

CLARK COUNTY STAFF REPORT

DEPARTMENT: Public Works

DATE: May 7, 2019

REQUESTED ACTION: Review and approve the 2018 Current Use Assessment applications for Open Space Soil Conservation, Stream Protection and Historic Sites.

Consent Hearing County Manager

BACKGROUND

As required by RCW 84.34.037, Current Use Assessment requests are processed in the same manner as Comprehensive Plan Amendments. All requests for "Open Space" designations require Planning Commission review and recommendation to the Clark County Council. If approved, the requests will become effective in September 2019 for the 2020 tax statements. This is the 32ND year the county has reviewed Current Use Assessment applications.

In 2018, Public Works received four applications for Current Use under the Open Space Soil Conservation and Historic Sites designations. Staff reviewed the requests and determined they meet the criteria outlined in Clark County Code, Chapter 3.08, Open Space Taxation.

The Planning Commission reviewed the applications during a work session on March 7, 2019, and a public hearing on March 21, 2019. The commission unanimously recommended approval of each of the four applications.

COUNCIL POLICY IMPLICATIONS

None.

ADMINISTRATIVE POLICY IMPLICATIONS

None.

COMMUNITY OUTREACH

Notification about this program is done through stakeholders, such as the Washington Farm Forestry Association's Clark County Chapter, other local agricultural groups, the Clark Conservation District and the Clark County Assessor's Office.

BUDGET IMPLICATIONS

YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	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.

PW19-054


BUDGET DETAILS

Local Fund Dollar Amount	NA
Grant Fund Dollar Amount	NA
Account	General Fund
Company Name	NA

DISTRIBUTION:

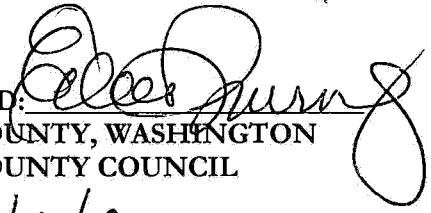
Council staff will post all staff reports to the county website, www.clark.wa.gov/the-grid.

Attachments: 2019 Current Use Real Property Assessment Resolution; March 21, 2019, Planning Commission recommendation; March 21, 2019, Planning Commission minutes.


 Kevin Tyler
 Lands Manager


 Ahmad Qayoumi
 Public Works Director

Primary Staff Contact: Hunter Decker, Ext. 4852

APPROVED: 
 CLARK COUNTY, WASHINGTON
 CLARK COUNTY COUNCIL

DATE: 5/13/19

SR# _____

approval date = 5/7/19



APPROVED: _____
 Shawn Hennessee, County Manager

DATE: _____

RESOLUTION NO.: 2019-05-02

A Resolution relating to the 2018 Current Use Real Property Assessment Applications for Open Space Soil Conservation and Historic Site Designations.

WHEREAS, Clark County Public Works (Public Works) received four applications for Current Use Assessment for Open Space Soil Conservation and Historic Site designations; and

WHEREAS, Current Use Real Property Assessment requests are processed in the same manner as a Comprehensive Plan Amendment, per Revised Code of Washington (RCW) 84.34.037; and

WHEREAS, the Terrace Mitigation Bank application #2018-00001 satisfies the requirements for Soil Conservation by having a major portion incorporated into the comprehensive park greenway plan; and

WHEREAS, The Normandy Apartments application #2018-00002, Sedgwick Building application #2018-00003, and Kiggins 1922 Building application #2018-00004 satisfy the requirements for Historic Sites by being listed on a local, state or national historic register; and

WHEREAS, the Clark County Planning Commission held a work session on March 7, 2019 concerning the current use applications at a duly noticed public hearing. At that hearing on March 21, the Planning Commission unanimously recommended that the Clark County Council approve the applications; and

WHEREAS, the Council conducted a duly advertised public hearing on May 7, 2019 to consider the Planning Commission's recommendations for approval of the applications; and

WHEREAS, the Council concludes it is in the best interest of the County to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops, and to assure the use and enjoyment of natural resources and the scenic beauty, and the preservation of property of historic significance for the economic and social well-being of the County and its citizens; and

