about the change of use on that existing structure whether it be a water tower or a church steeple. So we think it would be appropriate if you are concerned about the adjacent residence having notice in this process to adopt the same approach up above in the rural zones that are now Type II. And I believe Ken wanted to comment on this particular item as well.

LYONS: Yeah. Thank you very much. So we've actually had a number of conversations with staff over the last couple of years. And actually the origination of law of this discussion started in the process of we were doing major upgrade programs in Clark County.

We were upgrading all of our sites to support the latest 4G technology called LTE. And in the course of this, we realized that every time we were going to upgrade a site, the code was treating us as if we were a new facility every single time and it was causing -- and what we were finding is that our average permit times were significant, were very long. Even for simple upgrades, we were taking about 100 to 135 days to get a simple upgrade to an existing site done. So that's kind of the backdrop.

And then on top of that you had this new Federal co-location law, and then of course this new SEPA update that removes that being required for co-location. Now it's important to note, that co-location at the Federal level -- so the FCC defines co-location as not just attaching a wireless facility on an existing tower, but it actually says an existing support structure. So at the Federal level a co-location could be a tower, it would be a watertank, it could be a building, it could be something else, so that's how they define it, it's a little bit different.

GIZZI: Can I ask you a question, though. But for it to be a co-locate, it's got to be in use as that for that function already? In other words --

LYONS: No.

GIZZI: -- you can't co-locate -- you can't consider a co-location to be you're the first person to locate on this building, you wouldn't consider that a co-location?

LYONS: The Federal level actually does consider if you attached an antenna to an existing

structure, regardless of whether it has an existing facility on it or not, that is considered to be a co-location under the FCC and how they define it. There are --

GIZZI: Boy, that's a really loose interpretation of the FCC statements there.

LYONS: No.

GIZZI: Because new sites in all jurisdictions across the country typically require at least some type of permitting and notification. So if it were okay to locate on any structure and call it a co-locate, you're then saying that any structure that's available anywhere in the United States is already considered a cell site and I can go on it.

LYONS: No. No. There's different -- so different jurisdictions, like you mentioned, have different definitions of what co-location is. Clark County has a definition that says that it's two or more, correct, on the same tower, and so it's very specific to that.

But the FCC definition, I actually have it right here, I'll just say it, it's "the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes." So co-location can be on basically adding antennas to any structure regardless of whether or not there's an existing wireless facility on it, that's how the FCC defines it. It doesn't necessarily mean that you have to --

GIZZI: I don't even think actually AT&T considers that a co-locate in typical industry language and practice.

LYONS: Well, yeah. We all, you know, just because we work in a number of --

GIZZI: I've worked with you guys and Verizon Wireless and T-Mobile and Comcast.

LYONS: Yeah. We work in a number of jurisdictions and there's a lot of different -- but it's also important to note that at the State level -- so the SEPA law actually also considers co-location on an existing support structure as well.

So that's why at least the second column, even if you're attaching to an existing structure that does not currently have a wireless facility on it, it defines it in such a way consistent with the Federal law that it's also exempt from SEPA. So, anyway, that's what it says.

I, you know, I agree with you, there is a lot of different standard terms that we use. Co-location we would typically think in the industry as being there's an existing tower that's owned by a tower company or --

GIZZI: Or structure. I mean we co-locate on buildings and water towers, et cetera. We, I say "we," I've been out of it for a couple of years now, but, you know, we all co-locate on existing structures, but it's typically somebody who's already negotiated a lease with that person and it's already defined as a wireless carrier facility.

LYONS: And then so just to kind of follow on that, there's also another piece of Federal law, this actually comes from the FCC, it's called the Shot Clock. So it defines, it says for co-locations, there's actually a time limit that a jurisdiction has in order to issue a decision on a wireless communication facility application, it's actually 90 days for a co-location.

HOLLEY: Slow down, please.

LYONS: Sorry. So there's the Federal Shot Clock has a time limit, it's 90 days for a co-location under the Federal definition of co-location. So, again, it could be attaching a wireless facility to any existing structure regardless of whether or not there's an existing wireless facility on there to begin with, or 150 days for a new facility, an entirely new facility, like you're building a brand-new tower.

So the only thing just to note as you consider looking at this Table 1 is also to consider the time it

takes to process these applications. You know, the co-location at least under the Federal definition, you know, the SEPA process added about 60 to 75 days of process into it just because of how long it took to, you know, file the initial application, do the public notice and whatnot. So, you know, our experience with Type IIs is that we would have a lot of applications that would exceed 100 to 150 days to get an application approved versus a Type I which is actually a significantly shorter process. So that's the only other thing that I wanted to point out there.

PABST: Do any of you have any questions about this particular issue? I wanted to talk about two other issues tonight, but before we leave this one, is there any questions? Okay.

Next we just wanted to address the two issues we had in our comment letter earlier this week, and I'll start with what I think is the easy one first and that's the change to the submittal requirements. And we had asked that the alternatives analysis be removed from the submittal requirements for co-locations. And if you want to look at my letter where I discuss this, this is the second item in my letter.

BARCA: And for the Commission, it is on Page 38 (f) that has been changed to (e).

PABST: Yes, that's exactly right.

GIZZI: So it's not the same as the letter that we got in our packet?

BARCA: Oh, it is.

BAZALA: It's the same text, it's just located differently.

GIZZI: Oh, is it?

PABST: Yeah, it's the same.

GIZZI: Oh, no, it's not.

BARCA: Yeah, it's the second one.

PABST: It's the second item.

GIZZI: Yeah. Okay. But it's clearly not -- this letter is not the same as this letter, that's all I'm saying. This says "We propose the following changes: Simplified process for site upgrades" as one bullet, "Simplified submittal requirements" as another, and this doesn't have those two bullets, so it's -- I may have a different one.

PABST: I'm referring to the letter from this week, the second item.

GIZZI: That's what I want to make sure we've got the right one here.

