

CLARK COUNTY STAFF REPORT

DEPARTMENT: Community Planning

DATE: February 12, 2019

REQUESTED ACTION:

A public hearing to take testimony on Interim Emergency Ordinance No. 2018-12-64 which was adopted by Clark County Council on December 18, 2018. State law (RCW 35.63.200 and RCW 36.70A.390) requires that a hearing on an interim ordinance or resolution be held 60 days of initial adoption.

Consent Hearing County Manager

BACKGROUND

The Council enacted emergency ordinance 2018-12-64 suspending provisions in the Clark County Plan, Plan and Code made by section 4 of Ordinance 2016-04-03, section 1 of Ordinance 2016-05-03, by adopting a limited moratorium on applications to develop lands within the Rural Industrial Land Bank Overlay.

COUNCIL POLICY IMPLICATIONS

There are no known policy implications. The Council is required to hold a duly advertised public hearing within 60 days in compliance with state law. The purpose of Interim Emergency Ordinance No. 2018-12-64 was to demonstrate a level of compliance with the orders of the Growth Management Hearings Board. This would continue that compliance for a six-month period. See options available to Council in Exhibit 1.

ADMINISTRATIVE POLICY IMPLICATIONS

N/A

COMMUNITY OUTREACH

N/A

BUDGET IMPLICATIONS

YES	NO	
X		Action falls within existing budget capacity.
		Action falls within existing budget capacity but requires a change of purpose within existing appropriation
		Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

BUDGET DETAILS

Local Fund Dollar Amount	
Grant Fund Dollar Amount	
Account	
Company Name	

DISTRIBUTION:

Board staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>

Oliver Orjiako

Oliver Orjiako
Community Planning Director
564.397.4112

Shawn Hennessee
County Manager

[Signature]
APPROVED:
CLARK COUNTY, WASHINGTON
BOARD OF COUNTY COUNCILORS

DATE: *2/12/2019*

SR# _____

APPROVED: _____
Shawn Hennessee, County Manager

DATE: _____



BUDGET IMPACT ATTACHMENT

Part I: Narrative Explanation

I. A – Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information

Part II: Estimated Revenues

Fund #/Title	2017-2018 Biennium		2019 Annual Budget		2020 Annual Budget	
	GF	Total	GF	Total	GF	Total
Total						

II. A – Describe the type of revenue (grant, fees, etc.)

Part III: Estimated Expenditures

III. A – Expenditures summed up

Fund #/Title	FTE's	2017-2018 Biennium		2019 Annual Budget		2020 Annual Budget	
		GF	Total	GF	Total	GF	Total
Total							

III. B – Expenditure by object category

Fund #/Title	2017-2018 Biennium		2019 Annual Budget		2020 Annual Budget	
	GF	Total	GF	Total	GF	Total
Salary/Benefits						
Contractual						
Supplies						
Travel						
Other controllables						
Capital Outlays						
Inter-fund Transfers						
Debt Service						
Total						



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CLARK COUNTY
WASHINGTON

Exhibit 1.

COMMUNITY PLANNING

MEMORANDIUM

TO: Clark County Council

FROM: Oliver Orjiako, Director *OO*
Chris Cook, Sr. Deputy Prosecuting Attorney

DATE: February 12, 2019

SUBJECT: Public Hearing relating to Interim Ordinance No. 2018-12-64

INTRODUCTION

The purpose of the public hearing is take testimony on Ordinance 2018-12-64 which was adopted by the Board of County Council (Council) on December 18, 2018. The resolution enacted interim emergency ordinance 2018-12-64 suspending provisions in the Clark County Plan, Plan Map and Code made by section 4 of Ordinance 2016-04-03 and section 1 of Ordinance 2016-05-03, and adopting a limited moratorium on applications to develop lands within the Rural Industrial Land Bank Overlay.

State law (RCW 35.63.200 and RCW 36.70A.390) requires that a hearing on an interim ordinance or resolution be held within 60 days of initial adoption.