WHEREAS, the Council concurs with the Clark County Planning Commission's analysis and recommendations;

NOW, THEREFORE, BE IT ORDERED AND RESOLVED BY THE CLARK COUNTY COUNCIL, as follows:

Section 1. Approval of Applications

- A. Current Use Application #2018-00001 for Open Space Soil Conservation is hereby approved.
- B. Current Use Application #2018-00002 for Open Space Historic Sites is hereby approved.
- C. Current Use Application #2018-00003 for Open Space Historic Sites is hereby approved.
- D. Current Use Application #2018-00004 for Open Space Historic Sites is hereby approved.

Section 2. Instructions to Clerk

- A. Record this resolution with the Clark County Auditor.
- B. Transmit a copy of this resolution to the Clark County Assessor (Roni Batton, Program Manager).
- C. Cause notice of adoption of this ordinance to be published forthwith, pursuant to RCW 36.70A.290.

ADOPTED on this 17th day of May, 2019.

Attest:


Clerk to the Council

CLARK COUNTY COUNCIL
CLARK COUNTY, WASHINGTON

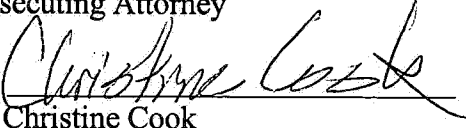

Eileen Quiring, Chair

Approved as to Form Only:

ANTHONY GOLIK

Prosecuting Attorney

By:


Christine Cook

Deputy Prosecuting Attorney

Temple Lentz, Councilor

Julie Olson, Councilor

John Blom, Councilor

Gary Medvigy, Councilor







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**DEPARTMENT OF
PUBLIC WORKS**

**Planning Commission Recommendation to the
Clark County Board of County Councilors**

FROM: Steve Morasch, Chair

DATE: March 21, 2019

SUBJECT: Year 2019 Reviews for the Year 2018 Current Use Assessment Requests (Timberland/Open Space)

RECOMMENDATION: **Approval** of four applications for Current Use Assessment in the Open Space Soil Conservation & Historic Site designations.

INTRODUCTION

The Department of Public Works has reviewed the Current Use Assessment requests accepted during 2018, and has proposed that the Planning Commission forward the request to the Clark County Councilors for consideration and approval. The Planning Commission, in a duly noticed public hearing held March 21, 2019, voted to recommend that the Clark County Councilors approve the request.

If approved, the request will become effective during September 2019 for the 2020 calendar year tax statements. As required by Revised Code of Washington (RCW) 84.34.037, Current Use Assessment requests are processed in the same manner as Comprehensive Plan Amendments. These requests are usually evaluated after receiving the applications late in the calendar year preceding the year of tax assessment to be under Current Use.

All requests for Current Use classification require Planning Commission review, and are also considered by the Clark County Councilors. This is the 32ND year the county has reviewed Current Use Assessment applications. The Open Space criteria vary according to the category requested.

These applications have requested the Soil Conservation designation and Historic Sites designation. According to Chapter 3.08.050 of the Clark County Code, conservation of soils will be restricted to, "tracts wherein a major portion is incorporated into the comprehensive park greenway plan." In addition, "public access may be required, provided public access shall only be required as long as open space classification is in full force and effect and shall not be deemed to vest any permanent rights of public access or use.

According to Chapter 3.08.060 of the Clark County Code, preservation of historic sites "will be limited to historic sites and land containing structures of historic significance so

long as they are listed on the local, state or national historic registers and protected as such." These applications have been evaluated in light of these criteria.

BACKGROUND

Current Use Application# 2018-00002: The Normandy Apartments

The applicant has requested that 0.57 acres of the 0.57 acres in parcel # 388200000 be classified as Open Space Historic Preservation.

The site is located at 318 E 7th Street, Vancouver, Washington. An on-site review indicated that there is one historic building on site. The Normandy Apartments, built in 1928, are listed on the Clark County Heritage Register. The application meets all criteria for Open Space Historic Preservation as specified in Chapter 3.08.060 of the Clark County Code. Therefore, staff recommends **APPROVAL** of the 0.57 acres.