PABST: Yes. Yes. And we had in our first letter had asked that this particular subsection also be deleted from the submittal requirements. Staff wasn't sure about deleting that subsection at that time.

There was some concern that the County has some siting preferences based on zoning that could be relevant to the submittal requirement. However, as we pointed out in our most recent letter, this application requirement is burdensome on the applicant, and the County really doesn't have discretion to issue its decision otherwise based on whatever is in this alternatives analysis.

This change in striking this subsection would relieve the burden on the applicant and have a negligible impact on the County and the public and the process. We understand now from Jan that he supports this change at this time.

BARCA: Jan.

BAZALA: Yes, I do.

BARCA: Your record is much clearer than --

BAZALA: You can't hear my brain rattling.

LYONS: The nod.

PABST: If you have any questions or comments about this particular item, we'd be happy to --

GIZZI: So, again, I'm sorry to be obtuse here, but I have a letter in my packet dated October 10th, 2013, which you seem to be referring to.

PABST: That's our original letter. And then we submitted a letter this week.

GIZZI: And then we have a letter that -- this is what I'm saying, they're not the same. I just I want it clear for the record and I want to understand which one it is that we're supposed to be looking at for the change, because this one is dated December 2nd --

PABST: Yes.

GIZZI: -- and this is the one that we got today. Okay. But when you're talking about --

QUIRING: Here it is on Page 38 --

GIZZI: Right.

QUIRING: -- (f).

GIZZI: Yes. Yeah. Okay. Sorry. It's nice to be clear.

QUIRING: You got to find your place.

GIZZI: No. It's nice to be clear and they're not the same letter, so I just like to make sure that we're on the same page.

PABST: We hope that you will recommend that this change be forwarded to the Board and along with the rest of the changes you are approving this evening.

And our second proposal - and this is the first item in my letter from earlier this week - is the addition of replacements to the exemption for minor modifications, and Jan already discussed this subsection a bit earlier this evening.

In addition to our request that replacements be included, our discussion with Jan led us to conclude that this subsection would really benefit with some clarification, particularly to more easily distinguish the exemption for minor modification from a true co-location that would trigger a Type I review. So we did bring some language here today with some suggested qualifications for the exemption.

BARCA: So is this the first time that staff has seen this recommendation?

BAZALA: No. No. We've been knocking some things around, but still.

PABST: The six items listed below were written based on our conversations with Jan, some of it was language he specifically suggested, some of it is language that I wrote based on conversation with staff. And I can just walk through the subsection, I think that would be helpful because you haven't seen it before.

This would change what is in the staff report by adding the word "replacement" in the first line, and then also add the six subsections underneath. So an exemption would be permitted so long as, Number (1), the activities do not increase the overall height by more than 10 percent or 20 feet, whichever is greater, and that's consistent with the new Federal standard. And then also any additional height will meet the allowable height requirements in the relevant subsection of this code.

Number (2), none of the activities causes a light to be required where none was previously approved, and that's to address Mr. Gizzi's concern from the work session.

GIZZI: Yeah. Good. Thanks.

PABST: (3), expansion or replacement of support structures may be subject to site plan review under Section 40.520.040. And this one addresses the concern that Jan had expressed about whether the exemption then would remove any changes from the zoning code. Because when an applicant is proposing to change that, the support structure, which might be a building as we've already discussed or some other facility, that change in itself might trigger other review under the zoning code. So this just clarifies that while it's exempt from the wireless code, it's not exempt from the whole title.

Number (4), an existing wireless carrier may add antennas to its facility, but the co-location of additional -- excuse me -- of an additional wireless carrier is not exempt from review. So this subsection addresses some of the issues we've just discussed, and it draws a line between the exempt addition -- excuse me -- exempt addition of antennas and then what might be considered a true co-location where a new carrier is being added. The addition of antennas involve a new carrier will be a Type I review.

Number (5), replacements and upgrades under this subsection will require building safety review, and this is to address some concerns Jan had had about the integrity of the structure.

And, Number (6), the addition of generators that were not previously approved are not exempt. So this addresses concerns about potential noise from generators.

So we hope that this does the trick in this case. I think it adds clarity to the subsection and addresses the concerns that Jan had had.

BAZALA: I think it does primarily address the concerns that I had.

BARCA: So nothing out of left field?

BAZALA: No.

BARCA: This is what you expected to see?

BAZALA: Pretty much.

BARCA: Questions of staff? Questions of the law firm, Busch Law Firm?

GIZZI: So just again, thickness here, you know, sometimes it takes longer to get through maybe. This f is the f that we're looking at on Page 38?

BAZALA: It would be Page 33.

GIZZI: 33.

BAZALA: Line Item Number 25 on Page 33.

GIZZI: Got it. Okay.

PABST: Yes.

GIZZI: So you're saying that the co-location of an additional wireless carrier is not exempt from review under here?

PABST: It's a Type I review.

GIZZI: Because that's how I understood it. Okay.

LYONS: So basically if you have an existing facility, so if say AT&T has a facility and we want to upgrade it, so we want to add antennas or replace antennas, that would be considered exempt;

whereas, if you're Verizon or Sprint or T-Mobile doing a new co-location, they would be subject to a Type I.

GIZZI: Oh, okay. I gotcha.

BAZALA: And if I may add one thing that I was not clear on originally was that my understanding is that the original existing carrier would keep all their antennas on one level, and a co-location is when a new layer, a new level, more antennas are added at a different level.

GIZZI: Typically.

BAZALA: So I wasn't really clear. I thought maybe that you could have new antennas put on by a different carrier at the same level as the existing.

GIZZI: Well, technically you could. It would be considered kind of unusual because it's just not done that way, but you could.

BAZALA: So basically a co-locate would be adding a new row as it were on the tower, a new level on the tower?

GIZZI: Yeah. If you go up 72nd --

BAZALA: Adding more antennas to the same level would not --

GIZZI: If you go up 72nd it was just done. I mean there's five tiers of antennas on a tower they just added into one, yeah. But there's nothing to define a new layer here, it's just a co-locate. If they go on the same face, it doesn't make any difference to any of us; correct? You don't have anything in here that's saying a co-locate is going to be a new --

LYONS: No. No. A new carrier that has not previously existed --

GIZZI: Correct.

