



## Clark County Planning Commission

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

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### CLARK COUNTY PLANNING COMMISSION HEARING THURSDAY, DECEMBER 15, 2022 MINUTES OF PUBLIC HEARING

Public Service Center  
Council Hearing Room, 6<sup>th</sup> Floor  
1300 Franklin Street  
Vancouver, WA  
6:30 p.m.

#### I. CALL TO ORDER

##### Planning Commission Rules of Procedure

JOHNSON: Good evening, Planning Commissioners, members of the public and staff members. I'd like to call this hybrid public hearing to order for Thursday, December 15th, 2022. My name is Karl Johnson and I'm the Chairman 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 they will make the 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 PC members and entered into the public record.

When we get to the public comment portions of our agenda -- and then -- excuse me. 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 the hearing agenda item, please sign up via the sheets in the back of the room.

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

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 deliberate and we will make our recommendations to the County Council.

For both 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 and/or second, please state your name to the court reporter.

Conflicts of interest. Do any members of the Planning Commission have any conflicts related to tonight's hearing? Okay. Hearing none, we'll move on. Sonja, can we get a roll call and introductions of any guests.

## II. ROLL CALL & INTRODUCTION OF GUESTS

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

Staff Present: Oliver Orjiako, Community Planning Director; Bart Catching, Planner II; Christine Cook, Senior Deputy Prosecuting Attorney; Steve Archer, Deputy Prosecuting Attorney II; Jose Alvarez, Planner III; Larisa Sidorov, Office Assistant; Sonja Wisner, Program Assistant; Steve Archer, Deputy Prosecuting Attorney II; and Cindy Holley, Court Reporter.

Applicants Present: Nancy Rogers, Land Use Attorney; Carol Carpenter, Owner's Representative; Ryan Crotty, Project Planner; Stacy Frost, Principal Engineer; and Matt Palmer, Traffic Engineer.

## III. GENERAL & NEW BUSINESS

### A. Approval of Agenda for December 15, 2022

JOHNSON: So we are now looking for approval for the agenda for December 15th, 2022. Can I get a motion, please.

SWINDELL: I **Move** we approve the agenda for December 15th, 2022.

HALBERT: Bryan Halbert. I **Second** that motion.

JOHNSON: We have a motion and a second. Sonja, can we have a roll call, please.

**ROLL CALL VOTE**

ENGE: AYE  
HALBERT: AYE  
SWINDELL: AYE  
WOGEN: AYE  
JOHNSON: AYE

**B. Approval of Minutes for November 17, 2022**

JOHNSON: Can we also get an approval for minutes for November 17th, 2022.

ENGE: I make a **Motion** to approve the minutes for November 17th.

SWINDELL: Matt Swindell. I'll **Second** it.

JOHNSON: We have a motion and a second. Sonja, can we get a roll call, please.

**ROLL CALL VOTE**

WOGEN: AYE  
ENGE: AYE  
SWINDELL: AYE  
HALBERT: AYE  
JOHNSON: AYE

**C. Communications from the Public**

JOHNSON: Finally, are there any communications from the public that are not on tonight's agenda? Is there anybody here that has something that is not on tonight's agenda? Sonja, do we have anybody from the virtual? Okay. Hearing none, we will now move on to the public hearing items.

Reminders to the public, if you're providing public testimony in person, please sign up on the sign-up sheet in the back. I have one of them here, it looks like that. If you're joining remotely and instructions will be provided at the appropriate time by staff.

**IV. PUBLIC HEARING ITEMS**

- 1. OLR-2022-00014 Cardai Hill Rock Quarry:** A proposal to amend the Comprehensive and Zoning maps to add a surface mining overlay on a parcel that is split zoned R-10 and FR-40 (254798000) totaling 76 acres. The overlay would apply to the portion of the property with a current zoning designation of FR-40 and comprehensive plan designation of Forest Tier – 2 which is approximately 46 acres.  
**Staff Contact: Bart Catching, bart.catching@clark.wa.gov, 564-397-4909**

So, I would like to start off with our one item, OLR-2022-00014, Cardai Hill Rock Quarry. And Bart Catching is our staff presenter. Bart.

CATCHING: Thank you, Karl. My name is Bart Catching. I'm a Planner for Clark County Community Planning and I'm here tonight to present the staff report and findings for the Cardai Hill Surface Mining Overlay Annual Review Application, OLR-2022-00014. Next slide, please.

The location of this proposal is a single parcel. The total parcel is approximately 76 acres in size with a single ownership, Cardai Hill Quarry, LLC. The proposed overlay is not on the entire parcel but on 46 acres of the eastern portion of the parcel.

The site is unaddressed and it's located at the northwest of the intersection of N.W. Cardai Hill Road and N.W. 402nd Street in rural northwest Clark County. Next slide, please.

Continuing with some location description. The subject property is currently undeveloped. It's mostly forested with varying topography with some steeper slopes especially to the south of the -- of the site.

N.W. 402nd Street is a private street. It bisects the property from east to west and primarily provides access to the rural home sites on the east side of the site. The property is FR-40 resource zoned and it is neighbored to the north and south and east by other FR-40 resource zoned properties. Next slide, please.

This graphic shows the entire parcel in red and then you can see there's a line through the middle. That's a section line and that also demarks the zoning, different zonings, so it's R-10 rural zoning on the west side and FR-40 resource zoning on the east side.

The comprehensive plan designation is Forest Tier II. And as I said, the zoning on the proposal area is FR-40, Forest 40, and the proposal itself is to add a zoning overlay of surface mining overlay.

As I mentioned, the proposal area is approximately 46 acres. Public notice for this hearing was accomplished as required by County Code. The mailed notice went out on November 23rd. The site was posted conspicuously on November 30th. And published notice as is County procedure in the Columbian and -- and the Reflector was -- was done.

I'd like to also note that minimum notice radius for comp plan amendments are actually only 500 feet and the Director decided to expand that notice and double it in size to 1,000 feet to provide greater notice to the neighborhood. Next slide, please.

This slide is just a wider pullout view of the neighborhood vicinity and showing the surrounding zones. This gives you a little more context. The parcel itself is outlined in blue. The project area again would be the eastern area that's in the dark green.

The large acreage home sites are to the east and then it's R-10 to the west and then R-5 further --

further to the west. I'll also note that there's an existing surface mining overlay, the crosshatched area, a totally separate parcel under separate ownership kitty-corner to the southeast. Next slide, please.

This -- this slide just gives some background information about the county's role with identifying and applying the surface mining overlays. GMA counties such as Clark County are required to identify, designate, and protect mineral resource lands.

Clark County adopted an initial surface overlay code and policies in 1994. In 2005, DNR, the Washington Department of Natural Resources, produced an aggregate resource inventory map for Clark County. That's what the "in said picture" is there. Obviously, it's just to show what the map looks like countywide. It's not intended to drill down on any specific site.

And the map identified a bedrock resource area immediately to the south and -- and potentially touching into the southern part of the subject property. The -- in response to the map and also to a task force that was formed by the County, the County significantly revised the surface mining overlay map and the associated codes for the County in 2014. Next slide, please.

This slide is intended to give everyone a little bit of perspective about where we are in this process and why we're here before the Planning Commission tonight. There is the Planning Commission process which is the Type IV legislative process and that is what is used for comprehensive plan amendments overlays such as we're discussing this evening.

Any potential future mine on this site or any other has to go through a completely separate Type III quasi-judicial process and a conditional use application hearing in front of the County Hearing Examiner. So what we are doing this evening is the initial steps in the Type IV legislative review. The code sections that are directly applicable from the County Code are 40.560.010 and 40.560.020.

Another important distinction between the surface mining overlay process and actually permitting a mine in the future is that the SEPA, State Environmental Protection Act, Policy Act, is the checklist review is for a non-project action and that is what was reviewed and that is the DNS that was issued for this project by the Director.

