



Clark County Planning Commission

Karl Johnson, Chair
Matt Swindell, Vice Chair
Aldo Lampson Veranzo
Bryant Enge
Steve Morasch
Bryan Halbert
Eldon Wogen

PLANNING COMMISSION HEARING OCTOBER 20, 2022 MEETING MINUTES

Public Service Center
Council Hearing Room, 6th Floor
1300 Franklin Street
Vancouver, Washington
6:30 p.m.

I. CALL TO ORDER

Planning Commission Rules of Procedure

SWINDELL: All right. I'll call this meeting to order. Good evening Planning Commissioners, members of the public and staff members. I'd like to call this hybrid public meeting hearing to order for Thursday, October 20th, 2022. My name is Matt Swindell. I am the Vice Chair of the Clark County Planning Commission.

The role of the Planning Commission is to review and analyze comprehensive plan amendments, zoning changes and other land use related issues. We follow a public process including holding hearings during which the public has an opportunity to provide additional perspectives and information.

In legislative matters, the role of the Planning Commission is advisory. The County Council will hold separate hearings, consider our recommendations and make a final determination.

The Planning Commission will conduct a public hearing tonight and take testimony. If any public comments were received before tonight's hearing, they have been sent to the PC members and entered into the public record.

County staff will present first, then Planning Commission can ask questions. Next, we will invite the applicant to speak, if there is one, then members of the public who wish to provide testimony.

When we get to the public comment portion of our agenda, we will provide more information on how to participate both virtually and in-person. However, if you are in-person tonight and wish

to provide comment on hearing agenda item, please sign up via the sign-in sheet at the back of the room.

During public testimony, you will have three minutes to speak and remarks should be directed to the Planning Commission only. Please do not repeat testimony that has already been provided.

At the conclusion of public testimony, staff and the applicant may respond to comments and the public portion of the hearing will then be closed. The Planning Commission will then deliberate and make recommendations to the County Council.

For both the virtual and in-person members of the Planning Commission and staff, please ensure that your microphones are muted unless you are speaking. Planning Commission members when you make a motion or a second motion, please state your name for the court reporter.

II. ROLL CALL & INTRODUCTION OF GUESTS

Conflicts of interest. Does any member of the Planning Commission have any conflicts related to the hearing items tonight? Hearing none, we'll move on.

SWINDELL: We need a roll call with that?

WISER: Yes.

SWINDELL: Okay. Roll call.

ROLL CALL VOTE

ENGE: HERE
HALBERT: HERE
VERANZO: ABSENT
MORASCH: ABSENT
SWINDELL: HERE
WOGEN: HERE
JOHNSON: HERE

Staff Present: Oliver Orjiako, Community Planning Director; Jacqui Kamp, Program Manager II; Ken Lader, County Engineer; Chris Carle, Interim Capital Program Manager; Gary Albrecht, Planner III; April Furth, Community Development Director; Laura Hoggatt, Senior Capital Programs Specialist; Sherry Villafane, Finance Manager; Ted Vanegas, Land Use Program Manager II; Christine Cook, Senior Deputy Prosecuting Attorney; Steve Archer, Deputy Prosecuting Attorney II, Bill Richardson, Senior Deputy Prosecuting Attorney; Sonja Wisser,

Program Assistant; Larisa Sidorov, Office Assistant; and Cindy Holley, Court Reporter.

III. GENERAL & NEW BUSINESS

A. Approval of Agenda for October 20, 2022

SWINDELL: Okay. With that, I would like to see if I can get approval for our agenda for October 20th or get a motion for approval for the agenda for October 20th, 2022.

WOGEN: This is Eldon. I **move** that we approve the agenda for October 20th, 2022.

ENGE: This is Bryant. I **second**.

SWINDELL: It's been moved and seconded. Take roll call.

ROLL CALL VOTE

ENGE: AYE

HALBERT: AYE

SWINDELL: AYE

WOGEN: YES

JOHNSON: YES

WISER: 5 to 0.

B. Approval of Minutes for September 15, 2022

SWINDELL: All right. With that, I look for a motion for approval of minutes from September 15th, 2022.

JOHNSON: I make a motion to approve the minutes from September 2022.

WOGEN: This is Eldon. I **second**.

SWINDELL: It's been moved and seconded. Roll call.

ROLL CALL VOTE

ENGE: AYE

HALBERT: AYE

SWINDELL: AYE

WOGEN: AYE

JOHNSON: AYE

WISER: 5 to 0.

HALBERT: Matt, could I pause for just a minute. Larisa, I'm getting feedback out of my iPad here. Yeah.

SWINDELL: Sorry. We're taking care of a little IT technical glitch here. Can you hear me through there now? We're all good? Okay. Yeah, I think so. All right. With that, Sonja.

C. Communications from the Public

WISER: Communications from the public. Larisa, can you pull up the instructions for the public, for public comment. Good evening members of the public. For attendees using their computer or Webex application, if you would like to speak, please use the raised-hand icon.

For attendees using the telephone, which is an audio only option, press star 3 on your phone's number panel to raise your hand. For those in-person that would like to provide public comment, please raise your hand, and once acknowledged, you may come to the microphone towards the front of the room.

Public comments are limited to three minutes per person in order to accommodate all speakers. Please provide your name for the record. Again, this portion of tonight's hearing is only for items not listed on tonight's agenda. Is there anybody in the audience that would like to speak? Okay.

HOLLEY: And please spell their last name.

WISER: For Webex callers, we will now call on the people on Webex, on the phone, that if any have raised their hand? There are none, Matt. We can go to the public hearing item.

SWINDELL: All right. Let's see here. Remind us from the public if providing public testimony in-person, please sign up on the sheet in the back of the room. If joining remotely, instructions will be provided at the appropriate time by staff.

IV. PUBLIC HEARING ITEMS

1. CPZ2022-00008 2023-2028 Transportation Improvement Program (TIP).

The TIP identifies public works capital projects including new construction, reconstruction, bridges, bicycle and pedestrian, safety, hot mix preservation improvements, signalization construction to maintain and enhance Clark County's transportation system in unincorporated Clark County.

Staff Contact: Chris Carle, Chris.Carle@clark.wa.gov or (564)397-4523

We will now open the hearing for CPZ2022-00008, Transportation Improvement Program, presented by Chris Carle.

LADER: Good evening Commission members. This is Ken Lader. I wanted to take a second just to introduce myself. I'm the County Engineer and it's my pleasure to turn this over to Chris. He's been working hard on the materials that you saw in the work session and this presentation for you tonight on our Transportation Improvement Program. So, Chris, take it away. Thank you.

CARLE: Thank you, Ken. And for the record Chris Carle, Interim Manager, Capital Programs, Clark County Public Works. Tonight before you we have the 2023-2028 Transportation Improvement Program.

This is going to be a request - next slide please - to show transparency between the Capital Facilities Plan and our six-year Transportation Improvement Program. So that's our agenda for this hearing, transparency between the Capital Facility Plan and the Transportation Improvement Program. Schedule and steps where we are as well as requests. I'll show a map of the overlay of both the CFP and the TIP. Next slide, please.

A little bit of a purpose. The Revised Code of Washington as well as Clark County Code sets a little bit of the precedent in terms of what we do both with our Transportation Improvement Program as well as the Comprehensive Plan.

The Comprehensive Plan then feeds our Capital Facility Plan which we manage in Public Works which we take the majority of our projects either directly from the CFP as standalone capital, large capital projects or through our ongoing program projects, various projects consisting of like bridges, sidewalk/ADA, transportation and rural road projects and the like which I'll show you some details of that as far as a budget in the slides upcoming. Next slide, please.

This is a graphical map of our larger projects from our Capital Facility Plan not labeled or our ongoing program projects, but if you look at the legend here, you'll see a list of various projects

that come through that Comprehensive Plan and the Capital Facility Plan itself.

And the next slide shows you our draft. Yeah, it's a large file. It's not -- it's not meant to be a smaller file. Is there any way we can shrink that a little bit? In our legend, this is going to be -- you'll see it in our overlay. Thank you.

This is the map of our -- of our Transportation Improvement Program. The red and the blue projects are what we call our capital, our large capital projects. The green are our various ongoing program projects which, again, weren't mapped on the Capital Facility Plan so just keep that in mind. And the next slide.

From the Capital Facility Plan, we take and rank the projects to come into our Transportation Improvement Program both the large projects that have direct scoring, ranking that we put online with our granting opportunities.

When we get to the budget slide, I'll show you some numbers in terms of how our program is about a third funded by grants, but this map here is showing in purple the Capital Facility Plan projects and both the green, red, and blue overlays are then our Transportation Improvement Program projects directly overlay. So you can see the ones that are lining up within that 20-year plan as well as the purple ones that are not yet in the program itself. Next slide.

SIDOROV: Sorry, one sec.

CARLE: Sorry, Larisa. So this is -- whoop. Right there. Thank you. This is an overview of our budget for our six-year Transportation Improvement Program, approximately, \$238 million dollars over the course of the six-year program.

If you look down the totals of the different projects, our Urban Road Projects, again, our larger capital projects, 124 million, that's about 52 percent of our program. Advanced right-of-way and Urban Development (inaudible) management that allows us to start a project.