LYONS: -- at the same site regardless of the mounting configuration --

GIZZI: Correct.

LYONS: -- would be treated as a Type I, so it would be a nonexempt activity.

GIZZI: Right.

BARCA: It's all you, man.

GIZZI: I got it, man, we're good. So now look, I apologize for the, I guess the scrutiny, but when we went into the work session, this was portrayed in one manner. And then I don't think through anyone's - what's the word I'm looking for? - I don't think anybody did it on purpose, but we were led to understand that all of this talk was about the addition of facilities on existing support structures that already have carriers. So that's our whole discussion and thought process went into that, and then to find out that now we're talking about something different is I think it's important for us to clarify that, actually it's our responsibility.

LYONS: To be fair, there's just the, you know, there's actually a difference. At the Federal law it talks about co-locations on existing towers, but the State's new SEPA law talks about co-locations on existing structures. So there is even, you know, the State SEPA law is actually broader than even the Federal law, right, so there's a lot of different pieces of that. And then when we add the layer of the County's pre-existing definitions, you know, the translation starts to, you know, change and change, so... Would you like me to leave behind a copy of the definition of --

GIZZI: No, it's available, it's everywhere.

PABST: Okay, then. Well, thank you for the opportunity to comment tonight, we really appreciate it.

LYONS: Thank you.

PABST: Thanks, Jan.

BARCA: So we have a lot of information that got folded into this. I'm going to I think suggest that we just plan on pulling 27 out for a separate vote.

USKOSKI: Yeah, I agree.

GIZZI: Yeah. Sure.

BARCA: Let's go to 28.

BAZALA: It's a little more complicated than that one.

GIZZI: Well, it wasn't in the work session, Jan.

BAZALA: Number 28 is to allow gravel parking and maneuvering areas where paving serves little purpose. Right now in the code paving is required for pretty much any sort of parking or commercial driveway areas, but there are some times that it just doesn't make sense.

Such as if your facility or if your -- one example was that there was a trailhead on DNR land and the roads leading to the trailhead are gravel, but according to the code you needed to pave your parking area, and that doesn't seem to make much sense. So it got us thinking about whether paving is always needed.

So we have a number of uses or situations where you wouldn't have to pave. The first one would be small coffee and food stands which will be discussed in another future item tonight. The second item would be driveways used for fire access purposes. So if you had a required emergency access or required fire access route around a building, you wouldn't necessarily have to pave that because it just creates more expense and more impervious surface. Gravel itself is pretty much impervious, but I believe that you get a little bit of a break for gravel.

Also as I discussed before, parking areas for uses that receive access from unpaved roads. And then the catchall, other uses as approved by the responsible official. This might include like an industrial layout area where you're not creating a lot of dust. So it gives us a little bit more flexibility when you really need to pave something and when you don't have to.

So Number 29 is to codify the number of queuing spaces for coffee stands. There's an existing table in the code that has a number of uses and the number of queuing spaces or stacking spaces that are needed. Drive-through banks are listed, drive-through as part of a restaurant, and so one thing that's not addressed is coffee stands. So this reference addresses coffee stands that are larger than 200-square feet and without indoor seating, so...

And prior reviews that we've done, we've always done them -- we've always determined them at the time of site plan review. Now we're suggesting that we go with six spaces per window as the standard. However, if you think you can get by with fewer, you could still make your case at site plan review and provide some evidence that your traffic isn't going to be that great. So we still leave the window open to allow fewer spaces if you can prove it up, but if you don't want to go through that exercise, then we're going to set a standard of six spaces per window. And, again, this would be for a little bit larger coffee or food stands that are over 200-square feet. So that's what that's about.

Number 30 is to eliminate the County's three-sign posting requirement for Type III applications. When an applicant has a Type III application with regards to public hearing, the applicant needs to post a four foot by eight-foot sign on a site, and basically it's those big plywood signs, you can actually read them, it tells you what's going on at that site. But the code also requires that we as staff have to put some smaller one foot by two-foot blue signs and we really have doubts as to

whether those small signs can be read and whether the staff time required to go post those signs is really worth the installation.

Number 31 is to reduce the width of required walkways through parking lots to eight feet in the Highway 99 design standards. Currently the Highway 99 code requires eleven-foot wide walkways through parking lots, and they can be reduced to eight feet if you have some landscaping strips associated with them. And given the fact that this all costs impervious areas and real estate, we're wondering if something a little bit narrower is more appropriate. We're suggesting eight feet in width, and you could go down to five feet in width, so that would be your minimum ADA requirement. So we're looking to provide a little bit of relief from additional impervious surface area.

Number 32 is to remove special rear setback requirements from single-family residential lots in the Highway 99 overlay. Currently in all residential areas in the Highway 99 overlay area you have to have a 20-foot minimum setback, rear setback, and that is not the same as the rest of the code and we're not sure what benefit it provides to have a larger setback in your rear yard for Highway 99 area. So we're proposing -- and we've heard -- we've had complaints from the public on this.

Number 33 is to remove some driveway requirements for duplex units. This current subsection requires duplexes to share driveways, but yet then there's a figure in the code that demonstrates that these individual separated driveways are a desirable design. So there seems to be a conflict in that code and we're suggesting we just get rid of that requirement.

Number 34 is to remove more design requirements for single-family residential driveways and homes. There are some requirements for single-family traditional homes in the Highway 99 area. So one of these requirements is that your garage has to be set back five feet from the front wall of the house, the garage face shall occupy no more than 50 percent of the ground level facade. In a number of other requirements there are some that require driveway widths no greater than 20 feet.