This is very different from the level of review that would happen for an actual development application under the conditional use permit process, that would have an entirely separate SEPA process and a complete independent environmental review.

As the Chair mentioned in his opening comments, the purpose of this hearing is to make a recommendation only. The County Council makes the actual decision on the application before us. Next slide, please.

So the framework that community planning staff uses to evaluate comprehensive plan map amendments and overlays such as this is a basically a set of criteria set forth in County Code 40.560.010 and those criteria are discussed in detail in the staff report.

The purpose of this presentation tonight is just to give a high level summary of the analytical framework and we can discuss details later on if people have specific questions.

So Part A would be the proponent shall demonstrate that the proposed amendment is consistent with the applicable requirements of the GMA, the WAC, the County Comprehensive Plan, the County Code and Official Population Growth Forecasts.

Staff finds that the proposed action is consistent with the economic development, natural resources industries, and environment aspects of the State GMA goals. WAC 365-190-070(2), in particular, speaks to mineral lands provisions and the comprehensive plan applies those.

Again, staff finds that the request is consistent with those and these are high level broad based locational criteria supported by the site itself and the application. So in conclusion, staff finds that Criteria A has been met. Next slide, please.

Part B of this analysis. The proponent shall demonstrate that the designation is in conformance with the appropriate locational criteria identified in the plan and the purpose statement of the zoning district.

Staff found that the expansion of the surface mining overlay in this case is consistent with surrounding land uses and is in conformance with both the locational criteria in the comp plan and the purpose of the zoning district of FR-40 and the proposed SMO surface mining overlay zoning district. In particular, the purpose to identify and conserve mineral resource lands.

The proposed site meets the locational criteria of the surface mining overlay per 40.560.010(O)(b) due to the quantity and characteristics of the resource that suggest mining could potentially be economically viable for the site. It conforms with the criteria of the State rules as mentioned before and also the Clark County policies and code. So in conclusion, Criterion B has been met.

Criterion C in the analysis. The map amendment or site is suitable for the proposed designation and there's a lack of appropriately designated alternative sites within the vicinity.

The applicant submitted study shows a direct need for future supply of aggregate resources in the County due to insufficient existing surface mining overlay areas to provide long-term mineral resources in the County. The existing large and active quarries in the County are located well to the east and southeast of the subject property.

As I mentioned before, the 2005 DNR mineral resources map shows identified bedrock deposits in the immediate vicinity of the site. The -- there are other SMO designated sites in the vicinity. They are either already played out or not developed and can be distinguished from the site due to either they've been developed for other things or they have different environmental constraints than the -- than the subject property.

The site has, therefore, been demonstrated to meet the designation criterion in the plan and the County Code. So in conclusion, the Criterion C has been met. Next slide, please.

Criterion D, that the map amendment either; (a) responds to a substantial change in conditions applicable to the area in which the subject property lies; (b) better implements the applicable comprehensive plan policies than the current map designation; or (c) corrects an obvious mapping error.

The focus of staff's analysis is sub (b), the proposal better implements the applicable comprehensive plan policies than the current map designation. This is directly supported by the previous analysis alluded to for Criterion A, that is why we're here tonight to -- to discuss the overlay itself.

The application from the owner also makes several points about changes in market conditions in response to sub (a), we'll let the application speak for itself on that, but that was not the primary focus of staff's analysis. In conclusion, we found that Criterion D has been met.

Criterion E, where applicable, the proponent shall demonstrate that the full range of urban public facilities and services can be adequately provided in an efficient and timely manner to serve the proposed designation.

Such services may include water, sewage, storm drainage, transportation, fire protection, and schools. Adequacy of services applies only to the specific change site. So this is not an urban site, this is a rural site so many of the types of services that would apply to an urban zone change are not available and not applicable such as community water or community sewer, things of that nature, but the typical rural services are available.

There's electrical service in and across the site and probably, most importantly, staff and the applicant's consultant have found that the existing transportation system is able to accommodate the proposed change and this is discussed in detail in the applicant's traffic impact analysis and the County staff's traffic analysis.

So in conclusion on that particular point, the staff transportation analysis has found that the proposed plan amendment and rezone has demonstrated compliance with Clark County Transportation Policy and we find that Criterion E has been met.

Criterion F. This is the specific extra points for the surface mining overlay that is found in Clark County Code 40.560.010(O). The designation of additional areas with surface mining overlay shall only occur if a), the designation criteria in the comprehensive plan have been met. That's the purpose of all the previous analysis in the earlier part of the staff report.

B), the quantity and characteristics of the resource and characteristics of the resource including the size of the deposit, the depth of the overburden, the distance to market, and the cost of transport and resource availability in the region suggest that mining is economically viable and sub c), at least 60

percent of the area within 1,000 feet of the proposed mineral resource area is characterized by parcels of five acres or larger.

Just to reiterate what I've already said, that the entire purpose of this application and the previous analysis in the staff report is to demonstrate that the proposal is consistent with the criteria to add a surface mining overlay. The quantity and characteristics of the resource suggests that mining is economically viable.

The information presented by the applicant strongly suggests this. The DNR map strongly suggests that the resource is there and we as staff have not received any information to contravene that conclusion. So in conclusion, Criterion F has been met for the site. Next slide, please.

This is the summary matrix of the staff recommendation of the -- of these primary criteria for the request. As I stated, Part A, consistency with GMA and Countywide Policies, the staff report finds yes, the criteria's been met. Part B, conformance with the locational criteria, staff report finds that the criteria has been met.

Sub C, the site is suitable -- the site is suitable and there's a lack of appropriately designated alternative sites, yes. The -- the amendment responds to a substantial change in conditions, better implements policy, or corrects a mapping error, yes, for Sub D of that criteria. Part E, the adequacy and timeliness of public facilities and services for the site, we find yes it meets that. And Sub F, the additional criteria for surface mining overlay changes and we found yes for that as well.

So staff's recommendation is to approve this request for the surface mining overlay only and for the Planning Commission to recommend approval to the County Council. Next slide, please.

This is just a broad overview of the process for this request and reminding everyone this is an annual review, a site-specific annual review, so it goes through its own timeline in front of the Planning Commission and the County Council.

We did our work session on December 1st. We are here tonight at the Planning Commission hearing on December 15th. The County Council would have their own work session and that is to be determined when that would be, but probably in the spring and then they would have a hearing following that and that is when the actual decision would be made on the application. Again, that would probably be in late spring, if we had to hazard a guess, given calendars at this point.

Reminding everyone that because this is an annual review and annual reviews by statute can only be approved no sooner than one year after the last time and the last time that annual reviews were, the adopting ordinance happened was July 29th of this year. So regardless of the final outcome of this application, the adopting ordinance for annual reviews for this cycle could not happen sooner than the end of July of 2023. Next slide please, Larisa.

We have received numerous public comments regarding the application and we acknowledge those public comments and we have put all of them into the record and as they have come in we have done



our best to review them and -- and read every single one and I can say that the public comments generally fall into three main areas of concern as highlighted on this slide.

The first area of concern is potential environmental impacts of a future mine. That has been mentioned numerous times in most of the public comments we've received. I would remind everyone that again although staff has issued a DNS, a Determination of Non-significance, for the SEPA, that is because we are at the stage in this application where it is a non-project action and it is only an overlay, it is not approving a project, staff does not have a specific project in front of them at this time to review and so it is the standard practice at this stage to issue a DNS.

As I mentioned when I was discussing the distinction between the Type IV review we're doing and the Type III review for a future conditional use permit, that is where the in-depth environmental review would happen, that is where a completely separate SEPA analysis and -- and consultants reports and all those things that everyone would expect from a specific application would take place.

And we sense the frustration in the comments that -- that that level of environmental review is not happening right now but that is not the procedure of the policy that County staff follows for these type of overlays so...