Current Use Application #2018-00003: Sedgwick Building

The applicant has requested that 0.09 acres of the 0.09 acres in parcel # 48094000 be classified as Open Space Historic Preservation.

The site is located in downtown Vancouver, Washington about a half mile north of the Columbia River, at the northeast corner of 8th and Washington streets. An on-site review indicated that there is one historic building on site. The Sedgwick Building, built in 1907, is listed on the Clark County Heritage Register. The application meets all criteria for Open Space Historic Preservation as specified in Chapter 3.08.060 of the Clark County Code. Therefore, staff recommends **APPROVAL** of the 0.09 acres.

Current Use Application #2017-00004: Kiggins 1922 Building

The applicant has requested that 0.23 acres of the 0.23 acres in parcel # 51660000 be classified as Open Space Historic Preservation.

The site is located in downtown Vancouver, Washington at the northwest corner of 9th and Main streets and is included within Heritage Overlay District #2 as identified by the city in Chapter 20.510 of the Vancouver Municipal Code. An on-site review indicated that there is one historic building on site. The Kiggins 1922 Building, built in 1922, is listed on the Clark County Heritage Register. The application meets all criteria for Open Space Historic Preservation as specified in Chapter 3.08.060 of the Clark County Code. Therefore, staff recommends **APPROVAL** of the 0.23 acres.

Current Use Application # 2017-00001: Terrace Mitigation Bank

The applicant has requested that 127.25 acres of the 127.25 acres in parcel #s 159331000 and 162111000 be transferred from a Farm & Agriculture classification to Open Space Soil Conservation.

The site is located at 5721 NE 152nd Avenue, Vancouver, WA 98682 and lies within the City of Vancouver's jurisdiction. Current zoning designation of the area indicates Light Industrial with a Comprehensive Plan of Industrial.

The owner has established a wetland mitigation bank on the parcels, called Terrace Mitigation Bank, to mitigate wetland impacts within Clark County. In order to meet the goals of the Mitigation Banking Instrument, Washington Department of Ecology, US Army Corps of Engineers, City of Vancouver, and Clark County have recorded a Conservation Easement on the parcels. The Conservation Easement prohibits any activity of development on the site contrary to creation, re-establishment, or enhancement of wetland areas.

Finding 1 - Tracts wherein a major portion is incorporated into the comprehensive park greenway plan.

A review of the City of Vancouver's Comprehensive Parks, Recreation and Natural Areas Plan 2014-2020 (Page 104) under Urban Natural Areas indicates,

"A review of the level-of-service by park impact fee district in Table 14 reveals a notable disparity by location due to the concentration of urban natural areas along riparian corridors such as Burnt Bridge Creek. The Urban Natural Area (UNA) inventory was carefully analyzed to distribute the acres of natural area along the streams equitably to multiple Park Impact Fee (PIF) districts. For the 2014 population, the City of Vancouver exceeds the standard in park impact fee districts 1, 2, 3, and 7, leaving districts 4 and 5 needing an additional 93 acres to meet the current standard. The acres needed to meet standard will increase to 105 by 2020 and 141 acres by 2034.

The Clark County Conservation Areas Acquisition Plan, adopted in 2014, provides a thorough analysis of the high value conservation lands county-wide. These conservation lands include greenways, habitat, and farm and forest resource lands. The plan divides the county into watershed subareas to identify high-value project areas. Within the City of Vancouver, the Conservation Areas Acquisition Plan specifically identifies high value conservation lands in the Columbia South Slope, Vancouver Lake Lowlands, and the Burnt Bridge Creek corridor.

The Conservation Areas Acquisition Plan can provide guidance for future acquisition efforts to support the plan's vision of an interconnected system of habitat and greenways along the rivers and streams, while seeking to preserve other sites that have unique or rare conservation values."

The Terrace Mitigation Bank falls within the high value conservation lands identified in the Burnt Bridge Creek corridor.

Finding 2 - Public access may be required, provided public access shall only be required as long as open space classification is in full force and effect and shall not be deemed to vest any permanent rights of public access or use.