BACKGROUND

Pursuant to the Growth Management Act (GMA), the Council adopted Ordinance 2016-04-03 and Ordinance 2016-05-03 (together, the Amendments), which revised the Clark County 20-Year Comprehensive Growth Management Plan (Plan) Map, the Clark County Code (CCC or Zoning Ordinance) and the zoning map as follows:

Parcel numbers as listed below are changed from a Comprehensive Plan designation of Agriculture and zoning designation of agriculture (AG-20) to a designation of Employment Center and a zoning designation of light industrial with a rural industrial land bank overlay (IL-RILB):

198335000, 198375000, 196656000, 198111000, 198324000, 198112000,
198101000, 198075000, 198072000, 198080000, 19802000, 198113000, and 198076000.

The amendments were timely appealed to the Washington Growth Management Hearings Board, Western Region (Hearings Board).

The County has not received and processed any application and/or pre-application for development in the Rural Industrial Land Bank (RILB) overlay district since the effective date of Ordinance 2016-04-03.

The Hearings Board on March 23, 2017, issued its Final Decision and Order (Order) finding and concluding that the portions of the 2016 Plan amendment described above had violated GMA, and directed Clark County to come into compliance with GMA. The Hearings Board has further determined that the County's 2016 Plan Update is invalid, as it relates to the properties in the Rural Industrial Land Bank designation.

The Council directed appeal of the Hearings Board ruling on this matter. The case is pending at the Court of Appeal Division II.

In order to continue the effect of an interim ordinance, state law requires that the Council hold a duly advertised public hearing within 60 days of initial passage of the ordinance, take any public testimony, and adopt findings supporting the ordinance. .

OPTIONS

The Board has several options with regard to the moratorium:

Option 1. Take no action, which would end on February 24, 2019, 60 days after its passage, the moratorium adopted by Interim Emergency Ordinance 2018-12-64.

Option 2. Extend the moratorium by six months, while staff prepares for the Hearings Board compliance hearing on May 31, 2019. Re-adoption of the six month extension could be necessary in August 2019.

Option 3. End the moratorium by repealing Interim Emergency Ordinance 2018-12-64.

INTERIM ORDINANCE NO. 2018-12-64

An emergency interim ordinance relating to land use and zoning controls, suspending provisions in the Clark County Plan, Plan Map and Code made by section 4 of Ordinance 2016-04-03 and section 1 of Ordinance 2016-05-03, and adopting a limited moratorium on applications to develop lands within the Rural Industrial Land Bank Overlay, and

WHEREAS, pursuant to the Growth Management Act (GMA), the Council adopted Ordinance 2016-04-03 and Ordinance 2016-05-03 (together, the Amendments), which revised the Clark County 20-Year Comprehensive Growth Management Plan (Plan) Map, the Clark County Code (CCC or Zoning Ordinance) and the zoning map as follows:

Parcel numbers as listed below are changed from a Comprehensive Plan designation of Agriculture and zoning designation of agriculture (AG-20) to a designation of Employment Center and a zoning designation of light industrial with a rural industrial land bank overlay (IL-RILB):

198335000, 198375000, 196656000, 198111000, 198324000, 198112000, 198101000, 198075000, 198072000, 198080000, 198082000, 198113000, and 198076000.

WHEREAS, the Amendments were timely appealed to the Washington Growth Management Hearings Board, Western Region (Hearings Board); and

WHEREAS, the County has not received and processed any application and/or pre-application for development in the Rural Industrial Land Bank (RILB) overlay district since the effective date of Ordinance 2016-04-03; and

WHEREAS, the Hearings Board on March 23, 2017, issued its Final Decision and Order (Order) finding and concluding that the portions of the 2016 Plan amendment described above had violated GMA, and directed Clark County to come into compliance with GMA; and