Bridge and culvert rehab, that's about five and half, six percent of our program. Road Preservation, just under 38 million, that's about 16 percent of our program. Rural Road, which looks small here but there is rural projects in various other ongoing programs, so...

Sidewalk and ADA, a little under 31 million, that's about 13 percent of our program. And Transportation Safety, just under 27 million, that's about 11 percent of our program. Looking at the bottom line, the total of the six-year program is about 238 million. Grants being about 76 million of which about 32 are projected and that's about a third of what our program is.

Transportation Impact Fees at 44 million, which is about 18 percent of our program. Real estate

excise tax, just under 29 million, that's about 12 percent of our program. We're going to skip road fund for a second.

Other sources are county arterial preservation funding, as well as partnership, together Transportation Impact Fees, REET2 and CAPP, and Partnerships is about a third of our program and then a major player is our county road fund which is about 84 million and that's about 35 percent of our program.

So we tried to spread our funding out and, then, you know, obviously go for grants and we're fortunate that we have about a third of our program coming in from grant sources as well as traffic impact fees and real estate excise tax. Next slide, please.

Some of our recently completed projects. These were projects that were completed in 2022. N.E. 10th Avenue. 149th Street to 154th Street, that's the photos that you see at the bottom there, before, during, and after.

Hard to make out, but in the after photo, there's a traffic signal there. Prior to that, there was a stop sign just north of that signal, very hard intersection to come in and out of.

North of that, that ties into our recently completed 10th Avenue bridge from 154th Street up to 164th Street and south of this previously was an improvement from 139th Street north to the 149th Street.

Other projects you'll see 182nd at SR-500, that was a WSDOT managed project, our cost was only .4 million, I think it was about a \$2 million project. Davis Bridge replacement, that's currently going, that's in the rural Munch Road.

S.E. Blair Road, that's from SR-500L sorry, that's should be N.E. Blair Road. S.E. Blair Road is going to be our next project. The S.E. Blair Road that's listed there will be the next leg of it. N.E. Blair Road was from SR-500 to Mile Post 247.

Manley Road, which you'll see a picture of on the next slide, is another rural project that also involved three culverts as well as our annual ADA Compliance. We spent about \$2 million on ADA Compliance.

About \$6 million on HMA Overlays and Guardrails as-needed for (inaudible) to adjust the projects accordingly on the -- on segments of roadway. Next project. I mean, next slide, please.

Previously mentioned was our 182nd Avenue at SR-500 intersection improvement. That was again managed by WSDOT built in just under two weeks. And before, during and after, pretty impressive after photo there. N.E. Manley Road, very water driven project that, again, involved three different culverts as well as some road improvements on Manley Road itself. Next slide.

Again, following on some recently completed projects, these were done in 2021 but equally as important. A couple of Highway 99 projects, the corridor at 99th Street. Widened a little bit of a turning there as well as provided some sidewalk and in-fill in that -- in that sense.

Three different bridge projects, Lehto, Smith and Salmon Creek Bridges. N.E. Blair Road and Highway 99 improvements that went from 78th Street to 134th Street, again, adding sidewalk and the like. And not -- and the same thing again with our ADA Compliance, ADA Preservation, about 2 million needed there, HMA Overlays and Guardrail Projects. Next slide.

So this is our schedule where we're at. Previously, we went to the work session for Planning Commission earlier in October. Here we are tonight. Our notice of public hearing goes out for our November 15th Council hearing to adopt our program.

Before that on November 3rd, we're going to meet with, again, another public process for the Development Engineering Advisory Board. And the Transportation Improvement Program by law needs to be adopted previous to our December County budget adoption. Next slide.

So the request before you tonight is to seek support of our 2023-2028 Transportation Improvement Program for consistency with our 20-Year Capital Facility Plan. Any questions or comments?

SWINDELL: Okay. Bryant, do you have any questions?

ENGE: Yes. Thank you. Carle, just for information purposes, can you let me know how do you select and rank projects? And then my other question would be, what's included in the road fund?

CARLE: So, yes, good question. And the ranking process, there was a slide in for the work session. I didn't put it into this one. Online, you can find 20 pages of the way it's broken down, but the premise of the ranking as far as the larger capital projects are concerned is, we try to put that inline.

Again, it is a process that is vetted through our Council, through the public, routinely or regularly tweaked for scoring, upgrades and the like, but the basis of it is from memory about 30 percent is based on safety. Unfortunately, accidents play into that a lot.

You take into volume capacity ratios, arterial atlas, and the like. Also, based on funding, if we're able to get a grant, that moves a project up. A more expensive project that doesn't receive grant funding is a little bit more heavy on the local funds so we tend not to bring that into the program as easily.

But online, you can find more information on that scoring from of everything that's involved. But, again, we put that online with our granting agencies to some degree because it also allows for better opportunities with grants.

The ongoing programs which I mentioned, they have their own ranking system whether it be our sidewalks, our bridges. Our bridges are very friendly for grants so they tend not to be as expensive from the road fund. And your last question with the road fund was what again? I'm sorry.

ENGE: What consists of the road funding? What's included? Where do those revenues come from?

CARLE: Well, that's all derivative of our direct taxes, but, you know, that's spread through various different departments and such of which we get a portion of the road fund. That's a little bit beyond what I do. I just tend to work with the funding, but what our drive of what we spend in our program then goes into the larger scale budget of the management of road fund as well as real estate excise tax.

ENGE: So, maybe, I'll look to the director. Oliver, could you explain a little bit more in terms of what all is included in the road fund.

VILLAFANE: Hello, everyone. I'm the Finance Manager for Public Works. If you don't mind, I'm going to interject here and provide that information on the various types of revenue sources that go into the road fund.

You have the property taxes for the general operating revenue, fuel taxes included. Some reimbursables and miscellaneous from various departments and divisions. There's sale of capital assets, permitting other transfers in, loans and grants. So there's a number of various types of funding sources so it's not just isolated to property taxes.

If there's any further questions. I think the largest portion of that is going to be the property taxes and it's, you know, if you -- the grants and fuel tax are tied for second in the size of them as well.

CARLE: Thank you, Sherry.

ORJIAKO: I don't have anything. Yeah, I don't have -- Oliver Orjiako, I don't have anything else to add. I think that covers where the majority of the funding comes from the road fund.

ENGE: Thank you.

ORJIAKO: You're welcome.

SWINDELL: Okay. Bryan Halbert.

HALBERT: Yeah, no questions.

SWINDELL: Eldon.

WOGEN: No questions.

SWINDELL: Karl Johnson. Karl, are you there?

JOHNSON: Yeah. Sorry. I have no questions. Sorry about that.

SWINDELL: Okay. The only thing I'd like to do is just make a comment and say that the list of the projects that were just completed, if I did my math correctly, is about 38 million, 39 million, maybe dollars worth of projects that got completed and looking at the pictures and driving around the county, every single one of those projects is quality of life.

We have a lot of people moving here and I love to see these projects, the roundabouts going in, the sidewalks. It's safer for our community. It's just fantastic what is getting done, so... That's the only comment I want to make.

I think -- I think the entire team that's out there in Clark County doing the work, boots on the ground, everybody doing the work inside here, is just doing a phenomenal job. That's my only comments there.

CARLE: Yeah, thank you for those comments. You know, previous to those projects that we highlighted, the 119th Street corridor which opened up that corridor from about 50th Avenue east to SR-503 and even to the east of that, so 179th Street is our next corridor and that will go a little bit west of I-5 and all the way to the east of I-5 to about 50th Avenue. So we're going to be putting more roundabouts in there, widening up that corridor as well so that's going to really improve traffic flow in -- in that -- in that area as well.

SWINDELL: That is fantastic. Thanks, Chris. Appreciate it.

CARLE: But I just did want to add also to the road fund a lot of what we did is to try to minimize the need for the road fund with other leveraging of -- of -- of funding. So thank you.

Public Testimony

SWINDELL: Okay. With that, we'll now open the hearing for public testimony at this time. And I don't see anybody on the sign-in sheet for this one. I don't have a sign-in sheet for this one, but...

WISER: Larisa, are there any Webex callers calling in?

SIDOROV: There are no attendees or callers.

SWINDELL: Okay. I will now close the public testimony portion of this.

Return to Planning Commission

SWINDELL: I guess we'll bring it back to the Planning Commission. So does anybody else have any comments or questions or does somebody just want to make a motion on this one?

ENGE: A quick question. I understand that the public has a chance to vet the projects. Chris, are there opportunities for the public to initiate a project?

HOLLEY: I'm sorry, who's speaking?

ENGE: I'm sorry. This is Bryant Enge.

CARLE: Bryant, for the larger capital projects, no, they come through the Comprehensive Plan process into the Capital Facility Plan, but as far as our ongoing programs, yes, we do contact, for example, the school districts for our pedestrian, bike, and safe routes to school opportunities.

A lot of our sidewalk projects are driven on the basis of need and our inventories and that like. You know, if somebody were to tell us about a safety situation, we would study it but not directly can necessarily just mention a project and have it come in. But, yeah, in that sense, the ongoing programs do have a capacity for -- for a public influence in that regard.

ENGE: Excellent. Thank you, Chris.

CARLE: Thank you.

HALBERT: So, Mr. Chair, Bryan Halbert. I'd **MOVE** that we approve CPZ2022-00008, the Transportation Improvement Program.