In order to meet the purpose of the Mitigation Bank, staff does not recommend public access at this point. If the Planning Commission or Clark County Council deems that

such access be a condition of approval, the applicant will be required to provide such access.

Staff has spoken to Clark County's Wetland and Habitat Review Program Manager which suggested that a viewing platform could be established to provide adequate viewing access to the wetland without impeding the sensitivity and functions of the wetland mitigation bank. Providing blanket access to the mitigation bank would impede the sensitivity and functions of the wetland, harm the creation, re-establishment, or enhancement of the wetland areas, and are a disservice to the public goals of conservation to the loss functionality of such wetlands.

The Conservation Easement restricts access which was approved by the Washington Department of Ecology and U.S Army Corps of Engineers, as well as other certain public agencies. The purpose of the easement is to assure that the property will be retained forever predominantly in its condition as a wetland and other aquatic and riparian habitat of fish, wildlife, and plants, providing the wetland, aquatic and riparian functions and values described in the baseline documentation and to prevent any use of, or activity on, the property that will impair or interfere with the conservation values.

According to the section titled "**Recreation 4.5**" within the Conservation Easement,

"The undertaking of passive recreational activities, such as hiking, and birdwatching; provided that such activities are conducted in a manner and intensity that does not adversely affect the Conservation Values. Notwithstanding the foregoing, Granter shall not construct improvement in furtherance of the foregoing recreational uses and activities."

Currently, there are no trails development plans for this area to accommodate any kind of recreation opportunities or connectivity to existing trails or the property. The closest developed trailheads are Padden Parkway, located 1.26 miles to the north, Burnt Bridge Creek trail located 3.27 miles due west, and the Lacamas Heritage trail located 3.44 miles to the east. Some undeveloped trails can be found near the property. A review of the City of Vancouver's Comprehensive Parks, Recreation and Natural Areas Plan 2014-2020 (Page 78) suggests a future alignment of the Burnt Bridge Creek trail, which could tie into the property at some point in the future.

There is a Vancouver Bicycle Plan that was developed in 2004 as part of Vancouver's 20-year Transportation System Plan (TSP). This plan discusses the demand for recreational bicycling connections to existing developed parks and shared use paths like the Burnt Bridge Creek trails. The plan also indicates available land for trail corridors along the Bonneville Power Administration powerlines and label the corridor as a "Bike Project in Design." The plan does not give other details on the current trails development plan for this area, or whether it will accommodate any kind of connectivity to the property.

These findings suggest that the Terrace Mitigation Bank meets the requirements for being within a comprehensive park greenway plan, and if required, could provide access as a condition of approval. Staff does not recommend requiring public access at

this time because of the potential to adversely affect conservation values on the property. The application meets all criteria for Open Space Soil Conservation as specified in Chapter 3.08.050 of the Clark County Code. Therefore, staff recommends **APPROVAL** of the 127.25 acres.

PROPOSED ACTION

The applications meet their criteria for Open Space Soil Conservation and Historic Sites as specified in Chapter 3.08 (.050), (.060) of the Clark County Code. Therefore, staff recommended approval of these applications.

PUBLIC OUTREACH

On March 7, 2019 staff met with the Planning Commission to hold a work session regarding the 2018-2019 Current Use application.

On March 21, 2019 staff presented four applications for Current Use, Open Space Soil Conservation and Open Space Historic Sites at the Planning Commission public hearing.

Information presented to the Planning Commission was also available on the Planning Commission website.

RECOMMENDATION AND CONCLUSIONS

The Planning Commission voted unanimously on each application **6-0** to forward the applications to the Clark County Councilors with a recommendation that the Clark County Councilors approve the applications. The Planning Commission recommends that the Clark County Councilors **APPROVE** Current Use Applications # 2018-00001, #2018-00002, #2018-00003, and #2018-00004.



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CLARK COUNTY
WASHINGTON

Clark County Planning Commission

Steve Morasch, Chair
Ron Barca, Vice Chair
Rick Torres
Karl Johnson
Richard Bender
Matt Swindell
Robin Grimwade

CLARK COUNTY PLANNING COMMISSION THURSDAY, MARCH 21, 2019 MINUTES OF PUBLIC HEARING

Public Services Center
Council Hearing Room, 6th Floor
1300 Franklin Street
Vancouver, Washington

6:30 p.m.