WHEREAS, the Hearings Board has determined that the County's 2016 Plan Update is invalid, as it relates to the properties in the Rural Industrial Land Bank designation; and

WHEREAS, determinations of noncompliance and invalidity under GMA threaten the County's ability to apply for and receive grants and loans from the Washington State Public Works Fund and Transportation Improvement Board, to the detriment of the County's ability to construct and improve needed transportation infrastructure throughout the County; and

WHEREAS, a determination of invalidity under GMA prevents the vesting of certain future applications for development in the County's Rural Industrial Land Bank areas; and

WHEREAS, due to applicable vesting law and the need to enhance the County's eligibility for state assistance in financing County transportation improvements, immediate suspension of the Amendments that created and implemented the RILB designations is necessary to allow the

Council to reevaluate the potential consequences of the RILB adoption in light of the Hearings Board's Order, and its Orders dated January 10, 2018 and October 17, 2018, which found noncompliance as to the RILB; and

WHEREAS, RCW 35.63.200 and RCW 36.70A.390 authorize the Council to adopt an interim zoning ordinance without holding a public hearing, provided that a duly noticed public hearing is held with 60 days of adoption and the Council adopts findings supporting the ordinance; and

WHEREAS, the Clark County Home Rule Charter authorizes the Council to adopt an ordinance as an emergency that would take immediate effect upon a finding that the ordinance is necessary for the immediate support of the County government and its existing public institutions, and the affirmative votes of 4 (four) Council members; and

WHEREAS, the Council finds and concludes that this interim ordinance would further public health, safety, and welfare, and is necessary for the immediate support of the County government and its existing public institutions; it is now, therefore,

ORDERED, RESOLVED AND DECREED BY THE CLARK COUNTY COUNCIL, CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:

Section 1. Findings. RCW 35.63.200 and RCW 36.70A.390 authorize adoption of interim zoning measures with certain limitations. In compliance with the requirements of these statutes, the Clark County Council adopts as findings the pronouncements contained in the above recital provisions.

Section 2. Moratorium. The filing of or the receipt by County staff of development applications, including pre-applications, pursuant to CGC 40.520.075 and 40.230.085 (IL-RILB) are prohibited during the effective period of this ordinance; provided, that this ordinance does not prohibit the filing or receipt of any application for development that complied with the Clark County 20-Year Comprehensive Growth Management Plan 2004-2024 and the County Code as both were in effect prior to the adoptions of Ordinance 2016-04-03 and Ordinance 2016-05-03.

Section 3. Effective Date. This interim ordinance will take effect immediately upon adoption by the affirmative votes of at least 4 (four) members of the County Council, or in 10 (days) if adopted by the affirmative votes of only 3 (three) Councilors, and will expire upon adoption of a new ordinance following consideration of this matter in a public hearing by the County Council, or 60 days from adoption, whichever is earlier.

Section 4. Instructions to Clerk. The Clerk of the County Council shall:

1. Record a copy of this ordinance with the Clark County Auditor;
2. Transmit a copy of this ordinance to the state within ten days of its adoption pursuant to RCW 36.70A.106.
3. Cause notice of adoption of this ordinance to be published forthwith pursuant to RCW 36.70A.290.
4. This ordinance is temporary in nature and is not to be codified.

Interim Ord. No. 201812-64

ADOPTED BY ROLL CALL VOTE this 18th day of December, 2018.

For: Julie Olson, Marc Boldt, Eileen Quiring

Against: Jeanne Stewart

CLARK COUNTY COUNCIL

Attest:

[Signature]
Clerk of the Council

By: [Signature]
Marc Boldt, Chair

By: _____
Julie Olson, Councilor

By: _____
Jeanne E. Stewart, Councilor

By: _____
John Blom, Councilor

By: _____
Eileen Quiring, Councilor

Approved as to form only:

Anthony F. Golik
Clark County Prosecuting Attorney

[Signature]
Christine M. Cook
Senior Deputy Prosecuting Attorney