SWINDELL: It's been moved. Do I hear a second?

JOHNSON: **Second.** This is Karl Johnson.

WOGEN: This is Eldon. I second.

SWINDELL: All right. It's been moved and seconded. Roll call.

ROLL CALL VOTE

ENGE: AYE

HALBERT: AYE

SWINDELL: AYE

WOGEN: AYE

JOHNSON: AYE

WISER: 5 to 0.

IV. PUBLIC HEARING ITEMS, continued

2. CPZ2022-00007 TIF Update & Capital Facility Plan Update

Traffic Impact Fee (TIF) rate adjustment to reflect changes in costs of land acquisition and construction, facility plan projects and anticipated growth. Apply proposed TIF rates to the adopted 2020 Transportation Capital Facilities Plan.

Staff Contact: Gary Albrecht, Gary.Albrecht@clark.wa.gov or 564-397-4318

SWINDELL: Okay. With that, we'll move on to CPZ2022-00007, the TIF and Capital Facilities Plan Update. Gary Albrecht is presenting.

LADER: Yeah, thank you, Commission member. Again, Ken Lader, County Engineer. It's my pleasure to introduce Gary Albrecht to you tonight and he's going to review and go over our Traffic Impact Fee Updates as well as the Capital Facility Plan Updates with you tonight and then we'll be available for questions as well. Thank you. Gary.

ALBRECHT: Good evening, Vice Chair, and Planning Commission members. Sorry about that noise. As Ken mentioned, we're here to discuss CPZ2022-00007, amending the Traffic Impact Fees. Next slide, please.

We are proposing to amend the adopted Traffic Impact Fee Rate and amend the adopted Clark County 2020 Capital Facility Plan with the revised impact fees. Next slide, please.

The 2015-2035 Comprehensive Growth Management Plan has a 20 year list of needed transportation improvements to accommodate future population and reduce congestion. The last Traffic Impact Fee, we'll call them "TIFs." The last TIF update occurred in 2020. Clark

County Code requires an annual adjustment to account for inflation.

In 2016, the Clark County Council adopted the Traffic Impact Fee Technical Program document that provides the methodology to amend the TIF rates. A TIF update did not occur in 2019 because I hate to say the word it was because of COVID and the staff shortages so we just did not do an update in 2019 and 2021. Next slide, please.

The inflation fee methodology rates per vehicle trip using the nationally recognized Engineering News Record, ENR, Construction Cost Index. ENR has an index for Seattle. Staff uses January for year-to-year reviews. The index is based off 200 hours of common labor rates, price of steel and lumber.

The annual adjustment formula is the January CCI, the Construction Cost Index, divided by the base year CCI, which is 2020 for us, multiplied by the district fee, in this example the district fee \$551. Next slide, please.

We have four TIF districts. Three are inside Vancouver's urban growth boundary. Orchards is in purple. Hazel Dell is in the green color. Mt. Vista is the light blue color. And the rural area is yellow, and that's the fourth district we have. The next slide, please.

This slide, this table shows the adopted 2020 TIF rates and the proposed 2022 TIF rates based on the 13.2 percent inflation increase from 2020. Next slide, please.

So this slide and the next slide show the proposed for the adopted 2020 Capital Facility Plan project transportation cost and the proposed 13.2 percent inflation increase in the 2022 project cost. So we've got the -- just to explain the table -- so we got the Road. It goes from, to. There are specific intersections listed on here and segments, road segments.

And then the Total Project Costs in 2020, that's what is already in the adopted 2020 Capital Facility Plan. And then looking at the inflation rates going from the project costs from 2020 applying the 13.2 percent gets you into the 2022 total capital project costs. Next slide, please.

So this slide shows the total project cost of identified capital projects needed to accommodate projected growth and congestion increase from 13.2 percent. Can you see the bottom of this slide? I don't know if the public can see the bottom, okay, because I can't see it. All right. So it's an increase from 13.2 percent from 355,923,000 to a little over 400- -- well, a little under \$403 million. Next slide, please.

Oh, thank you. Clark County Code 40.560.010, Plan Amendment Procedures, includes two criterion for amending the Capital Facility Plan. Criterion 1 is to review and update the CFP at a minimum of every four years. The last update was in 2019, adopted in 2020.

WAC 365-196-850 authorizes Clark County to impose impact fees on new development activities. Clark County Code indicates rates shall be adjusted annually. Criterion 1 is met. Next slide, please.

Criterion 2 is to determine during the CFP update that policies are consistent with the GMA, WAC and Comprehensive Plan Policies. The proposed action is consistent with GMA Goal 3 and Goal 12, RCW 36.70A.070 and WAC 365-196-415. The Growth Management Act requires the six year Transportation Improvement Plan to be financially constrained and balanced.

The 2016 Comprehensive Growth Management Plan projects a capital cost shortfall of 158.1 million. The plan identifies updating Traffic Impact Fees as a strategy to increase revenue. Revising the TIF rate helps to reduce the projected plan shortfall.

TIFs are the traffic impact component of a development impact fee adopted by ordinance. An impact fee is a fee levied on a developer by the county as a partial compensation for expected effects of the new development.

An increase in TIF revenues will allow the identified Capital Facilities Plan projects to maintain an established level-of-service standards consistent with the land use plan. Amending the Traffic Impact Fee rates and proposed CFP project cost amendments is consistent with policies in the 2016 comp plan. The next slide, please.

The proposed action is consistent with RCWs related to impact fees. GMA authorizes counties to impose transportation impact fees on public roads that are identified in capital facilities elements of a comprehensive plan.

Clark County Code 40.630.010, Impact Fee Revision, indicates that impact fees shall be adjusted periodically to adjust for inflation. Adjusting the Traffic Impact Fee rate for inflation supports balancing the CFP. Criterion 2 is met. The next slide, please.

The traffic fees, Traffic Impact Fees, collected in the four adopted TIF districts help pay for growth related in capital projects. Clark County Council approved the 2020 Transportation Capital Facility Plan on February 18th, 2020.

Revising the Traffic Impact Fees to pay for capital projects listed in the 2020 Transportation Capital Facility Plan and adjusting for inflation provides an additional roughly \$47 million to pay for new capital projects listed in the 2020 Transportation Capital Facility Plan. Next slide, please.

The proposed amendment to the CFP and TIF rates is necessary to serve urban development

while maintaining levels-of-service standards. Staff finds the proposed TIF amendments have met the criterion.

We have a PC hearing where we're at right now. We had a work session October 6th, the PC hearing this evening. We have scheduled a County Council hearing on November 15th. And the proposed adopting ordinance would occur with the budget hearing ordinance in early December. Next slide. Thank you for your time. I'm open to answer any questions.

SWINDELL: Okay. With that, I'll bring it back to the Commission here. Bryant Enge, any questions?

ENGE: Gary, good presentation. The question I had is historically what has been sort of the average in terms of the increase year over year?

ALBRECHT: It depends on the inflation. So, you know, I believe this last jump might have been a little bit larger than the year to year's because we're technically going from 2020 to 2022 so that's why it's a 13.2 percent increase. So it's generally, probably, around five or six percent I've seen in the past.

ENGE: Thank you.

ALBRECHT: You're welcome.

SWINDELL: All right. Bryan Halbert.

HALBERT: Yeah. Hi, Gary. It seems like inflation is running much greater than 13 percent. It seems like I've seen construction materials jumping 25 and 30 percent easily this past year. How does that -- how do you feel that's going to impact meeting the budgets or how do you overcome that in your capital facilities plans?

ALBRECHT: Well, the Traffic Impact Fees is one component of -- of the overall constrained budget for a project and so as -- as we saw earlier with the Transportation Improvement Program there are other -- other funding sources that come to the table for building a capital project and having the TIF increase to account for inflation does help with the project funding source provide revenue.

I mean, it's not -- it's not an ultimate cure because costs have gone up more, but as far as the index that we use, that's a nationally recognized index, the ENR, so that's why we go with that and not just, you know, what we see that, you know, at Joe's Lumberyard it went up 25 percent so we're going to start charging everyone else that so that's why we used a nationally recognized index.

HALBERT: I appreciate that there is a set standard and it's been in place for some time --

ALBRECHT: Yes, sir.

HALBERT: -- to make these adjustments so we don't have big jumps because as the Traffic Impact Fees go up, they also affect our home prices and, you know, we're always concerned about the cost of homes in our community and this has a direct impact on those homes and businesses so keeping them at a minimum is good for our community too.

ALBRECHT: Yes, sir.

HALBERT: Yeah. Thanks, Gary.

ALBRECHT: And, you know, at the flip side and so there's that Traffic Impact Fee but then developers can apply for a -- oh, gosh. What's the word? Say, Ken, are you there? Sorry, my mind is drawing a blank.

LADER: Yeah. A TIF credit, is that where you're going?

ALBRECHT: A TIF credit, that's what I want to say. Thank you. I'm sorry.

LADER: Yeah. Go ahead.

ALBRECHT: Yeah. So a developer can apply for a TIF credit so they would have an equal, an almost equal, portion of the increase in rate so they would apply for a -- so if a project comes in that's getting built on one of our identified Capital Facility Plan projects they can have an impact fee credit for that portion of -- of what they're developing. So, I mean, it -- it does help with having the credits available.