We've had an application that wanted to propose three-car garages, upscale development, and the DEAB has weighed in with the concept that why should we restrict the driveway width in this zone and not others. So some of these design requirements are already in the code. Such as you can only have one driveway per dwelling unit, there's already existing code that deals with that, there's covered entry requirements. Basically it seems like we're creating additional review for single-family homes that aren't that significant, and if we can get rid of some obstacles, we're suggesting that we do so.

Number 35, last but not least is to create some special standards for small coffee and food stands. The idea is that if you have a small coffee stand and you want to start a new business, that our existing requirements make it difficult. You have to pave your parking area if you have an undeveloped site. The queuing requirements might be a little stringent if you have a smaller site.

So we're suggesting standards for coffee and food stands less than 200-square feet. So they would not have to be paved, parking would be minimal, you could use on-street parking to meet your parking requirement. Basically landscaping requirements would be eliminated unless you have a residential area right nearby and cars would be, you know, headed right towards your front window, so we could require some fencing or landscaping, something to block headlights.

They still need to comply with public health approval, building permit requirements, ADA requirements. This would also allow signs to be placed without going through site plan review, limited signs. They would be -- let's see. A portable sign basically you could put up without a permit. Let's see, what else. Frontage improvements wouldn't be required.

There is a caveat for Performance standards which states on Page 48, Line Item 13, "Failure to mitigate the effect of unpaved parking lots, reduced queuing and landscape standards, portable

signs, or on-street parking may result in the revocation of a permit." So if these -- let's say because they don't have to pave their parking lot, if they allow a bunch of gravel to be kicked out into the road, they basically need to take some steps to keep that from happening.

So it's a way to get small operators in business. And the idea is that these may not be the ultimate use of the property, they're kind of considered, you know, what we've called transitional uses. So it's a way to make some money on the property in the meantime, and it may not be a permanent thing, so that's the idea.

BARCA: So any questions concerning the coffee and food stand as it appears to be the other truly complex issue that we had before us? So I do have a couple of items. How did we decide on 200-square feet?

BAZALA: Well, I looked -- it's tough. It's, you know, I don't have any scientific evidence. I looked at literature for buying or, you know, that you can buy some of these prefabbed coffee stands. 140-square feet seemed to be a standard size, they're reasonably small and I can't truly give you a hard and fast, great rationale as to why the 200 feet.

Another influencing factor was that you don't need a building permit in many cases for structures that are greater than 200 feet -- or, I'm sorry -- under 200-square feet, that's typically, you know, residential, but it's just sort of a handy milestone that we used.

GIZZI: Yeah, we wouldn't want to create a loophole for Jim's greenhouse.

BARCA: And the reason I'm asking is I'm wondering if it's a food cart or truck but it doesn't move out of the space, to me it sounds like we should be able to allow it, but it may be bigger than 200-square feet. And if it's a food truck or cart, does it not fall in that structure then as a structure because it's got wheels?

BAZALA: You mean if it were a just like a truck itself?

BARCA: Yeah.

QUIRING: A motor home, a big motor home.

BAZALA: A motor home over 200-square feet. Well, if they are moving at the end of the day, they are exempt from this, they can just do it.

BARCA: And I hear that part. The idea of it not moving.

USKOSKI: Well, technically they'd only have to move it a foot and they've moved it.

BAZALA: Well, it's supposed to be moved from the site, so...

COOK: It does say removed from the site.

USKOSKI: So they could just drive around the block or out the driveway and right back in?

COOK: No. It says --

BAZALA: No, at the end of each day.

COOK: -- "removed from a site at the end of each day." I would construe that as gone.

BARCA: Yeah.

USKOSKI: Well, but technically it has left the site, it just returned for the remainder of the night, but it did leave the site at the end of the day, at the close of business, or how --

COOK: That's an argument.

BARCA: So within the thought process that we won't argue that part, but it is going to be a device that's on wheels and it's larger than 200-square feet.

BAZALA: Then it wouldn't qualify. I think the idea is that the larger your facility, the more traffic you could generate, possibly the more items you could offer. If you got a small site, you're going to be limited, your menu is going to be limited probably and your popularity might be less, you know, I think that's the assumption.

BARCA: So we're shooting for less popular places --

BAZALA: Exactly.

BARCA: -- with smaller amounts of business.

BAZALA: Exactly. Yeah. You have to serve bad coffee also.

BARCA: Because that was going to take me to the other idea about, you know, we're limiting it to three of these types of places on the property. I'm just a little confused about whether we're promoting a business opportunity or whether we're begrudgingly creating an environment where there may be somebody who wants to exercise this. I think we could without too much trouble try and make it more enhanced for somebody to be willing to try and put something like this together, so that's why I'm bringing it up. I think it's perhaps too restrictive.

QUIRING: So what would you say would be -- would you put -- what size would you put, between two and five or one and five? 500-square feet is pretty big when you think about I mean a shop that's 500.

BARCA: Well, and I was just guessing. And like if I was to say the truck that is commonly down there at Torque, The Mighty Bowl, I don't honestly know how big it is, but I was just thinking about that in my mind, were we precluding a truck outfitted such as that from being able to set up at a location that it would repeatedly be at.

USKOSKI: Well, what do you think about striking Item 2 on there, would that satisfy you, B2 where you remove that requirement that they have to leave at the end of each day or weekend? So allow them to set up at a place for like a week at a time and go off to another rather than moving constantly, is that what you're looking at?

BARCA: Would that get us around this?

BAZALA: Well, I think Number 2 is an exemption. It's like if you're moving it at the site, or from the site at the end of the day, you don't have to do anything.

BARCA: Then I don't have to worry about the 200 feet, I don't have to worry --

BAZALA: Right.

BARCA: -- about the number of --

BAZALA: Right.

BARCA: -- shops that are there.

BAZALA: Right.

USKOSKI: What if we modify that to say that the mobile food trucks and carts are exempt from the provisions of this section. So as long as they're mobile versus like a where you set it down and permanently place it on a temporary basis.

BAZALA: Well, if they were mobile but stayed parked there all the time, I think then we sort of --

QUIRING: (Inaudible).