The second main thing that many, if not all, of the adverse comments mentioned or concerns about the livability concerns of the neighborhood and the greater area around this proposal site. Again, would go back to the fact that noise, air quality, potential hours of operation of a future business, those are all reviewed through very specific criteria in the surface mining code section and also additional review through the CUP process and those are done through the Type III hearing examiner review.

I would also mention that multiple agencies outside the County have a significant role to play in reviewing and approving any surface mine on the site. We are not talking about a mine permit tonight and so Southwest Clean Air Agency, State agencies such as DNR and -- and Ecology, Fish and Wildlife, all would have their say as well as there could be Federal agencies involved depending on the nature of the request. That would all be done when a project specific review is in in front of them which we do not have tonight.

Another comment referring in almost all the comments received is the potential impacts to the transportation system and in particular are potential impacts to areas outside of county jurisdiction. I would remind everyone that for an overlay review a map amendment such as this, County staff reviews for compliance with Clark County transportation policy only. That's all that we have jurisdiction to review. That's all that is reviewed and that's what is included in the staff report findings.

Again, project specific transportation analysis would happen when a specific project with enough level of detail is put in front of staff during the and the hearing examiner during the Type III process. Next slide, please.

So with that, I'll conclude my formal comments and I am here and at your disposal to discuss and answer questions. Thank you for your time.

JOHNSON: Thank you, Bart. Appreciate that. So what I'd like now is to bring it back. Is there any questions of staff from the Commission? And I'll just go through one-by-one. Bryant Enge.

**Questions of Planning Commission:**

ENGE: Thank you, Karl. Several questions. Bart, could you tell me why the SMO was denied in 1996/'97 and what has changed since '96/'97?

CATCHING: My understanding is that that application came in when a completely different set of surface mine review criteria was in place and the rules that we are evaluating under right now were not the criteria that were in place then insofar as the overlay was applied, completely differently and the process was different.

And I've discussed with staff members who were here during that time frame and my understanding is that the criteria were much, much different and it led to a different outcome and now under the current code we can accept this application.

ENGE: So there's more flexibility under the current?

CATCHING: I don't know if flexibility would be the term. It's just a different set of criteria with much more streamlined process and that was done I understand through the work with the mineral lands task force in the -- in the process ten -- ten years, ten plus years ago revising the code.

ENGE: Another question. In 2014 the map was, SMO map, was redone or updated. Why wasn't this particular parcel identified?

CATCHING: Again, with my discussions with staff who were here at the time, there was a lot of site-specific conversations that went on during that initial process where the big map overhaul happened and there are many areas in the County that have rock that were not included either because of the owners having a particular set of motivations at the time or not being involved in the process and so the County didn't necessarily go out and apply the map proactively when owners weren't -- weren't asking for it.

ENGE: Just one more, Karl, and then I'll let the other Commissioners. You said that the -- this was consistent with the surrounding land uses. There's only one other SMO parcel there and the other parcels are being used for either residential, agricultural, or forest. So when you say consistent with surrounding land uses, can you explain that to me, please.

CATCHING: Consistent in that context is in the broadest context of the zoning in the comp plan. It's surrounded by other FR-40 parcels on three sides and so the uses that are allowed are consistent. I

mean, a different way to look at it is it's easy to look at this from the perspective of there are some homes there and, therefore, this request is inconsistent.

But the analysis can also be looked at the other way in that the FR-40 zone is a resource zone and mineral extraction or at least identifying mineral resources and protecting them with the surface mining overlay which is what is mandated to the County by State statute is consistent with that resource zone. And it's also with the agricultural zones that are a little bit further out from the site as well.

So consistency in that context is not that somebody who has a house wants a future mine beside their house, that's not what we're implying.

ENGE: Thank you, Bart. That's all.

JOHNSON: Thank you, Bryant. Bryan Halbert, do you have any questions for staff?

HALBERT: You know, Bryant stole all of my questions of Bart so I'm going to -- I'm going to wait until maybe after public testimony and come up with a few more.

JOHNSON: Great. Thank you, Bryan. Matt Swindell.

SWINDELL: None at this time.

JOHNSON: Eldon Wogen.

WOGEN: Hey, Bart, there's a mention in the report that the adjacent SMO -- is there actually mining happening there now? There was --

CATCHING: The kitty-corner parcel?

WOGEN: Yeah.

CATCHING: No. That's -- that has a large acreage home site on it and it's just forested at this time.

WOGEN: Do we know when that SMO was issued for that property?

CATCHING: I believe that went on in the 2014 --

WOGEN: 2014?

CATCHING: -- yeah, revisions. Yes.

WOGEN: That's it.

JOHNSON: Thank you, Eldon. I have no questions. Is the applicant present tonight?

ROGERS: Yes, the applicant's present.

JOHNSON: Okay. So we'll give you some time here and can you identify yourself and your name please for the recorder.

**Applicant Presentation:**

ROGERS: Yes. Hang on. There we go. I use all these different platforms but Webex is not the most frequent one I use, so forgive me. My name is Nancy Rogers. I'm a land use attorney with the law firm of Cairncross & Hempelmann and for the record, my address is in Seattle, 524 2nd Avenue, 5th Floor, Seattle, 98104. I am here today representing the applicant property owner, Cardai Hill Rock Quarry, LLC.

With me are a number of members from the Cardai Hill team. We have Carol Carpenter, who's the owner's representative who is currently a panelist. We also have Ryan Crotty, the Project Planner, and Stacy Frost, the Principal Engineer with the firm Maul Foster. They're having some tech issues tonight and they are on the phone listening in the participant category over there. Matt Palmer, our Traffic Engineer, from the firm of Kimley-Horn is on as a panelist, and we also have a couple of other members in the participant room listening in.

I want to give you just a short presentation and following up on the staff presentation you just heard and, obviously, then we'd be available to respond to any initial questions you might have at this time. And, I also want to assure those members of the public who are present and on this Webex webinar that we've also read all of the public comments, and we intend to listen carefully to the additional public testimony that comes in this evening.

As summarized by Mr. Catching in the staff presentation, the request that is in front of the Commission this evening is not a project permit. The only item that's on the table today is adding a surface mining overlay designation to the map and that means that all of the legitimate concerns that have been raised by the public comments today are going to be addressed at a later point in time, both by the applicant at the point in time in which they actually design true application for a future mining operation and then, of course, by the County staff when reviewing any future application that are made as well as by all of the other agencies who get involved and review mine applications, that's on the State and, potentially, also on the Federal level.

Mineral land designations, with that said, mineral land designations like this surface mining overlay are often controversial. But, again, I want to emphasize that they are not the same thing as a project permit application for an actual new mine. And I also want to step back and just clarify as to the big picture I think one of the Commissioners questions about timing here.

The Growth Management Act seeks to protect natural resources and natural resources include critical

areas. They include forest lands. They include agricultural lands and they include mineral resource lands. And the GMA protection for those resource lands is provided by designating the land to their appropriate use so as to protect them from other uses coming in over the top. In Clark County, mineral resource lands are protected by a surface mining overlay designation.

And, again, those project permit level details are addressed later in time, later project permit applications. All we're doing right now is talking about preserving natural resources where they exist on the earth.

The County criteria, I think staff has reviewed in -- in great detail and provided you also with a more detailed written staff report than just the PowerPoint presentation that Mr. Catching provided you tonight. So I'm just going to add a couple of high level comments on some of those criteria.

And the first criteria is that the applicant needs to demonstrate that the proposed amendment is consistent with the Growth Management Act, with the implementing Washington Administrative Code Regulations for the Growth Management Act, with the County Comprehensive Plan, the County Code. All those things. And here what I really want to focus on is what happened in 2009.

The staff recommendation -- or excuse me. I'm sorry. In -- after -- during extensive review in 2009, the State adopted in early 2010, effective early 2010, new updated mineral lands designation criteria in the Washington Administrative Code and those were adopted to attempt to address some of the issues that we're seeing tonight, quite frankly, and I want to be -- I want to just read to you an excerpt from Washington Administrative Code Section 365-190-070 Subsection (4) which says, "Counties and cities must designate known mineral deposits so that access to mineral resources of long-term commercial significance is not knowingly precluded."