HALBERT: Yeah. So what you say it does help offset that -- that -- that added impacted to a home.

ALBRECHT: Yes.

HALBERT: Okay. Yeah. Thanks.

ALBRECHT: You're welcome. Thank you, Ken.

SWINDELL: Okay. Eldon.

WOGEN: Just one comment. I think, Bryan, you brought up a good point. So this is based on a January-to-January CCI?

ALBRECHT: Yes.

WOGEN: So it's all calculated from January of 2022 basically ten months ago that index?

ALBRECHT: Yes.

WOGEN: So by the time this goes into place almost a year has gone by and just like what Bryan brought up there could have been a 25 percent increase. That's not going to be taken care of all through 2023. I guess what I'm leading up to is why can't this process be done faster after the CCI comes out in January?

ALBRECHT: You know, and that's a great comment. Thank you very much. So, you know, how our code is written is that we -- it's -- we've had this discussion so I believe in the past we've made it so that it was just an internal staff driven adjustment.

So we would -- we would see the index. It would come out in February and then we would adjust the rates and, you know, March or April we would be able to have them online, but we've been advised legally to go through this process and bring it forward to the Planning Commission and the County Council.

So it's -- it's some -- so we have it in Code, it's just not crystal clear on -- on having staff the ability to just amend, you know, as -- as the inflation rate increases. So that could be the next -- the next amendment, code amendment, is we make this process a little clearer and specifically point out, you know, that, that based on the technical document that's been approved by the County Council that has the inflation adjustment rates in there and has all the guidance.

So it's there, it's just the -- the Revision Code is not crystal clear on staff doing this process instead of coming back and this is the -- this is how the timing worked out this year and it's not the best timing but it is what it is.

LADER: And if I could.

SWINDELL: Okay.

LADER: Oh, sorry.

SWINDELL: Oh, go ahead. Go ahead, Ken.

LADER: Yeah, your point is well taken. Obviously, a lot of the inflationary pressures that we've seen has come this year and -- and that would be a larger increase.

Just really from the viewpoint of transparency, it is our desire and decision to get this back before the Planning Commission and Council so that -- so that it was clear what we're doing because this does look like a very large increase but that certainly is something we can revisit other Council to make sure we have in place moving forward to see if we can be more react -- or more responsive to -- to this earlier in the year. That can be something that -- that Council could decide.

WOGEN: Okay. Thanks, Ken.

SWINDELL: All right. Karl, do you have any questions?

JOHNSON: No questions from Karl.

SWINDELL: All right. I just have a quick question. I -- I can't remember when these -- so when these fees get adopted and presuming they get adopted in December, at what point in the process for a developer do these get implemented on?

So if they already have preliminary review, is it at final plat? When do these things or is it at time of building permit? When do these new fees impact homes?

ALBRECHT: I am not sure exactly. Is it --

LADER: That's a -- that's a good question and I'm wondering if, Jennifer Reynolds, if you might know that off the top of your head. If not, we can certainly get that answer to you.

REYNOLDS: I do. TIF fees are assessed at time of building permit. Does that answer your question?

ORJIAKO: This is Oliver Orjiako again. It's at time of building permit.

SWINDELL: Thank you. Thank you for that clarification.

ALBRECHT: Thank you. Thanks, Jennifer.

Public Testimony

SWINDELL: Okay. With that, we will now open the hearing for public testimony. And I believe I have -- where am I at here? Right here. I have Teresa Hardy.

WISER: I have to read it first.

SWINDELL: Oh, you got to read it first. I'm sorry. I apologize.

WISER: Okay. Good evening members of the public. Please note to be a party of record you must submit written testimony before, during, or prior to the close of tonight's hearing; or provide oral testimony at the public hearing; or request in writing to be a party of record.

No person shall be a party of record who does not furnish their full name, e-mail address, or Post Office mailing address. If written comments were received prior to October 20th, 2022, they were submitted to the PC members and posted on the Planning Commission website.

This hearing is being transcribed by a court reporter. Please spell your last name and speak slowly. Public comment is limited to three minutes. And Larisa has informed me that we have no Webex callers present.

So we'll now begin with participants in the hearing room. So, Matt, you can call their name on the sign-in sheet and they can come up to the table and provide their name and address for the record. If they don't wish to provide testimony they can say so.

SWINDELL: Okay. So I have one name here of Teresa Hardy. Oh, I'll call your name at that point, then. Okay. Okay. Seeing no movement, I'll close the public testimony portion of this and bring it back to the Commission. Does anybody have any -- I'll just start over here with you. Bryant, do you have any comments or questions?

ENGE: No additional comments.

SWINDELL: Bryan.

HALBERT: Yeah, no comments or questions.

SWINDELL: Eldon.

WOGEN: No questions.

SWINDELL: Karl.

JOHNSON: No questions.

SWINDELL: And I have none either. With that, I would take a motion.

ENGE: I'll make a motion that the --

WISER: Would you state your name for Cindy.

ENGE: Bryant Enge for the record. I make a **MOTION** to support staff recommendation for CPZ2022-00007, the TIF Update and Capital Facility Plan Update.

SWINDELL: I'll take a second.

HALBERT: Yeah, Bryan Halbert. I'll **second** that.

SWINDELL: We have a motion and a second. Roll call.

ROLL CALL VOTE

ENGE: AYE

HALBERT: AYE

SWINDELL: AYE

WOGEN: AYE

JOHNSON: AYE

WISER: 5 to 0.

SWINDELL: Okay. Motion passes.

IV. PUBLIC HEARING ITEMS, continued

Biannual-Annual Code Change Items – Fall, 2022

Staff Contact: Ted Vanegas, Ted.Vanegas@clark.wa.gov or (564) 397-5122

BI-ANNUAL CODE CHANGE ITEMS – FALL 2022			
No.		Title/Chapter/Section	Description
Scrivener's Errors & Minor Changes			
1		Title 40 Appendix F, Chapter 10, Definitions - Cottage Housing	The code currently references an incorrect section. Amend the language to reference the correct section

2		40.200.040.C.1.b	The RC-1 and RC-2.5 zones were inadvertently left out of this section, which includes all the other rural zones. This correction provides consistency for this section of the code by including all rural zones.
3		40.320.010.B.4.b	This amendment provides clarification that a wall is required, and that references to the F2 standards are only in relation to site obscuring standards, and that a fence cannot be substituted for the wall.
4		Table 40.210.030-3. Setbacks, Lot Coverage and Building Height	This amendment corrects an error in the referenced note that currently shows a setback distance that is inconsistent with the setback distance listed in the table. The note will be changed to match the table.
Reference Updates			
5		40.350.030.B.5.a	Remove redundant information within the street and road standards.
Clarifications			
6		40.220.020.C	Clarify that the required Recreation Space for multi-family developments may be calculated toward the minimum landscaping requirements.
7		40.100.070 Definitions	Create separate definition for Public and Private Alleys.
8		40.350.030.B.4	Clarify that driveway pave back is a requirement for access to public roads.
9		40.350.030.B.4.b.1	Clarify that only existing flag lots are exempt from Section 40.350.030.B.4.b.1, Driveway Spacing.
10		40.350.030.B.4.b.3	Clarify that the driveway length standard applies to modified and extended driveways as well.
11		40.550.010.B.1.b	Clarify that an alternative pavement designs for any road classification requires a technical road modification and that alternative turnaround designs on private driveways and road require a minor deviation

12		40.620.010	Clarify references to where trip generation or pass-by information is found when determining Traffic Impact Fees.
Minor Policy Changes			

We'll now move to -- let's see here, the Biannual Code Amendments. Presentation by Ted Vanegas. I'm sorry. Vanegas. Vanegas. Okay. I'm sorry. I just want to make sure I said that right.

VANEGAS: Good evening, Commissioners. My name is Ted Vanegas. I am the Land Use Manager with Community Development. Unfortunately, April Furth, the Director of Community Development, can't be in attendance tonight but Max Booth, the Community Development Deputy Director is in attendance as well as Jennifer Reynolds the Development Engineering Services Manager. This evening, we will be presenting to you the proposed 2022 Biannual Code Amendment that impact Title 40. Next slide, please.

So the background of these amendments are that the -- they're typically updated at least once per year and the process was put on hold due to the pandemic. The last amendment was done -- completed in 2019. The updates are intended to address minor code amendments, including scrivener's errors, reference updates and clean-ups, clarifications, and minor policy items. Next slide, please.

This slide shows the process staff has completed and will complete for this year's biannual code updates. We began with staff meetings across the department to determine what code sections should be included. This list was then further reviewed by a community planning team and the attorney's office.

As you can see, we met with Council in a work session format for guidance to proceed and then we met with the Development Engineering Advisory Board on September 1st for their recommendation. On October 1st, we presented the amendments to the Planning Commission in their work session. After tonight's hearing with the Commission, we will take your recommendation to the County Council for a final decision on November 15th.

It should be noted that the public notice date for that meeting was November 1st; however, we will be requesting a continuance to November 15th.

I believe the Commissioners have a list of proposed amendments in front of them. With the following slides, we will go through and briefly explain each amendment. As we proceed through each of these slides, Jennifer Reynolds will address those specific to development engineering and I will address those specific to land use. Next slide, please.