BAZALA: I mean I personally would look at that as permanent, no different than a facility that's been taken off its wheels, I mean the impacts would be the same.

BARCA: I think I'm more inclined to just take 1.a and just ask Jan to look at perhaps a larger device, such as like I said The Mighty Bowl down there, it might still be within the 200-square feet and you'd be able just to say that you reviewed it and, you know, that kind of thing covered it. But then the other one that I was kind of having trouble with was b is the idea of the limit of three, and did you have a rationale behind three?

BAZALA: It sounds like a good number. Basically if we start -- if we get beyond the magic number of three, it's going to start looking like the food cart situation in Portland. And just the more you have of these, the -- we weren't really prepared to create a, you know, food cart ordinance like Portland has. So I think we were thinking that three would be the appropriate number. You got me.

BARCA: Yeah. Well, I think your explanation of it is probably adequate that we don't want to look like the food cart situation in Portland. But isn't that a fairly successful and lucrative demonstration of utilizing this?

BAZALA: It may very well be, it's just a little bit large for what we're prepared to get into at this point.

BARCA: So we could perhaps come up with a different number.

USKOSKI: Like ten.

BARCA: Yeah, ten sounds good.

USKOSKI: It gives you some options if you're hungry or if you want a different type of coffee.

BLOM: A different type of bad coffee.

USKOSKI: Exactly.

BARCA: Right. And I'm just throwing that out for the rest of the Board for us to consider when we come back to this. Nobody else had anything else to discuss?

BLOM: Are we talking about this now or are we going to come back to it?

ROLL CALL VOTE – SCRIVENER'S ERRORS 1-5 AND 7-12:

BARCA: No, we're going to come back. So here is I think my proposal on how we get through this, see how this fits for everybody. We have the first section which is Scrivener's 1 through 12 with the exception of 6. I'm hoping that we can just do an up or down vote on that. Is that acceptable?

GIZZI: Yes.

BARCA: Can I get a motion.

GIZZI: I'd make a motion that we accept all of the Scrivener's Errors for which we're responsible.

JOHNSON: 1 through 12 with the exception of 6.

GIZZI: 1 through 12 with the exception of 6.

JOHNSON: I second that motion.

BARCA: Any discussion? Roll call, please.

BLOM: AYE

USKOSKI: AYE

BARCA: AYE

JOHNSON: AYE

GIZZI: AYE

QUIRING: AYE

ROLL CALL VOTE – CLARIFICATIONS 13-23:

BARCA: Now we have 13 through 23 which is Clarifications, and I'm rolling in Code Interpretations unless we want to discuss any of those items.

USKOSKI: I'll make a motion to accept Items 13 through 23 with 21 being corrected to increase that to four lots.

JOHNSON: I second that motion.

BARCA: Any discussion? Roll call, please.

QUIRING: AYE

GIZZI: AYE

JOHNSON: AYE

BARCA: AYE

USKOSKI: AYE

BLOM: AYE

BARCA: And we have no responsibility for 24 through 26, so we are not going to vote on those.

ROLL CALL VOTE 28-34:

BARCA: And now I would like to vote on 28 through 34 unless there is any of those items wishing -- that anybody wishes to have discussion on.

BLOM: I move that we approve Items 28 through 34.

GIZZI: I second.

BARCA: Motion and seconded. Discussion?

QUIRING: I just want to know why in the world Highway 99 had all of these restrictions, it is unbelievable. Thank you.

BARCA: You should have been there.

QUIRING: Get rid of them.

BARCA: Roll call, please.

JOHNSON: AYE

GIZZI: AYE

QUIRING: AYE

BARCA: AYE

BLOM: AYE

USKOSKI: AYE

BARCA: Let's tackle 27. I think really what's before us is we have the recommendations that came in the December 5th document from Busch Law Firm.

GIZZI: December 5th?

USKOSKI: Well, today's December 5th. December 2nd I believe is the date on the letter.

BARCA: Right. Yeah. Sorry. We got it today.

GIZZI: Well, yeah, but we got two. So we got this letter which is dated December 2nd, and then we got --

BARCA: My apologies, Jim.

GIZZI: I'm just making sure we're on the right page, man.

USKOSKI: Well, I guess my thoughts on this is that I don't like it when we are in conflict with State or Federal law, that I would just as soon rectify that and come into compliance with those or into alignment with that. So I guess I would be in support of what the Busch Law Firm had put together as far as some of the amendments to the code, the clarifications and looking at how we change those reviews to a Type I.

GIZZI: And I would agree with everything that's proposed with the exception of the new sites being Type I. I think that the general public expects to at least have some input. SEPA has been removed which will mitigate some of AT&T's concerns with regards to time frame.

And I also believe that somehow there needs to be some protections to keep unsightly appurtenances from existing support structures for new sites. In other words, there should be some level of visibility into what's planned, and I think that it's our responsibility to ensure that the public and the County have some way to see what's going to be attached to an existing structure if it's a new site.

Now I completely agree with column one which is co-location and new support towers. But the one, two, three, four, five, six Type IIs that are crossed out and made Type I, I'd be much more comfortable with those staying as a Type II.

QUIRING: With that Type II, how long is that notice?

BAZALA: How long is it noticed?

QUIRING: Yeah.

BAZALA: Well, within 15 days we provide public notice, and we generally can take comments up until we write the staff report. So the time frame between a fully complete application and a decision staff report is 78 days. So, you know, typically, yeah, typically we can consider comments up until we write the staff report.

QUIRING: And the SEPA, didn't we hear that was 65 or something?

BAZALA: As part of the -- well, the SEPA review is really two weeks that the comment period is once we submit it, once we send it out there, but I'm sure it does take applicants --

QUIRING: Right.

BAZALA: -- time to prepare the SEPA and all that.

QUIRING: And SEPA is now not required?

BAZALA: Right. Even if they say a Type II, we would not be requiring SEPA review.

QUIRING: But a Type II the County would require notice --

BAZALA: Yes.