That's what we're here for tonight, that's exactly what we are requesting. The evidence has been presented to the County shows that this is a known mineral deposit and we are asking because the regulations require it -- the County to designate it so as to protect that resource.

The second criterion that Mr. Catching spoke to you about is that the proponent is to demonstrate that the designation is in conformance with the appropriate locational criteria identified in the County plan and the purpose statement of the zoning district. Again, we support County staff's position.

And I would just encourage the Commission if you need to reflect on those criteria to look at the Comprehensive Plan Pages 86 to 88 and, you know, that's where it confirms that when you've got a resource of sand, gravel, or quarry rock that's commercially significant and it's going to need to go through the detailed development and go through and apply for in the future an application that's going to have to meet all of the detailed SMO development standards, that is when you should designate the land for a surface mining overlay.

The third criterion is looking at the suitability of the site for the designation and the lack of other appropriately designated sites. And there, again, in support of the staff analysis and the application

materials, we'd like to focus on that 2018 market study that was submitted in the application.

Future supply of aggregate resources in Clark County needs to be expanded in order to meet demand. Most of the active quarries in the County are way too far away from this site and there's a lack of appropriately designated mine sites in this vicinity to serve the need of market.

The fourth criterion calls for ensuring that the plan map amendment does one of several items and what County staff and I are focusing on tonight or that it better implements the applicable Comprehensive Plan Policies. And, again, here we concur that the designation with the surface mining overlay provides the necessary mineral resource land protection called for by the comprehensive plan and also allows the opportunity to file future applications for a mine site which furthers the county's economic development goal.

The fifth criterion calls for a demonstration of the full range of urban public facilities and services when applicable. As pointed out by Mr. Catching, this is a rural site so that isn't entirely applicable here, but, of course, we will have the appropriate utilities to serve the site if needed.

And then, finally, there's the additional criterion for surface mining overlay changes and as described again in the staff report and Mr. Catching's presentation, all of those are met. The designation criteria of the comprehensive plan where he talked about the resource of economically viable to mine, you've seen that in the materials provided to you, and at least 60 percent of the area within 1,000 feet have parcels of 5 acres or larger.

So, again, because all of those criteria are met we do ask that the Commission vote to recommend approval of the surface mine overlay by the County Council in this location. Thank you.

**Questions of Planning Commission:**

JOHNSON: Thank you very much. So we'll now have a time for questions for the applicant. Once, again, I'll start with you, Bryant.

ENGE: No questions at this time.

JOHNSON: Thank you, Bryant. Moving on to Bryan Halbert, any questions?

HALBERT: No. No questions.

JOHNSON: Next up will be Matt Swindell.

SWINDELL: Yes, I actually have one question. I was just curious how long the applicant has owned this piece of land.

ROGERS: I believe they have owned it for at least a decade. I could ask Ms. Carpenter to chime in.

CARPENTER: I believe that is correct. Ryan, do you have feedback on that?

ROGERS: Ryan's not personally on the phone. I don't know that he's going to be able to speak to us.

CARPENTER: Okay. Or Stacy.

ROGERS: If that's important we can certainly get that information to the County Council.

SWINDELL: No, that's fine.

ROGERS: I don't know off the top of my head.

SWINDELL: It's fine. I was just curious to how long they've owned the land, so... Thank you.

JOHNSON: Eldon Wogen, questions for the applicant?

WOGEN: No questions.

JOHNSON: So I just -- I want to clarify. Maybe you said it, why wasn't this -- I was here for the, I think the 2014 overlay. Why wasn't this included in that batch -- in that overlay? That was a big one. Do you know that answer?

ROGERS: I do not know the answer to that question. I'm sorry, sir.

### **Public Testimony**

JOHNSON: Okay. Okay. Thank you. Maybe I'll leave it on. Okay. So we are now going to open the hearing for public testimony, but, Sonja, we're going to -- are we going to do Webex first? Do you want to do Webex; is that correct?

WISER: We'll do in person first because it's about even.

JOHNSON: Okay. So really quickly just a reiteration on this, one of the things that will help speed this along is that we try not to repeat testimony that's already been submitted or read. So, again, I have a couple -- few pages here. Some of you have written "yes," I'll still ask you if you want to come up. So the first person that is on my list here, is it David McDonald? David, can you come up and please state your name.

WISER: I should read the instructions first.

JOHNSON: Oh, okay. Go ahead.

WISER: 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 to be a party of record in writing.

No person shall be a party of record who has not furnished their full name, e-mail address, or Post Office mailing address. If written comments were received prior to December 15th, 2022, they were submitted to the PC members and posted on the Planning Commission website.

Tonight's hearing is being transcribed by a court reporter so please spell your last name and speak slowly. And a reminder to the audience that public comment is limited to three minutes.

So , tonight we'll take in-person comments first, and we'll begin with participants in the hearing room. When the Chair of the Planning Commission calls your name on the sign-up sheet, please come up to the front and provide your name and address for the record. If you do not wish to provide public testimony, please say so.

JOHNSON: Thank you, Sonja. Okay. Once, again, David McDonald and we'll start the timer. Sonja, are we doing the timer?

MCDONALD: My name is David McDonald. So my name is David McDonald. Usually I don't need a microphone. I'm the attorney for Friends of Clark County. I live in Ridgefield, Washington. And the Friends of Clark County has filed an appeal of the DNS that was done by our responsible SEPA official. I want to speak to the environmental review.

First of all, in 1998 our staff -- in fact, the responsible SEPA official went out to the site, reviewed this site and found that the County should issue and did issue a Determination of Significance and that would require an EIS of the applicant. This was a process for the annual review just like we're doing now.

An EIS was never completed and I believe the applicant withdrew their application because there was no further information that I've been able to find about that annual review. What I do know is the County's already found that this area has significant potential adverse environmental impacts.

Now why is that important? Two reasons. One, SEPA doesn't allow for standard practice regarding when or when not to issue a complete environmental review. Whether it's a project action or a non-project action, SEPA provides that you are required especially if you know what the action is going to be on the particular site to go ahead and do that full environmental review. I set forth the legal arguments in my comments.

I want to talk a couple of things about why that's important. The criteria here include things like how is it, what the locational criteria is. Well, in this particular case, you're about as close to an urban mine and quarry as anything I've ever seen.

You're at best 900 feet from the Lewis River which is where the wells for the City of Woodland are and



it also is a salmon-bearing stream and covered under the Lower Columbia Fish Recovery Board. You can't really evaluate the locational criteria without knowing the full environmental impacts of what a mining operation would do.

I know a mantra here in this county is, hey, it's okay, we'll just wait for the environmental review to come later. But the difference that everyone should know is between the Type III and the Type IV process is once you allow the surface mining overlay, the mining company can get a CUP. That means if you approve this today, you're basically approving a mine there. Project or not, we know it's coming and you're not doing it.

To this Commissioner's statement, the SMO in 2014, it was not put on there because it was not picked by the mineral task force. There's all kinds of the Planning Commission hearings from back then that will show you that. I believe that's correct. And the forest zone is not consistent with this mining overlay because they're going to take those trees out anyway and then they're going to mine for 20 years.

JOHNSON: Thank you very much, Mr. McDonald. Next up, I have Charles Lashley.

LASHLEY: My name is Charles Lashley spelled L-a-s-h-l-e-y. Thank you for having me speak today. I appreciate that. I live on Cardai Hill Road so this is personal for me. Cardai Hill Road is a quiet little section of road with a small rural community and a large natural wetland pond. This road is not used or meant for use for through traffic.