So with this amendment, this is essentially addressing a scrivener's error. The amendment corrects a scrivener's error where the code contains the incorrect cross-reference to another code section. Next slide, please.

This amendment also corrects an error where the setback listed in the table is inconsistent with the referenced note. So, again, this is another scrivener's error correction. Next slide, please. And this is -- will be one of Jennifer's.

REYNOLDS: Yeah. So Jennifer Reynolds with Development Engineering. This one is just removing redundant information regarding driveway pave back from one of the sections within the street and road standards. It doesn't change the applicability since it's already covered in another section. Next slide, please.

VANEGAS: This amendment was requested by DEAB and will allow outdoor recreation space to count toward the required landscaping for multi-family projects. Historically, planners in land use have for the most part allowed these two code sections to crossover. So this just clarifies that that can occur.

Additionally, staff would like to add a sentence to the code section. As you can see in your item before you, the underlying part is what we will be adding; that is, "The area of any entirely outdoor 'recreation space' used to satisfy the requirements of Section 40.260.150.C also may be included in the calculation of the amount of landscaping required under Section 40.220.020.C.9, however that such outdoor recreation space shall not be considered landscape buffer under Section 40.320.010."

And then the part that we would like to add for this meeting is another sentence that, the next sentence would be: "Additionally, such outdoor recreation space shall comply with the county definitions of both landscaping and recreation space."

This will just clarify that the recreation area allowed to count toward landscaping shall actually include plantings and other associated landscaping elements. For instance, we wouldn't want a basketball court or swimming pool to count towards that landscaping requirement. So with that, I believe Steve Archer, the Deputy Prosecuting Attorney, is present at this meeting and he would like to provide some clarification on the interim ordinance associated with this code section as well.

ARCHER: Thank you. Vice Chair and Commissioners. For the record, my name is Steve Archer. I'm the Deputy Prosecuting Attorney for Clark County. And I would just like to reiterate for your attention some statements that were in the staff report which I believe was presented to you.

The biannual code update that's being discussed here was the subject of two interim ordinances passed by the Clark County Council in July; in other words, the language with the exception of the language that Mr. Vanegas said was just added here was identical to the language in those interim ordinances that were passed in July.

The first of those two interim ordinances has expired and the second is the subject of a referendum initiative proposal and at this time it is suspended until that referendum proposal process is resolved. And, finally, if this section is added, it would supersede the interim ordinance that's currently suspended. Thank you.

VANEGAS: Okay. Next slide, please. I believe the next few Jennifer will address.

REYNOLDS: Yeah. So this next one is about creating a separate definition for public and private alleys. Currently, the code just has a definition for alleys and it's really for public alleys.

But now with the adoption of the narrow lot development standards, I believe back in 2018, there is now an allowance for private alleys and so just to create a separate definition for those two with the public alley not being allowed to serve as like the only vehicle access to the lot because it does create an accessibility issue for Public Works to maintain the road.

So the term "generally" was kind of removed from that definition while it was left into the private alley definition recognizing that when you have a private alley it doesn't necessarily need to be fronted by a public road on the other side of the lot; whereas, a public alley, it would need to be fronted by a public road on the front side of the lot with the alley being the secondary access on the backside of the lot. Next slide, please.

This is, again, another code section about driveway pave back. And just with this one, it's to clarify that the driveway pave back should be included in this section of the street and road standards, Section (B)(4) that talks about access. Right now, it is only in (B)(7), Section (B)(7) which talks about intersections, but it should be in (B)(4) and it's driveway pave back has always been a requirement for the for access onto a public road and it just with including it in the (B)(4) section it allows us to actually have that point to that code section when requiring it. Next slide, please.

So this one is just a really a clarification and it's to add the word "existing flag lots." One shouldn't be able to create an exempted flag lot when they're dividing land. So it's really just to clarify that this exemption applies to existing flag lots with regard to driveway spacing and how far you need to be off property lines. Yes. Next slide, please.

Oh, this, so this one it's just the also a clarification to add the words "modified" or "extended" for driveways that are longer than 300 feet. Right now, you need to have a turnaround for any

driveway that's longer than 300 feet. You also need turnouts if it's longer than 500 feet. So this really is just instead of the code saying new, it when someone comes in to build a home and modify and extend the driveway, it should also apply to the driveway in that case too because it is a fire, life safety issue in that case. Next slide, please.

So this one was one that was slightly changed from the work session. Before it included both the alternative turnaround design, changing that classification of road modification from a technical to a minor, but the one that was removed was with regard to public roads and the deviations to cross-sections and things like that.

I think right now if it was an unclassified road, we were classifying that as a minor deviation where the proposal was to change that classification to technical, but I think to make the -- take a more holistic view with the classifications of the road mods whether they're minor deviation, which don't require a lot of staff time to review and not a lot of technical information to review those, just to take a more broader approach and -- and look at all the classifications that we have or all the examples that we have of road mods and make sure they're appropriately classed.

But this one is important to note because right now if we were to require the technical road modification for these alternative turnarounds on private driveways and private roads, it's really kind of overkill when these are something that really the fire marshal really has a say in because, again, it's a fire, life safety issue to approve an alternative turnaround. Next slide, please.

This really just clarifies where the trip generation and pass-by information is found when determining Traffic Impact fees. I think right now it just references one -- one document that has a very small list of approved trip generations, or, again, sorry, approved land use classifications where the code will be changed to just clarify the reference that actually I think references the actual ITE manual and has a broader range of -- of land use classifications to better apply the appropriate TIF calculation to. Next slide, please. This one's yours, Ted.

VANEGAS: Thank you. So this one is to clarify that a wall is required and a wall cannot be substituted as a fence. We do have some confusion occasionally because this cross-references the F2 standards which deal mostly with fencing, but that the reference to that standard is associated with the screening and visibility of the structure, not that a fence can be substituted. So this just essentially clarifies that a wall is still required but it references the section for, you know, visibility and screening. Next slide, please. And this one's Jennifer's.

REYNOLDS: Concerns removing the reference to parked cars and sight distance triangles and traffic control devices within the corner lot driveway clearance requirements on local access roads. The code change is really intended to revert back to what it was before the change before parked cars.

The language about parked cars located outside the sight distance triangle along with the applicant's engineer being able to propose mitigation measures with sight distance in order to preserve the sight distance. So it kind of removes that code language that really is not -- not a sight distance and mitigation measures, it's really not appropriate in this section of code as it pertains to corner lot driveway clearance standards.

And it's been really hard to implement because of the allowance to have in cases where there are smaller lots that you have in, maybe, the cottage developments or the narrow lot developments. The allowance that those lot widths can be, you know, smaller than 40 feet, it makes it hard to have a driveway for those lots that would meet this code. Next slide, please. Oh, next. Yeah, I think this is still the same one, yeah.

VANEGAS: So this section adds the RC-1 and RC-2.5 will be added to this section of the code to essentially be consistent with all the other rural codes that are located in this code section. So this provides that consistency for all rural zones. And it was unclear why these two zones weren't originally added to this section. So, again, this is just to correct that and to provide that consistency. Next slide, please. So that's the end of our proposed amendments for the Commission.

And with that, staff does request that the Commission vote to recommend approval of the 2022 Biannual Code Updates to the County Council. And we'll stand for any questions you might have. Thank you.

SWINDELL: Okay. Bring it back to the Commission. Bryant, do you have any questions?

ENGE: None at this time.

SWINDELL: Okay. Bryan, do you have any questions? It looks like you might have a lot of questions.

HALBERT: You know, in missing the work session on this I didn't understand a few of the requirements here, so... I also wanted to, maybe, after the public testimony to address some of the other comments that the publics made at that time. So I think let me hold off just a little bit longer.

SWINDELL: Okay. Sounds good. Eldon, do you have any questions?

WOGEN: Well, I'm going to need some help trying to understand this recreation space and landscaping requirement. It's confusing to me about, really, what is being proposed and I think, maybe -- Bryan, I think we're going to have some people in the audience talking about that so, maybe, I'll hold off on anything else until we hear more information.

SWINDELL: Okay. We'll have you come back later. And how about you, Karl, any questions at this time for staff? Karl, are you still with us? I'll take it that he doesn't have any questions. He'll have another opportunity later on, so... All right. With that, we will now open the hearing for public testimony. Sonja.

Public Testimony

WISER: Good evening members of the audience. Please note to be a party of record you must submit written testimony before, during, or prior to the close of tonight's hearing; or provide oral testimony at the public hearing; or request in writing to be a party of record.

No person shall be a party of record who does not furnish their full name, e-mail address, or Post Office mailing address. If written comments were received prior to October 20th, they were submitted to the PC members and posted on the Planning Commission website.

This hearing is being transcribed by a court reporter so please spell your last name and speak slowly. Public comment is limited to three minutes. Larisa has informed me that there are no Webex callers present so now we will begin with participants in the hearing room.

When Matt calls your name on the sign-up sheet, please come up to the table and provide your name and address for the record. If you do not wish to provide public testimony, please say so. So, Matt, can you call the participants on both of those sheets that you have and they can come forward one at a time.

SWINDELL: Okay. First up, we have Teresa Hardy. Please state your name and spell your last name.