QUIRING: -- which is the whole purpose of letting --

GIZZI: Type II.

QUIRING: -- you know, letting the public know, we're talking 78 days.

BAZALA: Right, 78 days. With a Type I application once it's determined to be fully complete, we need to get a decision out in 21 days for a Type I.

USKOSKI: But that time clock whether it's like on the Type II does not include the 14-day appeal period on the end of that, is that correct, which bumps it up to 92?

BAZALA: Correct. Yes.

GIZZI: I still feel we have a responsibility to the citizens of Clark County to at least let them know that a new transmission facility is going up in their neighborhood. I think we could probably work with the process somehow to get less than one percent of the days out of the process.

USKOSKI: Yeah. I'm probably not willing to fight you really hard on a Type I versus a Type II if we've incorporated all the other changes that have come forward tonight.

QUIRING: What about making it as was suggested before a I or II as in, you know, the General Commercial, the Limited Commercial and other commercial?

GIZZI: That's a good point because that rules out the situation where a immediately adjacent residence is.

QUIRING: Right.

GIZZI: I'd be amenable.

BLOM: My only concern with that is then it may impact -- people might want to know if they're further. If we're going to give notice in some situations, just because there's not a house right next door, that doesn't mean the person two lots over wouldn't want to know. I feel like it should be one or the other.

BARCA: Karl.

JOHNSON: Well, you know, I go back and forth between, you know, what is the biggest concern of industry which is timing, you know, and we're looking at I know probably 70, the 70 days is probably more accurate than what it would be. But, again, even if -- I suppose there's a courtesy element to this that this is going to happen, but this is going to happen no matter what, we can't say no. So we can say, hey, it's going to happen.

I would think that industry would be prudent and try to do something like that on their own. But, again, to me the same, we're going to make it Type II, it's just a bit more regulation which they're coming to us saying, look, it's taking too much time.

GIZZI: So understand that yet you're correct, we can't say no, but we are allowed in certain instances to make recommendations and even requirements based on visual viewshed, so we can't stop the implementation of a cell site, but we can ask that it be modified to minimize whatever, but we can't do that if there is no review.

JOHNSON: Right. But what I'm saying is, I understand that, but the difference, the primary difference in a Type I and Type II is notification; correct?

GIZZI: That's correct. Yes.

JOHNSON: So we're really talking about notification which really isn't a big -- the notification part, it's the Type II makes it go to potentially 90 days, 70 days and that is industry saying, look it, here's our issue, this is taking too long. And so I'm all, again it's the amount of regulation we're putting over the top of them. So I'm inclined to say no, but again there's that courtesy element that I, you know, it will probably save us headaches in the, us, not industry, in the future, so...

BLOM: So as -- I'm sorry, were you --

JOHNSON: No, go ahead.

BLOM: So as a question to industry, the representative here, how far out are you typically planning this tower? I mean from the time you say, okay, we want to put a new tower there, let's say there was no restrictions, could you do it in 45 days or what's your lead up time from the time you decide we want to add a tower here, upgrade a tower here, how long does that take you once you make that decision to actually do the work?

USKOSKI: Exclusive of the permitting requirements; right?

BLOM: Correct. Yeah.

LYONS: Hi, again. Ken Lyons, the Busch Law Firm. So if I understand you correctly, so we go through about probably three to four months of planning, that means we actually are getting new drawings and structural calculations and things that are necessary prior to actually submitting. We also get -- sometimes we have to get lease amendments in place in order to be able to actually apply. But once our application is submitted -- so, again, that's the three to four-month period.

Once the permit is issued, our construction time window is usually about 60 days for an upgrade, which is really what we're talking about today, co-locations and upgrades are kind of in the same category in terms of the amount of time it takes.

The amount of time that our permits take in Clark County, 78 days was the amount used, I know we've talked about this number on occasions. The clock start and stop based on requirements and about the length of time, our average time for our permits at least in our experience is more about 110 to 145 days or 150 days, in that range. I can't remember. I had it in my notes, so... Does that answer your question?

BLOM: Yes, it does.

GIZZI: Now there's also construction subject to availability of power, installation tools. I mean, sure, the RF guys and the internal construction people are able to do it in three days guys have done it, but some of the outside contractors take a little longer.

USKOSKI: Well, I guess another thought that I have building off of what Karl had said earlier is, if the biggest difference between the Type I and the Type II is just the public notice process, but the County would still have the ability to put in conditions to require for visibility or aesthetics of some nature where you can't deny it, but you do have to approve it, but you can add some conditions in there.

Do we really need the public -- granted, public input is important, but how important is it in this case that the County wouldn't be able to on their own to determine that something might not be the best aesthetically for a certain area that it's proposed to go in?

BAZALA: Well, there isn't much we can do about the aesthetics. I mean if it's not in the code, we can't say we don't like the way it looks because that's not one of the code criteria.

USKOSKI: Well, that's most of the public comment that you'll be getting, though, is it not?

BAZALA: Perhaps. However, one of the benefits of getting notice is that they at least know it's going on. They don't feel - and this is my own opinion - that they don't feel that something's getting ramrodded down their throat without any knowledge that it's happening.

BARCA: I think that's the bottom line.

USKOSKI: Hand them a pair of rose colored glasses and tell them --

BAZALA: It's courtesy. It's kind of a courtesy. Honestly, it's basically a courtesy like you --

BARCA: It's public relations.

GIZZI: I would say it's responsibility. It's the responsibility of us to ensure that the public who we serve at least is aware of what's being done.

BARCA: How about this, we have three components to this, we have Page 33, B.2.f, which has changed to the text that was provided for us this evening and Jan has said he did not have any problems with the text; is that correct, Jan?

BAZALA: Correct. Correct.

BARCA: So we have that in front of us. And on Page 38 we have the request to strike what is known in our document as (e) that starts on Line 1 the entire paragraph. We have those two items. Can we agree upon something for those?

JOHNSON: Yeah.