As a 38-year-resident of Cardai Hill Road, I am concerned about the truck traffic on a road that is barely maintained and was actually bypassed in the mid-'90s because of the accident rate on that road. I am concerned about the pond ecosystem on Cardai Hill Road that will undoubtedly be changed or worse harmed by the quarry activities. As everyone else, I am already concerned about the Woodland traffic issues. With its current vehicle use, how will increased truck traffic impact the City further?

Of course, there is the noise issues as have been stated. I'm sorry to repeat them, but I am concerned about the noise for not only myself but the wildlife that lives near me. Another big concern that hasn't been brought up is groundwater. All our homes are on wells. This could certainly impact our water. We have a lot of arsenic in our water as it is and we have to have our wells tested and I'm certain that that could be a possibility to increase contaminants for our well water.

I don't know what the benefit for a rock quarry would have for the Woodland residents, but for the reasons I have stated, I am opposed to this overlay and the rezoning for what is the true purpose of a rock quarry. Thank you.

JOHNSON: Thank you very much. So, Andrea, you're not -- are you going to speak? Is it Andrea Lashley? I'm just checking. David Lukaczer, did I pronounce that right? Would you like to speak?

LUKACZER: (Inaudible.) (His three-minute limit was deferred to Travis Goddard)

JOHNSON: Okay. Yeah, we'll -- we'll -- we'll approach that. So I have next up Travis Goddard. Travis, are you here?

GODDARD: Thank you. Good evening. My name, I'm Travis Goddard. I'm the Community Development Director from the City of Woodland. You also may recognize my name because I spent 15 years at Clark County and if you're familiar with the any of the rock quarries including Storedahl and the two mountains, Yacolt and Livingston, my name is in those staff reports so I'm very familiar with the environmental impacts and the review of mining projects.

I would like to point out that there are, approximately, 210 acres of SMO within close proximity of this site and none of them are actively being used. There are, however, houses on those. And so when the applicant's attorney talks about the protection of mining resources and the proper designation and the protection of them, the City or the County can do that protection by not allowing houses to be built on properties that have already been designated and then argue that there's a justification for expanding surface mining overlay into other properties that would normally need to be because of the lack of County protection.

We also need to talk about significant adverse impacts. There are issues like water. This site is adjacent to the City's water service area. Because there's arsenic in the groundwater over there and we recently put a pipe underneath the river to serve a public water system that's adjacent to this site so we don't know how that would affect our wells.

And this, theoretically, is a non-project EI- -- or SEPA review, but it's not really because they are asking for a very specific zone that allows basically one of four uses and that is mineral extraction, asphalt batch plants, concrete batch plants, and crushing. Now, their environmental checklist does not discuss asphalt or concrete batch plant. Therefore, the only likely outcomes from this decision is going to be extraction and crushing so it is going to have activity that's going to affect us.

I believe there's also about a 220-foot elevation change which basically means since this site is within direct line of vision from the City of Woodland, you might as well call it the Woodland Amphitheater Pit because as it gets deeper and deeper it will intensify the noise impacts that concentrate on them -- those on the City and we've estimated about 1400 residential property owners are going to be affected by this and the noise and the line of sight. Their SEPA checklist admits that there are going to be impacts that are going to be -- that are going to warrant mitigation.

So it, the City, has already indicated to the staff that we're going to appeal the DNS because saying that there are nonsignificant impacts, they've already admitted that theirs warrants mitigation and this is your last opportunity to apply any kind of discretionary review to this process because ultimately once you attach this zoning, the question is when and how much impact there is going to be, so...

JOHNSON: Thank you for your comments.

GODDARD: Thank you.

JOHNSON: I have nothing. Caroline and Fred, it starts with an M. I'm sorry. Are you --

MEIGHAN: (Inaudible.)

JOHNSON: Okay. You got to -- you got to do it for the record, ma'am. It's okay. You can come up, just state your name and -- we're all kind up here.

MEIGHAN: It's Caroline Meighan by the way. I need to spell my last name.

JOHNSON: Yeah, you do.

MEIGHAN: M-e-i-g-h-a-n. The only thing that I wanted to mention, I just discovered this by quick Google search, but I'm surprised the attorney didn't know. They purchased it May 4th in the year 2000, so... It is entrusting. I mean, I don't -- I don't know why they wouldn't have applied for the overlay in 2014 or had it done at that time, but, anyway, just wanted to answer your question, Matt. Yep.

JOHNSON: Thank you very much. Up next, Mike Hughes. Are you here, Mike? There we are. Okay.

HUGHES: Hello. My name is Mike Hughes. I'm a resident at 4101 N.W. 402nd Street adjacent to the property and I'd like to recommend that you guys oppose the amend and the comprehensive plan to the zoning to add that surface mining overlay on the property.

And I -- I do have a couple of questions. The one is around why it was denied in 1998 and why it's bringing -- being brought up now for the same review. The traffic impact analysis says that the new access road would connect to 402nd Street. 402nd Street is an easement.

It's a private road that goes right through pretty much the middle of this property and the overlay in the paperwork it says that they would use part of that road to get to Cardai Hill. 402nd Street is a single-lane road. The property owners that live there, we maintain the road. There is absolutely no room for a truck and a car to go up that road. So I -- I would -- that -- that would need to be addressed.

The wells, all the houses that are on 402nd Street are all on wells. We have no access to City water. It's up a steep grade and I'm worried that the mining, the blasting or whatever, could damage our wells, our septic systems, our houses.

Our houses, if you look at the map, we are very close to the edge of where these proposed property -- this rock quarry would be. The blasting would -- could -- the silica dust that is going to be generated, I mean, some of the houses are right on the property line and I think the last house is probably within 600 feet to 800 feet and the silica dust that would be generated from that -- the -- there's elderly people that live there. There's young kids that live there.

And also with 402nd Street going right through the mine, how is that possible that we can get to our

property going through an active mine site? Thank you.

JOHNSON: Thank you, sir. Up next is Evie Ring. Did I pronounce that?

RING: Yes, that's correct. It's Evie Ring. I'm also a resident of 402nd Street, neighbors to Mike.

JOHNSON: Okay. Can you repeat your name again for the record.

RING: Evie Ring.

JOHNSON: Spell your last name.

RING: R-i-n-g.

JOHNSON: Okay. Thank you.

RING: I guess I had a couple of questions. Maybe Mr. Catching could answer these. There was multiple references to there being aggregate found in the immediate vicinity but there was no reference to aggregate actually being found on this site.

So what is the basis for doing a mining overlay if there's not actually been proven to be aggregate on the site? That was also, I think, referenced by the attorney that it was just the immediate area and it would strongly suggest that there's aggregate here but not that it's actually been proven.

Another thing with the transportation had been approved. If you look at the map, the area of Clark County that is right where this is, is less than a mile, a half a mile into Cowlitz County and Woodland, so saying that Clark County has done their due diligence as far as looking at the transportation impact is like woefully inaccurate because all of this traffic would go through Woodland and into Cowlitz County in order to get to I-5.

So that transportation analysis seems completely inaccurate and wrong. Just because it doesn't look at anything longer than, I think I looked at the City of Woodland statement, I believe it was 1500 feet to the city limits of Woodland, so that's part of the Clark County line, I'm guessing. I'm trying to -- a few of my questions were already answered throughout this process.

So another question I had was actually how many households were notified because they kind of did this, oh, well, we went 1,000 feet out from this but we are -- most of us are on five-acre lots so that was hardly any households that were actually notified that this was occurring and I don't believe that the City of Woodland was notified that this was occurring. I think they heard from other people.

So that was my other question, was the City of Woodland even notified that this overlay was taking place or did they find out from us as citizens that were concerned about this because this impact is being -- it's being treated like it's just this small community that's going to be affected by this when it's

not.

And also the mine would be this map overlay is in the middle of a bunch of houses. It's not 76 acres out in a very rural area as is noted by the City of Woodland being 1500 feet away.

JOHNSON: Thank you. So great. Up next, is it Ryan McShannon? Did I get that right, Ryan?