HARDY: Good evening. My name is Teresa Hardy and that's H-a-r-d-y. I want to -- before I start speaking, I want to acknowledge and thank Sonja Wiser and Rebecca Messinger because those of us that are in organizations that care about land use are often communicating with County Council and the Planning Commission and I sent three e-mails to you to give you some background information. Unfortunately, I didn't get it to you by yesterday.

It took a long time to gather this information and I sent two of them early this morning and, then, one this afternoon and as soon as I had sent the e-mails to Sonja, she replied to me that they had been forwarded on to you. So for those of us that are working out here, their help is appreciated.

I don't know if I can say this in three minutes. I'd like to give you a little bit of background. In order to -- first off, I am a member of Friends of Clark County. We are a land use organization that really looks at what are we doing with land in Clark County as we move forward.

A big part of the emphasis of Friends of Clark County is farmland, but we look at other land uses as well. As volunteers in the community, many of us have come from various diverse backgrounds. So that's our background.

In order to prepare for this, we looked at the DEAB meetings, the March, April, May, and June DEAB meetings by looking at the agenda and the minutes and then listened to the audio recordings and then we -- I attended the July 5th meeting which was the morning after July 4th when this was introduced to Council as an emergency interim ordinance.

And then there was another meeting with Council for approval which was -- which was the 19th and then it moved to Planning Commission for a work session and now it's here before you. But background on this, when it was presented by Ted Vanegas, in order for you to have a clear understanding it's going to take more than three minutes.

SWINDELL: With only two, it looks like only two people signed up, we're good. We're good to go. Go ahead.

HARDY: Okay. All right. So, actually, I should start back where this originated. In listening to those meetings of the DEAB, this originated in the March meeting, they -- it was -- they had some discrepancy around the inconsistency of -- of applying the code to landscaping and to recreation use.

And the -- the code says that those two codes are separate, but there has been inconsistent determination of those codes and developers have been allowed in the past to combine those two codes.

But, then, April Furth, our Community Development Director, along with Ted Vanegas, they looked at these two codes and they determined -- and I'm going to read to you what Ted Vanegas said in the July 5th meeting when this was presented to Council.

Due to inconsistencies, land use management reviewed the code, and upon that review determined that the two requirements were intended to be separate. And upon that interpretation, the Community Director was asked by DEAB to review and make an official determination of this section of this code. This is our -- this is our Community Development.

After much research and meetings with management and legal staff, the director determined the two code provisions were intended to be separate requirements and could not overlap. With

that determination, DEAB requested that this interim ordinance be proposed to Council that would effectively change the official determination and allow for the overlap.

So, basically, what happened is April Furth and her staff and legal looked at those two codes and said, no, those codes were written to be separate. We realize that we have inconsistently applied those codes in the past but going forward, this is how it should be. DEAB did not like that decision and went ahead and requested that these two codes be combined. So that's what was presented at the April -- at the July 5th meeting to County Council.

Okay. And that was proposed as an interim emergency ordinance, as an emergency interim ordinance because DEAB in the March, April, May meetings talked about it, if you listen to the audio. And they were spearheading to move this forward despite the determination that had been made and take this directly to Council. Okay.
So -- so Council went ahead and approved that interim ordinance.

And now I'm going to go to another segment here. I also sent you an e-mail that is a link to the County Focus. Every month, Shari Phiel, the Columbian reporter, interviews our County Council people and on August 30th she interviewed Temple Lentz and about the interim ordinance and Temple said the initial emergency interim ordinance was wrongdoing because it was really pushed to accommodate the needs of a developer.

I will refrain from saying the name of the developer, though I did hear that and read it in looking at the minutes and the -- and the audio because he had a client that he didn't want to have to abide by these two separate codes, landscaping and recreation.

So she called out in that five -- at the end of the interview, the five minutes, I linked it and I told you it starts at 23 minutes and 48 seconds and it goes to 26 minutes and 38 seconds and in that you can clearly hear how she outlined what happened when they presented it on July 5th and I am quoting what she said. She called it "wrongdoing."

So I think it's important before you make any kind of decision here that you kind of look at all the background around this, especially when our own County Council person clarified it during a County Focus monthly interview. Okay.

Now moving forward. They repropo- -- okay. So that was emergency interim ordinance which was only, I think, to last till sometime in September which would then give this developer the ability to move forward with his project. It's my understanding without having to keep -- without having -- that he could combine those two codes. All right.

Then they came forward with another interim ordinance, and when that was proposed separate from this first emergency interim ordinance, that was not an emergency and that was stated by

Temple Lentz in her interview.

There was a group of people that gathered 100 signatures to stop this ordinance moving forward and we were hoping that emergency interim ordinance and the second interim ordinance would all be combined together, but somehow staff through some confusion or something and those two ordinances weren't put together as one ordinance.

But, right now, the second ordinance developers are not able to act on it because of the 100 signatures that were gathered. All right. So -- so that's kind of the background. All right.

Now, I'm going to read to you the e-mail that I have prepared, the e-mail that I sent you, that sort of now kind of sums up and outlines the important criteria around why this needs to not move forward with the rest of the annual code amendments because it needs more investigation and thorough analysis of what has happened and what we intend to happen moving forward. Okay.

For years - and this is short, it shouldn't take me more than two or three minutes and then I'll be finished - for years, the County had two tandem codes that regulate development. Recently, a developer, a member of DEAB raised this issue -- remember, I said started in March to allow him to generate additional dwellings. This is a clear conflict of interest. Qualifying ecosystem benefits of this. Okay.

So if we're going to look at what do we need to look at around making this decision is by combining landscaping and recreation, we have to consider what are the impacts of doing that. Not just that, let's move forward with it because 80 percent of the time in the past we allowed it to happen, that's not a -- that's not a rationale and a reason with any valid criteria around it to move forward with this the way we are. Okay.

So the factors are, we have to look at our air quality, stormwater and water quality, carbon storage and sequestration, and so if we eliminate our landscaping, trees accumulate carbon in their biomass. Trees play a large role in improving public health and addressing climate change; therefore, maintaining landscape around multi-family housing requires a thorough evaluation. Okay.

The 80 percent figure, combined code figures need to be verified. We can verify what that 80 percent was. No analysis has been shown to benefit residents or the environment. The benefits for residents, not developers, should be the criteria used to develop or modify existing codes. Considering this an emergency interim ordinance is false. This was no emergency.

This change has been initiated and moved forward by DEAB documented in the minutes and audio in the 4/14/2022 and the 5/5/2022 DEAB meetings. During the 10/6/2022 Planning Commission work session, Ted Vanegas, the Land Use Manager Developer from Community

Development shared the following: The intent of the biannual review process is to address scrivener's errors and address minor changes. Eliminating two separate codes is not a minor change. Clarifications are intended not to add or subtract county code.

The interim ordinance will have impacts on land, trees, vegetation, climate, and the mental health and physical health of residents. Remember, this is going to be applied to multi-family housing, people that are going to be living in tight -- in smaller spaces more, you know, more people together. We have to look at the impacts on residents as well.

Prior to the hearing on 7/19, FOCC did reach out by e-mail for answers to questions regarding that data. These were not addressed by staff nor by the applicant DEAB during their presentation at the hearing. The public only heard general statements without detail at both the - I'm almost finished - at both the 7/5 meeting and the hearing 7/19/22.

To evaluate the outcomes for multi-family housing, the public needs factual reporting and disclosures that are available to staff in public records because we requested those records and they -- they -- there is a list of developments that have been approved that could be go -- that could be gone back and looked at and looked at what actually happened. What was the advantage? What was the disadvantage of allowing them to combine the codes? It needs some analysis.

What and how many developments are currently in progress that are now waiting for Council to approve should we allow these combination of codes? We look forward to an evaluation of these public records.

You should incorporate site visits to confirm the impact on the residents of all ages in these units for quality of life and healthy living and meeting the GMA goals, open space and recreation, environmental protection, early and continuous public notice and participation.

I really appreciate you giving me the time to give you the background on this so as you move forward this is not a little kind of, oh, let's just do this in the biannual review because we had those 80 percent inconsistencies in the past. There's a lot that needs to be looked at on this. And we -- we ask that you not move this forward until more information is gathered and this is looked at in a lot of different lenses. Thank you.

SWINDELL: Thank you. Okay. With that, we have Mike Ogden.

ODREN: Odren.

SWINDELL: Odren, I apologize, sir.

ODREN: No worries.

SWINDELL: Please state your name and spell your last name.

ODREN: I will. Mike Odren, O-d-r-e-n, on behalf of DEAB. I'm also a land use planner and landscape architect with Olson Engineering a division of MacKay Sposito, 222 East Evergreen Boulevard in Vancouver, 98665.

Good evening and thank you for this opportunity. Regarding the proposed code clarification which Ms. Hardy has spoken about before, and I do have something else to talk about right after this, just a clarification from Ms. Reynolds on one of her -- one of the other code -- proposed code -- code ordinances.

I believe there needs to be some clarification, at least from our standpoint, on what this ordinance is and does and what this ordinance isn't and doesn't. What this isn't is a change to the current code. It doesn't really affect a thing. It does not take away from the required landscape area of a multi-family project. The code clearly states 20 percent of land of -- of any multi-family project is required to be in landscaping.

What it is, is a very recent code interpretation issue with some unintended consequences. As staff has indicated and as Ms. Hardy has alluded to, approximately 80 percent of the multi-family projects reviewing Clark County over the last decade or so allowed the 20 percent landscape requirement to also meet in part or in whole the required shared outdoor recreational space requirements.