USKOSKI: So are you looking maybe for a motion to accept all the changes in the section with the exception of Table 40.260.250-1 --

BARCA: And we'll tackle the table separately.

USKOSKI: -- as a separate issue?

BARCA: Uh-huh.

ROLL CALL VOTE:

USKOSKI: I'll go ahead and make a motion that we accept staff recommendations with the adoption or inclusion of what Pabst, Meridee Pabst brought forth with Busch Law Firm tonight with the exception of Table 40.260.250-1.

QUIRING: I'll second that.

BARCA: We have a motion and a second. Any discussion on those two items? Roll call, please.

GIZZI: AYE

JOHNSON: AYE

USKOSKI: AYE

BLOM: AYE

BARCA: AYE

QUIRING: AYE

BARCA: So now we have the table all by itself. We're speaking about the center column is the only part that appears to be in any kind of conflict, and as we discussed the center column it was new wireless communication facilities on existing structures. So I think we've had a lot of discussion about why we would or would not do that.

USKOSKI: One quick question.

BARCA: Certainly.

USKOSKI: Do we want to also look at amending the column one title to include existing structures within that?

BARCA: I believe Jan had already stated that he was accepting that change.

BAZALA: Yes.

USKOSKI: Perfect.

BARCA: Yeah, so that would be part of the change table, but it doesn't seem to be controversial.

GIZZI: And we're also accepting Jan's suggested I guess it's a scrivener's error for Urban Reserve New Support Towers as listed as I, but it will be III --

BAZALA: Yes.

GIZZI: -- in the version that goes to the Commissioners. And then just for clarification, I'll call it the, well, it's called Residential, it's down towards the bottom, it's the third category but the fourth row from the bottom and they're all Type Is, is that the intent?

BAZALA: On the left-hand column for co-location that is the intent to make the Type II to go to a Type I for the co-locate in a residential area.

GIZZI: So -- all right. Yeah. Good.

BARCA: Because that's inside the urban areas, inside the UGB. Do we have something from Chris on that?

COOK: I'm sorry. Perhaps I was confused, but I thought that Commissioner Gizzi was talking about Rural Commercial, Rural Commercial, Rural Center Residential.

GIZZI: That's correct, that's what we've been talking about. But also down at the bottom under the urban areas is another category called Residential, and I just want to make sure that everyone's aware that that's also listed as a Type I, it's in an urban area. If we're going to make the change for the rural folks, we by golly better do it for the urban folks as well for residential I would think.

BAZALA: And that's consistent with the recent SEPA change that residential areas used to be subject to SEPA for co-locates --

GIZZI: And they aren't now.

BAZALA: -- and they're no longer.

GIZZI: So I'm going to throw out there a motion that we amend this table to have Type II for the residential zones which are shown as Rural to Urban Reserve and then the Residential category down separate, and we would move those to Type II as opposed to Type I as recommended here.

BARCA: Well, I will second that motion to move it forward.

BAZALA: Can I ask a question. Now the discussion about residential, were we talking about the co-location column?

GIZZI: Nope. We're talking about the second column only.

BAZALA: About the second column?

GIZZI: The second column, yes.

BAZALA: Well, then I was recommending that we leave it at Type II, that we didn't change it to Type I.

GIZZI: It's shown as Type I.

BAZALA: It is, and that was the oversight that I had made. So I, you know, my statements tonight were that had I been aware, I would have not proposed any changes to the attached support structure column, I would have left those as-is, but that is totally up to you. I mistakenly thought, Jim, that you were talking about the first column, Collocation on Existing Support Towers, whether that should be a Type I.

GIZZI: No, I'm talking about the attached carrier facilities on existing support structures.

BAZALA: On the record my statement was that it should be a Type II, should not be changed to Type I as it is mistakenly shown in this column.

GIZZI: In all instances Rural through Urban Reserve and Residential?

BAZALA: Yes. I would, you know, I was purporting that I would leave it as it is now. Instead of -- so see the strikeouts for the Type IIs --

GIZZI: Yes.

BAZALA: -- it would stay a Type II and the Type Is would not have been proposed.

GIZZI: Which is exactly what I just proposed. So how about I move that -- I don't know how to handle pulling it. I was going to say I'll move that we adopt staff recommendation for this table then.

BAZALA: Well, it depends if you're talking about the written recommendation that's there now in front of you.

QUIRING: You can leave your motion as it is, Jim, Jan's just clarifying, restating that he had recommended that.

ROLL CALL VOTE:

USKOSKI: So basically if I understand you correctly, Jim, your motion is to accept the changes in the table with the exception of the second column for the changes to the Residential, those would remain as a Type II, but all the other changes in the table would be accepted?

GIZZI: Yes, that's correct. Yes.

BARCA: And that is what I seconded.

GIZZI: Which ends up being staff's recommendation anyway.

BARCA: So have we had adequate discussion on that? Roll call.

GIZZI: AYE

QUIRING: AYE

BARCA: AYE

JOHNSON: NO

BLOM: NO

USKOSKI: NO

BARCA: Well, there it is. Take that and run with it. He's like what happened. We tied. Now it took us a long time to give you a tie.

USKOSKI: Should we do it again and see if we can break it. We could be here all night.

BARCA: Yeah, because I think it would turn out a tie again. Yes, let's do coffee shops. So we are at Item 35.

GIZZI: I make a motion that we accept Item 35 as proposed by staff.

BLOM: I second.

BARCA: That was quick, so...

QUIRING: Aren't we going to, as part of the discussion, aren't we going to amend a couple of these things that we just talked about or asked for?

BARCA: We would have if we hadn't had a motion and a second.

QUIRING: So let's just vote on it then on all these motions.

BARCA: Yeah. So the discussion is that I'm very disappointed in all of you.

USKOSKI: I'll second that.

BARCA: Roll call, please.

QUIRING: NO

GIZZI: YES

JOHNSON: YES

BARCA: NO

USKOSKI: NO

BLOM: YES

QUIRING: There we go again. We need Steve here.