MCSHANNON: Good evening. I'm Ryan McShannon, M-c-S-h-a-n-n-o-n. I am also a resident on 402nd Street. We've lived there, roughly, ten years and our property borders about 700 -- just roughly 700 feet off the property we're discussing tonight.

In the ten years that we've lived there, it's a family area. The surrounding properties are small farms, family farms. To have an operation like this planted in the middle of a small farming area in north Clark County would destroy the ambience of the whole area. It's directly adjacent to the City of Woodland and when Mr. Goddard had given you the notion that this would be the Amphitheater of Woodland, it is in no exaggeration, that that's exactly what it would be.

So the relationship between Clark and Cowlitz County would be tried with if this was to go forward and I pity the person that has to answer the phone calls that would be coming in from all the residents and we're talking dense residential neighborhoods directly across the river.

Amongst other impacts, this -- this -- the GIS which was interesting that the applicant or their attorneys did not know how long they've had this property, it's been since 2000. We've lived there for over ten years. We've never met anyone that owns this property. And so in the references in their application stating that they haven't seen wildlife, they're not aware of what's going on.

I don't -- there's not -- I've never witnessed anyone in the area that for them to speak in the SEPA report is very vague and I think that's intentional and misleading. The -- the topography of the area, very steep, concerned about where the overburden would go.

It's -- it's the -- I know it was referenced that it's as little as 15-feet deep. Talking to past neighborhood association presidents, in previous reports it was listed being at least 100-feet deep in areas to get to viable rock. And so the amount of overburden that would have to be moved around the property and the washout and the other implications that would come from that would be -- could be devastating to the -- to the watershed just below the property.

Additionally, the property that's on the -- that would be on the north side, the pond and the GIS reports indicate that the streams on the property, and this is on the GIS report, right, I just looked it up, they're fish bearing streams, and so that's identified on Clark County's GIS and it has not been addressed and is actually misrepresented on the SEPA report that was presented to you.

And so for this, I would ask that the whole SEPA report and this process be re-sent with intention of we know that a rock quarry application is going forward. We know that's the intent. When there's intent

to do an action, they have to be forthright with what -- what would be -- what would be needed to do that activity and I feel like this process is not being completed today.

JOHNSON: Thank you, sir. Appreciate your testimony. Just double-checking. Emily McShannon, did you -- do you want to -- okay. Thank you. Kenny Ring, would you like to testify, sir? Come on up. Make sure you state your name and spell it again for the recorder.

RING: Hello. My name is Kenny Ring, R-i-n-g. Again, I'm a resident 402nd, N.W. 402nd Avenue. Concern as noted before, I know it's been recognized. You know, we hear a need for rock to preserve our resources, you know. These are all responsible, you know, there is a responsible, you know, take care of the land, that's very obvious.

But when you have allowed for the overlay not to be identified in 2014 and allow these communities to grow and then bring this in and have our livelihood hold under a (inaudible), it -- and this to push this through with (inaudible) that a mining operation, I mean, that's why we're here to identify resources and to get the rock to market at the expense of our livelihoods. So just look at it. I just ask the Commission to look at it responsibly. Thank you for your time and thank you.

JOHNSON: Thank you for your testimony, sir. Up next John S, is it Skourtes? I can't read the writing.

SKOURTES: Skourtes.

JOHNSON: Skourtes. I'm sorry, sir. Thank you. Skourtes. Can you definitely spell that one for the court reporter.

SKOURTES: I have the most valuable property.

JOHNSON: Can we -- sir, can you just state your name again and --

SKOURTES: My name is John Skourtes.

JOHNSON: Can you spell your last name for the court reporter.

SKOURTES: S-k-o-u-r-t-e-s.

JOHNSON: Okay. Thank you.

SKOURTES: I own all the property they want to take, 100, 200 houses ten years from now. My property goes to the center of the Lewis River. It fronts Hayes Road and I'm directly north of this hillside. I have -- I've done a lot of research and I have -- I want to stop this before we continue.

Number 1, there's no shortage of quarry rock in Clark County. Number 2, we are really a suburb of Woodland. In fact, our address is Woodland but, of course, we're in Clark County. Now, this fellow

bought this property 20 years ago. We've checked the records. They paid half a million for it and they knew at that point that the quarry -- there was an active quarry there, surface quarry, about 50 years ago and the current value of that property is \$800,000.

Now, you people all saw this map here and they want to cut their property in half. I own all the property directly north. And you will note the side they want to start mining on -- the side that they don't want to mine on has 40 percent more rock than to start the side they went in for.

They're trying to pull a fast one on you because where did I find that? In all the paperwork under the environmental deal that the County gave me. So if I want to put in a mine, I'm going to go with the site that has the most rock, right. The site that has the most rock is the site that they don't want to divide. Why? Well, if they get a permit, obviously, they're going to -- they're going to go -- go back and divide the other one. They have enough rock here for 40 years.

Now, secondly, I have a way for you people to turn this down per the -- your own planners. We go -- we go to Page 4 of 12 of the staff report. They say the site has to be close to a market. We are an orphan site. The market is Cowlitz County. Remember, we're a suburb of Woodland. Right across the river from my property, you have about 40 \$800,000 homes there. This is Woodland.

We have -- on my property, Clark PUD spent over \$2 million. We have a line on my property going to the Woodland Water District that we have public water on my site --

JOHNSON: Can you wrap up.

SKOURTES: -- where we can service all the adjacent houses right today.

JOHNSON: Can we wrap up our testimony now? You're past your three minutes.

SKOURTES: Pardon?

JOHNSON: You're past your three minutes.

SKOURTES: Who?

JOHNSON: You have passed your three minutes. Can we wrap it up really quick?

SKOURTES: I have -- I have 50 acres there and I can give you additional information. You can -- you can --

JOHNSON: Why don't you submit that. Submit that. Right now, you're past your three minutes so can you wrap up your testimony right now?

SKOURTES: Pardon?

JOHNSON: Can you wrap up your testimony?

SKOURTES: Yes, I will.

JOHNSON: Thank you.

SKOURTES: We're very close to additional housing. We need houses. We're a mile from Woodland. We're really a suburb of Woodland. Of course, the houses will give tax revenue to Clark County. I have a farm there. I have plenty of money. I don't plan to subdivide tomorrow, even ten years from now the Lord willing and that 80 percent of my property is river loom. We're kind of in a valley there. I have pasture. I have cows. And I'm trying to protect the existing houses around me.

JOHNSON: Thank you, sir.

SKOURTES: Exactly. What comes first, a chicken or the egg? The houses came first. This fellow knew when he bought this, he then paid quarry prices for half a million dollars for 76 acres. Now he's -- so my position is -- and you've -- you've seen what the quarries done; you need all kinds of staging area for the trucks --

JOHNSON: John, we have to wrap it up.

SKOURTES: -- he doesn't have any of that room there. I want to stop now so we all save money rather than doing it later.

JOHNSON: Thank you very much for your testimony, sir.

SKOURTES: Thank you.

JOHNSON: Appreciate it. Janet Hu, did you want to testify? Okay. Up next I have George -- is it George? Sorry, Brereton. Can you state your name and then spell it for the recorder, please.

BRERETON: My name is George Brereton spelled B-r-e-r-e-t-o-n. My address is 42117 N.W. 34th Avenue, Woodland, Washington and that is on Clark County side. This gentleman's property, who just testified, behind me has several large wildlife resources and I'll save that testimony for a future hearing.

I -- the issue I want to bring up is, I'm a former DOT supervisor from Alaska and I don't think that bridge to Woodland can handle that truck weight. That bridge backs up with traffic completely across when I-5 is closed. If you've ever been on it and had a log truck stop behind you, that whole bridge shakes. A log truck might weigh 40,000 pounds loaded. A rock truck will weigh more like 70,000 pounds loaded.