And just a little bit of background. Shared outdoor recreational space requirement for Clark County is 200-square feet per studio and one-bedroom apartment and 300-square feet for each two-bedroom apartment all combined together.

That can also be met with clubhouses, with swimming pools, decks, barbecue areas, (inaudible) lots, playgrounds, outdoor fitness areas, dog runs, and a number of different ways that that can be met. A lot of those also can be used to meet landscape requirements, specialty (inaudible), areas, like playground areas, dog runs, things like that.

However, as there was consistency in how staff interpreted the code, the Community Development Director had to make a call, and as with any code interpretation, took the most restrictive approach and this directly relates to the opening sentence in Clark County Code 40.260, just the first opening sentence. However, as staff is willing to include this in this current Biannual Code Amendment cycle, it appears that staff is in agreement with allowing the required 20 percent landscaping to also meet the shared outdoor recreational space requirements in whole or in part. This would resolve that inconsistency in the staff

interpretation.

What this isn't is a way for developers to get more land for development. What this isn't is a way for developers to get more density in multi-family projects. Density and the number of units that can be realized on any particular project is based on the gross or net area depending on the maximum density or the minimum density.

It has nothing to do with the amount of landscaping that is required or the amount of shared recreational space that is required. So it's no -- in no way a way for developers to get more units on a piece of land. The code is clear. The zoning code is clear on that. It just doesn't go there.

What this is, is a way for the county -- the county to achieve the maximum density in the highest density multi-family zones because it's not enacted. That may not happen and I'll get to that.

Now, I know that there's been some concern about the impact of this code clarification, which is a clarification. It might be. If implemented, there will be no impact because most of the projects, the ones that I've been involved with, the ones that my colleagues have been involved with have all been able to combine the two together.

It's the same way as we have buffer landscaping, parking lot screening landscaping. We have internal parking lot landscaping. All of those separate code sections can be combined to meet the overall landscape requirement just like the shared outdoor recreational space could be.

However, should the current staff interpretation continue to be implemented, the county may be in conflict with the comprehensive plan. As an example, I provided a case study when I originally proposed this at DEAB. Yeah, I'm the one that proposed it originally as a designer and recognized that there is a significant issue if this were to remain.

I provided a case study of what the impact of the current code interpretation would be in the highest density zone, the R-43 zone, 43 units per acre, and DEAB's request to the Council for the interim ordinance with the requirement for 20 percent to be required landscaping and the requirements for shared outdoor recreation space both being mutually exclusive, not overlapping but mutually exclusive, what resulted was a project that would be almost 40 percent landscaping.

So instead of at 20 percent landscaping where you have the other competing interest of achieving the density, the buildings, the parking, the trash enclosures, everything else that's required by code, 40 percent would be landscaping which results in the project to not meet the maximum density achievable.

DEAB believes that this would run contrary and even legal counsel on DEAB believes that this would run contrary to the county's comprehensive plan, meaning, should something in the zoning code prevent the established densities from being met, it would, then, not meet the comprehensive planned density requirements and be internally inconsistent with the density goals of the comprehensive plan.

Now, I noticed there's some question about what's going on and I would be happy to discuss this personally with the Friends of Clark County and anyone else in the audience that would like some clarification and questions that to further explain the ramifications on this.

And at this time, I would like to kind of pause there and ask Ms. Reynolds a question on one of the other code amendments, if I could, please, with your approval.

SWINDELL: Yeah, go ahead.

ODREN: Thank you. Ms. Reynolds, on regarding the minor road, minor deviations for the private turnarounds, did you remove the section regarding the alternative pavement designs to be indicated as a technical road mod or did I just miss that part?

REYNOLDS: No. You just -- so this is Jennifer Reynolds, Development Engineering. No, Mike, or Mr. Odren, you did not miss that. I did remove that, the alternative pavement designs and cross-sections, et cetera, from the code amendments.

Just per the discussion that was had with DEAB, kind of the questions that were asked at the work session, I think it's -- I kind of said this, to take more of a holistic approach to kind of reclassify all those. I know DEAB had worked previous -- in previous years to kind of look at all the road modifications and appropriately classify them, whether it's technical, minor, or major, so I did take that one off kind of after the discussion that was had at DEAB with regard to that one.

ODREN: Great. Thank you. We appreciate that. At this time, I'd like, you know, be open for any questions that the Commission might have for DEAB on this particular topic.

SWINDELL: Okay. Thank you. Let's bring it back to -- let me see here. Let's bring it back to the Commission. Do you have any questions there, Bryant?

ENGE: No questions at this time.

SWINDELL: Bryan.

HALBERT: Oh, Mike -- or -- Mr. Odren, the -- during, I think was it, gosh, Tim's or Ted's presentation, you said that he added a sentence to the amendment and I'm not sure what that

was or how it affects the amendment.

ODREN: I -- I -- I actually e-mailed him to ask him that very question and he said, "Additionally, such outdoor recreation space shall comply with the county definitions of both landscaping and recreation space."

I'm not sure exactly why that is. I would assume, and, Mr. Vanegas, maybe you can chime in at this time, that outdoor recreation space can still be things, like, clubhouses, swimming pools, (inaudible) lots and those items that I listed previously.

VANEGAS: Hello. Right. The intent of that is for outdoor -- the outdoor recreation space and so it's for that crossover. So if the recreation -- if the outdoor recreation space is to count toward that 20 percent landscaping, then, that -- then, it should comply with the county definitions of both landscaping and recreation space which are both quite broad.

So the intent -- the intent there is -- so it -- you know, it essentially just requires that, that if we're going to count the recreation space toward that landscaping then it needs to meet those requirements and that's just to kind of say that, you know, as, like, I mentioned in the presentation that a swimming pool or a tennis court is not landscaping so that that portion of the outdoor recreation space cannot count toward the required 20 percent landscaping. So it's more of a clarification of what we want to see as we move forward and -- and if we're approved to allow this crossover.

ODREN: Very good. Thank you for that clarification. I think that's just fine.

HALBERT: Yeah, I think that's the how. And would you address a little bit of the issue of the emergency ordinance and how that came about.

ODREN: Yeah. This really took us all by surprise when this interpretation came out originally because all of us -- many of us on DEAB are designers, are engineers. I, being a landscape architect, I've been doing multi-family development for, you know, 20 years. I've been landscaping multi-family developments for over 25.

I have worked closely with my colleagues and other developers on other projects. We -- we are -- it's a very, you know, close-knit group in that we all know each other and oftentimes we often we know what projects we're working on and when this came out we really didn't understand why it came out and it really focused on and -- and staff focused on that one sentence at the beginning of 40.260.

Now, I might indicate that 40.260 is a special use section of Clark County Code which contains, probably, two or three dozen subsections associated with it. This just section -- this section

regarding the shared outdoor recreational space just happens to be part of that bigger part of this special use section and I think that there's -- I mean, an unintended consequence associated with the first line there, and I don't have it right now, but it says in addition to other parts of this code, these sections must also be met.

This is very unique in the fact that other sections of the code are also -- while mutually exclusive in different sections, can be used to meet the intent of, for instance, landscaping as I had mentioned before. Parking lot landscaping, buffer landscaping, parking screening, things of that nature, can all be combined to meet the overall landscape requirement and this is what had been interpreted by many of the -- much of the County staff over the years to also allow the recreational outdoor space, the landscaping portion of that to also count towards the 20 percent landscaping requirements.

That is why we moved that forward because now we had projects that we had to put on the brakes because we realized we couldn't meet the code. We simply could not meet the code. You know, and that means even taking buildings up more and more floors, which does not -- which increases construction costs and does not really move anybody towards more affordable housing.

HALBERT: Okay. Thanks. I think I understand this better. Thanks for the clarifications.

ODREN: You're welcome.

HALBERT: Thank you, Teresa, for your testimony too. It's helpful to hear both sides and appreciate you both coming forward really.

SWINDELL: Okay. Eldon, do you have any questions?

WOGEN: So what I'm hearing is that in times past, staff has approved at the 20 percent to include landscaping and recreational?

ODREN: That's correct.

WOGEN: Is that correct, staff?

ODREN: That would be Mr. Vanegas.

VANEGAS: Mr. Commissioner, that is correct. In our research, most of the time this section of code has been allowed to -- to do exactly what we're proposing to change here.

WOGEN: All right. So, basically, what you're -- what this proposal will do is pretty much to

stay what you're already doing?

ODREN: That's correct.

WOGEN: Okay. And if this -- and if we didn't proceed with this language and if this stuck hard to, does it have to be not overlapping, that could pose a lot of difficulties to meet the housing density.

ODREN: That is also correct and I indicated that in a case study that I provided to staff which was also provided to the County Council.

WOGEN: Would that -- would you agree with that also?

VANEGAS: Are you asking --

WOGEN: No, I'm asking Ted. Sorry. Ted, would you agree with that also?

VANEGAS: I'm sorry. Could the statement be repeated?

ODREN: Certainly, Ted. I provided a case study in the R-43 zone as part of DEAB's request to the County Council for the interim ordinance that showed that we could not meet. We did not have enough land on a particular parcel to meet the maximum density in the R-43 zone because we had to keep the 20 percent landscaping and the shared outdoor recreation space mutually exclusive or separate from each other.