GIZZI: Yeah, we do.

BARCA: So we can pass it forward to the Commissioners with I think the discussion. I feel it's unnecessarily restrictive and we could do more to promote these very marginal places that would want to put in coffee shops and gravel parking lots.

GIZZI: You want to propose a tiebreaker of some sort?

BARCA: I think a tie pretty much tells us that three people are satisfied with the ordinance as it's written.

USKOSKI: Well, I guess my vote was mostly because just to provide the opportunity for a little bit more discussion, that's why I had voted the way I did.

QUIRING: Yes, me too.

JOHNSON: And my vote is it's a good start. I think we're looking at something that could potentially turn into something where, you know, four, five, six. I agree, more people getting opportunities is what we want, but maybe we need to just start out slow and then so the next thing you know we don't have 15 coffee carts parked somewhere where you're trying to, oh, no, what did we do? We're not prepared. So I'm kind of like, okay, this is a good start.

USKOSKI: Yeah, I'd agree with that.

JOHNSON: And it can come back to you and you go, well, wait, there's more. Maybe you run into, hey, there's five, ten people, okay, well, if you're ready for it. I'm not sure we're ready to have what they have in Portland right now. And it's not that I don't want it, I just -- so like I said, I'm not opposed, I like the idea of helping the small guy out.

GIZZI: Ron, I'd say if you came up with some numbers, we ought to at least run it again.

USKOSKI: Yeah. Because I think I'm in the boat that I don't think we want to take on what we have down in Portland, but that we would want is maybe a little bit more than three.

COOK: Someone could move to reconsider.

USKOSKI: Well, I'll make a move to reconsider.

QUIRING: Second it.

JOHNSON: So it's an amendment then.

BARCA: We have a motion to reconsider, so... If we didn't dwell on the 200-square feet and just talked about the maximum of these establishments allowed in a development site and we started

off with six is not too weird like Portland.

JOHNSON: That's reasonable.

QUIRING: It is a development site. What are we talking about?

BARCA: Well, that's the way it's described.

QUIRING: I know. I mean, but give me a --

USKOSKI: Basically if you had a vacant lot somewhere.

GIZZI: It's an undeveloped site.

USKOSKI: Yeah. So it's just an old gravel yard that maybe an excavating company had parked equipment in.

BAZALA: One point of clarification, this wouldn't necessarily have to be an undeveloped site.

GIZZI: That's right, I just noticed that.

USKOSKI: Or just underutilized site.

BAZALA: Yeah. It could be an existing parking lot as well. So it could be, you know, some level of development, you know, or new.

BARCA: And I would suggest that staff look into the square footage just as a potential opportunity in that regard, but with keeping the development standard that says there's only one drive-through. I think we are pretty much still keeping any type of mitigation of public safety and traffic awareness in the appropriate thought process of how this lot might develop. So I'm good with the rest of it.

USKOSKI: Were you wanting to change that to six?

BARCA: Yes.

GIZZI: So was that a motion?

USKOSKI: Well, is there any other discussion I guess this time before we make motions?

GIZZI: Good point, Valerie.

JOHNSON: I think there's a cap, okay, and if it's six, three, I don't know where you get it, I couldn't tell you, maybe ten, but I think that's fine. I think that's a good, okay, let's look at it and let's see what happens. I think it's good to have some control on it right now, and then -- but I don't think there's any difference between three or six. I know that sounds weird coming from --

USKOSKI: No, there's not. It just gives you a little bit more opportunity for people to --

JOHNSON: Yeah. No, I meant that like, yeah, that's fine. I meant the other way, not that it would be a problem. So I'm with you now.

GIZZI: We know, you're a teacher, you know the difference in --

JOHNSON: Math teacher, yes, I am.

BARCA: No difference.

BLOM: I think going over three it starts to open up other things that maybe haven't been considered, but I would be open to maybe the idea of say a maximum of three similar to what we did with the parking spaces saying or more as allowed by the responsible authority.

I just think if you start getting six or -- we'll go with six, that number's been thrown out, you're going to have potentially more cars parking, more issues with parking, more people gathering, public safety. I think to start this off on a small scale we would be better to not jump into something that

we haven't done before with open this up to six, but that's my two cents or six cents.

BARCA: So I don't think we have a motion.

ROLL CALL VOTE:

QUIRING: Oh, I move that we accept staff's recommendation with the amendment to create six, a ceiling of six right now, and that staff look into the square-foot size just to make sure that we're in the right realm of what we're really thinking about. Although, you did say you did anyway, and that's it.

USKOSKI: I'll second that.

QUIRING: Rather rambling, I'm sorry. It's getting late.

BARCA: So we're accepting staff recommendation with the modification of B.1.b to a maximum of six. Any more discussion? Roll call, please.

QUIRING: YES

GIZZI: YES

JOHNSON: YES

BARCA: AYE

USKOSKI: AYE

BLOM: AYE

VI. OLD BUSINESS

(NONE)

VII. NEW BUSINESS

BARCA: Very nice. And I believe we have no new business; is that correct? Jan's done already.

MCCALL: I have one item of new business.

BARCA: Oh, we do have new business. I don't know why I asked Jan. Please.

MCCALL: Just would there be a quorum available for a work session on January 9th if we need to schedule one, that would be the second Thursday, not the first Thursday?

BARCA: Well, I'll be back, so...

GIZZI: Those are famous words I think at the end of a movie.

COOK: The second Thursday.

JOHNSON: Yes, I will be.

GIZZI: I'll be here as well.

QUIRING: I'll be here.

COOK: I'm on vacation.

USKOSKI: I will be here as well.

BARCA: Yep.

MCCALL: I'll just report back. It's not a firm date yet.

BLOM: I won't be here.

VIII. COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

(NONE)

IX. ADJOURNMENT

BARCA: Meeting's adjourned.

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.ask?section=25437&catID=13>.

*Minutes Transcribed by: Cindy Holley, Court Reporter/Rider & Associates, Inc.
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