That traffic impact aside, it's a safety issue and I don't think that DOT here has checked that out, and if



they had, I would like to speak to the DOT engineers involved and there is no other viable or economic way to get that rock out of there unless you're going to drive through downtown La Center or Battle Ground. And I think I'll just wait for the other issues for the other hearings. Thank you.

JOHNSON: Thank you, sir, for your testimony. Up next, Amanda -- I can't -- say it again, Haynes. Can you state your name and spell it, please.

HAYNES: My name is Amanda Haynes and the last name is spelled H-a-y-n-e-s. All right. I am a resident of Cardai Hill and I am an integrative nutrition specialist and one of the things I specialize in is autoimmune disease.

Just my knowledge, we have nine children aging or ranging from 2 to 18 years old on those five-acre parcels that are bordering the proposed mining operation. And on the CDC website, you can find information regarding the health -- health risks of exposure to silica dust that is a result of the mining. And some of the things that are a result of that are lung cancer, chronic obstructive pulmonary disease, kidney disease, and autoimmune disease. My father also lives with us. He has COPD and asthma. I currently have asthma and I have an autoimmune disease.

One of my concerns is how the obvious intent of the proposed overlay is being overlooked and sidestepped and it's being done by the logistics of how to appropriately file and I feel like as a resident and a human being that's going to be living right next to it and understanding the -- the health concerns that would come with contaminated well water and the things that myself and my children would be breathing, it's a little bit concerning that the applicant is not taking into consideration these -- these effects of the community surrounding it.

And that's the other thing that I have to say is I do have an elderly father who I take care of that lives with me and emergency services is an issue and I didn't see anything that was mentioned in regard to what that would look like with the increased traffic. So to get my father to a hospital I feel like would increase substantially and could be life threatening in regard to that type of impact. And that's all I have to say.

JOHNSON: Thank you for your testimony. Glen, it says Glen, is it Yung? Glen, yeah, I just want to double-check. Okay. Final, Teresa Hardy.

HARDY: Good evening. My name is Teresa Hardy, H-a-r-d-y, and I am here as a board member for Friends of Clark County. I do not live in the Cardai Hill site. I have several concerns, again, about the process.

The first one is about the location of the mines and the DNR maps have been created for Clark County that identify potential areas of deposited rock that needs to be investigated for feasibility of mining with lower environmental impacts.

And I'm going to go back to what Bryant Enge brought up and that was that an application came in that

was denied and it had a different set of criteria, but if their response is the criteria was much, much different and we've streamlined the process, that doesn't really give us any information.

We don't even know if when it was first denied that it actually had better criteria. In order to compare criteria, we need to look at what the criteria was then. We need to look at what our criteria is now and then we need to evaluate based upon locations of -- of maps that are -- that are available within the 2014 sites, how does this apply now?

We have -- we know we have sites in the County that could be evaluated that have less environmental impacts than we have applications for. Chelatchie is a great example. Look at the area around Chelatchie, that's 330 acres of forested land. It's wetlands. It's critical areas.

Why are we in the County saying we don't have a mine over here so let's just make this a mine. Let's -- let's not really look at the real criteria around it. Let's just say we need a mine over here. That's not a criteria for how we use our resources. Resources are land, water, air. It's more than just aggregate gravel, okay. That's the first thing.

The second thing that I want to address is this whole issue of climate. The City of Vancouver adopted a new climate action framework on December 5th and within their decision-making they're looking at the effects of climate on land and everything else, and within the County we need to move forward with some kind of climate lens that we're looking at projects.

And then the third thing that I want to address is this whole area of public engagement and process and look -- can I have one more minute?

JOHNSON: Okay. Just wrap it up as quick as you can, please.

HARDY: In looking at the comments, there were at least 40 responses. There was 155 pages. Now I realize that some of those e-mails came in as duplicates. Travis Goddard, Community Development, eight pages; Dennis Dykes, five pages, expertise in geology and hydrogeology; Cardai Hills Association, five pages; appeal of the DNS, David McDonald; Department of Transportation, Dylan Bass, Development Review Planner WSDOT who weighed in on this for transportation.

We really need to look at when making these kinds of decisions what public engagement is and what the public engagement process is especially if we're looking at something that was already denied and we don't know under what criteria and what criteria and how does it differ from now. So in -- in -- in conjunction with and supporting all the applicants, the 155 pages, I would say before we get into this, we really need to look at it carefully.

JOHNSON: Thank you for your time. So what we'd like to do right now -- is there any other people in the audience that didn't get a chance to sign up? Okay. We're going to take a ten-minute break to give our recorder a little break. So we'll come back here at about ten after; is that correct, Sonja?

WISER: 8:10.

JOHNSON: 8:10. Yeah, at 8:10, and we'll start with the people that are on Webex. Thank you.

(Pause in proceedings.)

JOHNSON: Okay. We will call this meeting back to order. We have just finished the people that are here and now we will go to the Webex online. Sonja, do you want to --

WISER: Okay. So now we'll start with the participants that joined via computer or telephone. Please raise your virtual hand or press star 3 on your phone to let us know you'd like to provide comment.

SIDOROV: Okay. I see R. Jones. I will go ahead and unmute you now.

JOHNSON: So, Mr. Jones, you have three minutes. Go ahead.

SIDOROV: R. Jones, can you hear us?

JOHNSON: Okay. We'll try to come back to you, Mr. Jones, if you're having something technical. Is there someone else next in line?

SIDOROV: I don't see anyone with their hands raised. If you guys would like to speak, please press star 3.

JOHNSON: Okay. It looks like we do not have anyone else. Just giving them a few more seconds just to make sure. Press star 3 if you did not hear that if you want to raise your virtual hand. If not, we'll move on seeing no testimony, virtual testimony. Okay.

JOHNSON: So at this time, correct me if I'm wrong, I am going to close public testimony and move on to is there any response from staff? Okay. Staff responds to testimony. Staff, do you have any response to testimony?

CATCHING: Nothing specific unless you have follow-up questions prompted by the testimony.

JOHNSON: Yeah, we'll come back to that. Does the applicant have any response to testimony?

ROGERS: I can briefly respond to a couple of comments.

JOHNSON: Okay. Go ahead.

ROGERS: Starting the video there. I just wanted to note that my personal lack of knowledge about ownership or history as to this site is because it's not actually relevant to the proposal that's in front of you and that's my focus tonight is, of course, on the criteria that actually apply and that you need to be

applying to this proposal. So I apologize to the public for not knowing that, perhaps I should have, but because it's not relevant to the matter at hand.

What is relevant is that we are following the Clark County process. The SEPA appeal issues within that process that we've heard various people testify about are going to be heard by the County Council at a later point in time. Even beyond that, the environmental impact issue, traffic, noise, roads, groundwater, wells, air quality, all of those, I'm sure I missed a few in that little quick list I just read off are going to be evaluated at the later point in time of permitting.

And the last point I wanted to make is that approval of an SMO overlay, Surface Mining Overlay, for this property is not tantamount to granting a permit to mine. I guess as a land use attorney I wish it was that easy, but, no, it is not. There is a conditional use permit process and an extensive site plan review and an environmental review process that will need to be undertaken under the Clark County Code. So just a few comments in response to the public testimony. Thank you.

### **Return to Planning Commission**

JOHNSON: Thank you for your comments there. So with that said, I'm going to bring it back to the Planning Commission for deliberation. So Planning Commissioner comments or are there any questions that you want? We'll go back down. Bryant, you're up first again tonight. Any comments?

ENGE: The question I have or just a comment is Mr. McDonald raised an issue in terms of DNS versus DS and the idea of that this should have gone through a SEPA review so I have a question for Bart. What's the nuance? What am I missing in terms of the difference between his opinion and your opinion?

CATCHING: I'm not an attorney and so the level that I'm capable of speaking about this is what I've already stated that County and departmental policy for this level of review is to review it as a non-project action and map changes do not have a specific project associated with them so they are not ripe for a project level SEPA or a DS or an EIS.