VANEGAS: Yeah. I mean, I did -- when you sent that, we did review it and looked at it and it seemed to make sense so this certainly has an impact on maximum density for the zone. I would agree with that.

WOGEN: All right. Thank you.

SWINDELL: Karl, do you have any questions?

JOHNSON: No questions.

SWINDELL: Okay. Thank you. Ma'am. Ma'am, hang on just a second. So I'm actually going to give you another opportunity to speak to see -- we've been asking him questions so I was going to bring you forward and ask, let everybody have an opportunity to ask you questions so give me just a minute.

I actually do have a question for you and that is when you did your study and you said, okay, we

can't meet the -- can't get the 43 units per acre, how many did you get per acre? And I was just curious to see what that end result was. Because we do have requirements we have to meet to meet our goals.

ODREN: Yes. I don't -- I do not know if I came to that point. What I did come to is what the deficit was in the area in order to meet that requirement and it was based on a two-acre site with even four-story walkups we couldn't get there. And -- and this is part of the record that was provided as part of that so I do not know what the -- I mean, I'd have to back this all out, but we were 10,000, 8500-square feet short of being able to even meet. We had to almost meet the same amount of recreational space, 17,200-square feet and 17,200-square feet of landscape area over a -- I believe it was a two-acre site. Yeah, two-acre site.

SWINDELL: Okay. Thank you. Okay. With that said, I think that's all of our questions for you. And to be fair, if you -- if, Teresa, you'd like to come back up and, yeah, I think she has a little bit of something she'd like to say and then we can --

ODREN: And, again, I would -- I would love to have more discussion with you on this to explain things a little bit for you, if you'd be willing to.

SWINDELL: Okay. So and we're going to try to hold this, if we can. We're going to try to keep this as short as possible, but I do want to give everybody an opportunity to ask some questions, clarifying questions, of her testimony and so I'm going -- Bryant, I'm going to start with you. Do you have any questions about maybe some of her concerns or what not?

ENGE: No questions. I'm going to save my time for comments.

SWINDELL: And, Bryan, do you have any questions?

HALBERT: I don't at this time.

SWINDELL: Eldon, do you have any questions?

WOGEN: I do not, but I'd like to hear what the young lady would like to say.

SWINDELL: All right.

HARDY: I am not an expert in this and we're kind of looking at it from a land use and looking at multi-family housing for the residents that actually live there and what are we providing moving forward for our families living in multi-family housing because outdoor recreation space is important and landscaping with climate change is equally as critical. I mean, look, we're dealing with the Nakia Fire right now and maintaining our mature trees and landscaping for how we're

moving forward for the quality of air and things.

So I guess the point here is, is that moving forward with this for allowing it without doing more evaluation and maybe even looking at the percentage of landscaping but we're just going to take away all of the landscaping and let it get combined into the rec area which could be a pool or a soccer field. Well, that's not really addressing land use, maintaining our mature trees, you know, as we take out our 50-year-old Douglas Fir as we're doing a lot in development, you know.

What are we doing in replanting trees? We all know that replanting these young trees take three years for them to get established and with our current drought situations and water, you look at three year trees that have been planted and they're not doing well. So this takes a -- I said, takes a broader lens.

And then I'm going to add one more thing. When they proposed this at the July -- at the July 5th hearing, they proposed it under affordability but we quickly came back and said combining this is not going to address the affordability issue. We realize that density is a huge issue and we're not trying to downplay this.

We just think that this takes a -- you know, we need to look at what are we providing in that recreation and how much landscaping can we require to still be able to meet that. Are we going to get rid of all of it and are we going to base it on the fact that in the past when we weren't faced with the over -- with the problems we're now facing with climate and all these other things, maybe we could do it, but we have to be more careful.

We have to look at the impact on environment, our residents, and everything else. So we're just saying don't move forward with this the way it is. Let's give it some more time. You guys have a chance to listen to what Temple Lentz said, really delve into it before you go forward. This was spearheaded by DEAB.

SWINDELL: Okay. Thank you for your testimony. All right. I did forget to ask Karl if he had any questions.

JOHNSON: Never forget Karl. No questions.

SWINDELL: Okay. With that, I'll bring it back to the Commission.

Return to Planning Commission

ENGE: Not taking a position on the two different sides we've heard here this evening, but it's clear to me that the -- this particular matter on the recreational space and landscaping does not meet the intent of the Biannual Code Amendment. If I read this, it says staff will batch minor

amendments to the Clark County Code to correct scrivener's errors, update references, clarity standards, and to make minor policy changes.

To me this doesn't -- this particular clarity or the issue to me is maybe, and I'm saying maybe, a policy change. And so I am uncomfortable giving the testimony that we've heard, given the fact that some of the -- some of the terms I've heard or characterizations of this particular matter is there may be some unintended consequences. There may be some uniqueness. This may have some density implications.

All that to me sounds like policy and I'm just uncomfortable that this comes before as part of the Biannual Code Amendments because to me it doesn't sound like a minor amendment.

SWINDELL: Okay. Thank you. Bryan.

HALBERT: Yeah. No further questions at this time.

SWINDELL: All right. Eldon.

WOGEN: After hearing my fellow council members comments, I'm kind of in agreement with him. I think there should have been some more work done in previous years to clarify what staff had been doing on this about overlapping those. So even if this amendment doesn't go through as it is written to clarify, it sounds like staff is just going to keep on doing what they've always been doing, right, because there's no change in it, so... Yeah, I'd like to hear any other comments the Commission members have.

SWINDELL: All right. Karl, do you have any comments?

JOHNSON: Yeah. I -- I just think -- I think it's a reasonable approach. I think it's a balance. I don't see this as, I don't know, I think it aligns with a bi- -- biannual, but in the end I think that is -- there's been some provocative testimony, but I really think that this is doing it's best to balance two forces. So that's my two cents.

SWINDELL: All right. Thank you. And I kind of see it, maybe, just, maybe, not different. But the way I look at this is, we have density requirements to meet and if a developer -- I'm just going to -- for example, if he's got a two-acre piece of land and he's going to -- he's got 43 units to do it, if he can't meet that requirement, he's going to go buy more land and cut down more trees and do more, I guess, damage to the environment. If we allow them to combine this, he could still contain it within those two acres, provide the housing that we need and keep the cost down because he's not going to have to go out and buy more land so he's going to have more affordable housing for the residents through here. I look at it that way. The other thing is, is the question of whether or not this should be in the biannual and my opinion

I believe it should be based on the fact that it is an interpretation of what is written. They're interpreting what's already written and the interpretation for it sounds like over a decade was combine it.

And then we have some new staff that came in and -- and looked at this and had a different interpretation and now what DEAB has said is, well, wait a minute, let's go back and look at this again, look at the implications the way you're seeing this, and the way you're now seeing it doesn't work and that's kind of how I'm -- I'm seeing the whole picture. And I really understand. I've lived here my entire life. This county's beautiful. We want to keep that. We don't want to be destroying our environment. I have grandchildren. I'm going to have great, great grandchildren one day and I want this to be here for them as well, so...

I look at it as protecting the environment by having it higher density and we need it in certain areas, not everywhere. Do I want all of Clark County to be 43 units an acre? No, but there are certain instances we do need that and it's my opinion I think the way it's written and the way that we're interpreting it now, I -- I -- I agree with what staff is presenting. That's my two cents.

And with that, I don't know if I actually closed the public hearing. So I'll close the public hearing.

WISER: You returned it to the Planning Commission, so it's closed.

SWINDELL: Okay. All right. Okay. I wanted to make sure I did that. All right. I forgot to say that. And with that, I would accept a motion.

HALBERT: So, Mr. Chairman, Bryan Halbert here. I recommend **approval** of the Biannual Code Amendments.

SWINDELL: And a second.

WOGEN: This is Eldon. I'll **second**.

JOHNSON: I'll second it. Karl Johnson.

SWINDELL: All right. With that, Sonja, can we take roll call.

ROLL CALL VOTE

ENGE: NO
HALBERT: AYE
WOGEN: AYE
JOHNSON: AYE

SWINDELL: AYE

WISER: 4/1.

SWINDELL: Motion passes. And with that, that will end that.

OLD BUSINESS

SWINDELL: And then do we have any old business? None.

NEW BUSINESS

SWINDELL: Any new business from anybody? None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

SWINDELL: Comments from members of the Planning Commission? Any comments? No comments? All right. With that, then we'll adjourn.

JOHNSON: Thank you, Matt, for chairing tonight. I appreciate it.

SWINDELL: No problem, Karl. Good luck out there in the boondocks.

JOHNSON: Oh, thank you.

SWINDELL: All right. With that, we'll adjourn.

ADJOURNMENT

The record of tonight's hearing, as well as the supporting documents and presentations can be viewed on the Clark County Web Page at:

<https://clark.wa.gov/community-planning/planning-commission-hearings-and-meeting-notes>

Television proceedings can be viewed on CVTV on the following Web Page at:

<https://www.cvtv.org/program/clark-county-planning-commission>

Minutes Transcribed by:

*Cindy Holley, Court Reporter – Rider & Associates Court Reporting
Sonja Wisner, Program Assistant, Clark County Community Planning*