Beyond that, I don't want to talk specifics, especially since at least two parties have indicated that they intend to appeal the DS and so that would be for the lawyers and the Council to discuss at a later date as Nancy Rogers just said. I hope you understand.

ENGE: Thank you, Bart.

JOHNSON: Is that it, Bryant? Next, Bryan Halbert.

HALBERT: Yeah, not much in the way of comments. I appreciate the public comments that we've received and heard and there's -- there is a lot of concern about this quarry and how it would operate and I understand that you would like to see it completely a plan on what they're doing before we approve an overlay, but I think the process is that the overlay needs to be put in place then they can

get the plan put together so, you know, I think while your comments are in the record and that they will be heard again and reviewed by County Council.

JOHNSON: Thank you, Bryan. Matt Swindell.

SWINDELL: Yeah, I have a couple of comments. I guess as a -- an appointed Planning Commissioner, any question I ask I feel is relevant and I think that we as a Planning Commission have a duty to look at the citizens that this is going to effect and really take their testimony to heart. I'm trying to put myself in their position.

If I owned a home next to a train track, the train track's been there for 100 years, it's relevant. The train track was there. I bought a house, moved in next to it, now I can't complain about the trains because I knew they were there before I got there.

I buy a home, I buy a piece of land, five acres and I put a -- I don't know. I don't care, a \$200,000 home or a \$2 million home on it. I went in with the understanding and the expectation of what was going to be around there and then somebody wants to come in behind me and change the deal.

He's already been told no once, but because we've changed the criteria or the way that we're doing things now we've got a way to get our foot in the door. In my opinion as an appointed Planning Commissioner, I take offense being told that something is not relevant and it is relevant. When someone has put their heart and soul into a piece of land and their family and their future, we as a Planning Commission need to consider that heavily when making decisions on things like this. That's all I have to say right now.

JOHNSON: Thank you, Matt. Eldon Wogen.

WOGEN: Thank you. So I -- I read and reviewed all the comments that were sent in from the public and I heard all the testimony this evening. Obviously, there's lots and lots of concerns about having a surface mining overlay in this area. I'm concerned about it too.

I heard what people have said. I agree with Commissioner Matt that we have to take to heart what the citizens are saying. That is why we're here is about government by the people. I just want to let you know I heard all those comments.

JOHNSON: Thank you. Hey, I know you talked about this, Bart, in 2014 when we did the last overlay, why wasn't this one -- I know you said something about that. I'm sorry. I didn't catch it.

CATCHING: I have very broad-based knowledge about that. I see Oliver walking up and he may want to make a comment about that process because he was more intimately involved.

ORJIAKO: Thank you, Bart, and Planning Commission members. For the record, Oliver Orjiako, Community Planning Director. I want to also -- even though it wasn't asked but raised, I don't think

that there was a denial in 1998 or 1997.

The letter that was cited went out -- the question is, and I have not been able to find or reconcile that, what happened? What did the applicant do? Did they appeal that decision or that letter that went out because I wrote that letter that was cited and the comment that you received. It is not clear and what I have not been able to ascertain because I wasn't the responsible SEPA official as I am now. So what happened to that letter? We have not been able to justify what happened. What did the applicant do? So it wasn't like it was denied.

The question was you may ask that this be done, did they do it? Did they just walk away? What happened? We have not been able to determine what happened. So I don't want to leave the impression that it was denied.

One, the -- and I don't want to cite any particular attorney, but the applicant -- the applicant attorney did mention that, I believe it was in 2009 that the State passed the Washington Administrative Code that she cited making mining protection of mineral resources more important, if you will. And the -- the group that the Council put together to review the surface mining when the DNR, I forget -- remember that in 1998, '97, there were no update from DNR, that update came in 2005.

So the Council assembled a task force to utilize that DNR map to, in a sense, comply with that new information and that task force also looked at the criteria that was in place, and following that new WAC made a decision to be more responsive to that WAC and be more protective of the resource, if you will.

Remember, too, that agriculture is a resource which we have to protect or conserve. The same is true with forestry. Then came mining or mineral resource. I cannot tell you what the task force decided, but they went through a very lengthy and contentious hearing as some of the Planning Commission, maybe Commissioner Karl Johnson was here.

We had joint hearing with the Planning Commission and the Commissioners at the time, they went back-and-forth, give-and-take. There were some property owners who wanted the surface mining on their property. There were some who wanted the surface mining not to be placed on their property. So the Council -- the Planning Commission and the Council listened to that, followed the criteria that was subsequently directed counties to use in protecting and conserving our resource and that was the decision that they made.

Now, was the property owner notified at that time? I have no idea, but I can tell you that as we worked through the task force appointed by Council there were many meetings. At the time that the Council and the Planning Commission had their joint meeting I think it went up until 2:00 a.m. or more than that here in this room. And as I said, there were conditions and there were some issues looked at and the Council and the Planning Commission, I think the Planning Commission went and did their own deliberation separately and then they came back and made their recommendation.

So this was -- I don't know what happened to this site, maybe the property owner didn't want it at that time. I have no idea, but I can tell you that the group that looked at this made a recommendation that the Planning Commission considered. You made the recommendation, not this group, but the Planning Commissioners at the time made their recommendation to Council, the Council or the Commissioners. I don't think it was Council. It may be Council or Commissioners, and they made their own recommendation. Like I said, it was more in some cases give-and-take based on what some of the property owners wanted.

JOHNSON: Well, that makes sense. It was a long, long hearing and it was a lot of people and a lot of stakeholders and I like what you said, there was give-and-take and that was a meeting where, a joint meeting right there that we, had so... Okay. Well, moving forward then, I'll entertain a motion if I could.

SWINDELL: This is Matt Swindell. I make a **MOTION** to approve or make a motion to **approve** OLR-2022-00014, Cardai Hill Rock Quarry.

JOHNSON: Is there a second?

HALBERT: Bryan Halbert. I'll **Second** that motion.

JOHNSON: Okay. Sonja, we have a motion and a second. Can we get a roll call, please.

ENGE: The past information is unclear. We don't know what really happened in the past and as we've heard today, but what we do know today is that there are many unanswered issues today.

There are significant transportation issues. There is a potential impact on another jurisdiction, significant impact that will cause them to -- to identify resources to make some improvements. We know that there's some noise issues and we do know that there's going to be some environmental impacts, what we don't know is how those are going to be addressed.

And I'm being asked to approve something that may be seen as a tacit approval to move forward with this project even though, quote, unquote, today is a non-project. I can't do that in good conscience. I am not willing to give any type of tacit approval on this particular non-project because I -- we don't have enough information at this time.

### **ROLL CALL VOTE**

ENGE: So I vote NAY

HALBERT: YES. I vote YES to approve the recommendation to County Council.

SWINDELL: NO

WOGEN: I vote NO

JOHNSON: I vote YES

WISER: 3/2. 3 no, 2 yes.

JOHNSON: So the motion **does not pass** with a 3 to 2 vote. Okay.

**V. OLD BUSINESS**

None.

**VI. NEW BUSINESS**

None.

**VII. COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION**

None.

JOHNSON: Oliver, did you have anything for us for just outcomes of the as we get towards the end of the year?

ORJIAKO: No. I want the public and those that are watching to know that your 3 vote will still go to the Council as no recommendation so that they will also have an opportunity to appear before the Council.

I don't have anything new to add. You have one week off in January so we'll see you in February. We are going to begin conversation with the Planning Commission in the future when we are going to kick off the next periodic plan update so it's going to be a full schedule. I will let you know what date and invite you to attend that kickoff. And when we have our work session in February, I will also relay additional information as I know them. Thank you.

JOHNSON: Thank you, Oliver. Okay. With that said, I think we're done and we'll adjourn for the evening. Thank you for all that participated.

**VIII. 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 CTVTV on the following Web Page at:

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

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