CALL TO ORDER & ROLL CALL

MORASCH: All right. Some technical difficulties there, but welcome to the March 21, 2019, Planning Commission hearing. Can we have a roll call, please, Sonja.

JOHNSON: HERE
BENDER: HERE
BARCA: ABSENT
MORASCH: HERE
TORRES: HERE
SWINDELL: HERE
GRIMWADE: HERE

GENERAL & NEW BUSINESS

A. Approval of Agenda for March 21, 2019 & Minutes for February 21, 2019

MORASCH: All right. First thing on our agenda tonight is approval of the agenda and approval of the minutes from the February 21, 2019, hearing. Does anyone want to move to --

JOHNSON: I make a **MOTION** to approve the agenda for March 21st and the minutes.

SWINDELL: I'll **second** it.

MORASCH: It's been moved and seconded. All in favor?

EVERYBODY: AYE

MORASCH: Opposed? All right. Our agenda and minutes have been approved.

B. Communications from the Public

MORASCH: The next item on our agenda is communications from the public. This is for communications from the public on matters that are not on the printed agenda. Does anyone wish to come down and speak to the Planning Commission on anything not on our printed agenda?

All right, seeing no one rushing forward, we will move on to the next item on our agenda which is the public hearing items and tonight we have one public hearing, the open space and timberland applications.

Planning Commission Rules of Procedure

MORASCH: And before turning it over to Hunter Decker for the staff report, I'm going to read my little canned statement here on public hearings. First, I would ask, does anyone on the Planning Commission have any conflict of interest to disclose? No. Okay.

Next, I will discuss the procedures. We'll begin the hearing with a staff report. The Planning Commission members will then ask staff questions if they have any. At that point I will open the hearing to public testimony.

Members of the audience who wish to testify on a hearing item need to sign in on the sheet at the back of the room. And if members of the public wish to give oral testimony, they can come to the front to the table when I call their name and give their name please and spell their last name for the record.

If you have any exhibits that you would like us to consider such as a copy of your testimony, photographs, petitions or other documents or physical evidence, please hand it in to staff, this information will then be included as part of the record for the hearing item and we will consider it as part of our deliberations.

I know there's more to my canned statement but it looks like it wasn't printed today, well, I'll go with the rest of it based on memory. The Planning Commission will then close the public hearing after everyone has had a chance to speak at which point we may have questions for staff and then we will deliberate and issue a recommendation.

Our recommendation is just that, it's a recommendation to the Board of County Councilors, we don't have any authority to make any decisions, that authority rests with the elected

representatives on the Board of County Councilors.

So to the extent any member of the public is interested in the matter that we discuss today, I would encourage you to follow it on to the next level with the Board of County Councilors.

So with that, I will turn it over to Hunter Decker for the staff report.

PUBLIC HEARING ITEMS:

OPEN SPACE & TIMBERLAND APPLICATIONS:

The Planning Commission will consider staff recommendations for approval or denial of Timberland or Open Space Applications for Current Use Assessment pursuant to Chapter 84.34 of the RCW. The criteria for Open Space or Timberland was established by Resolution No. 1977-10-32, adopted November, 7, 1977 and Ordinance No. 1982-02-65 adopted March 17, 1982, and Ordinance No. 1996-02-30, adopted February 27, 1996.

Staff contact: Hunter.Decker@clark.wa.gov or (564) 397-4852

DECKER: Thank you, Planning Commission. My name is Hunter Decker.

Staff has reported the, reviewed the current use applications from last year for this year's tax season. And so what is open space? Pretty much it's the Washington State's legislature, they've passed these RCWs and laws that maintain and preserve and conserve the adequate resources for the scenic beauty of Washington State, and we have adopted that, and for ours is the open space Clark County Code 3.08. Next slide, please.

And so as required by State law, we review these applications under the comprehensive plan amendment. Current use classification is then reviewed by the Planning Commission and then approved by Clark County Council and this is the 32nd year that we've reviewed applications. We have four requests; zero for timberland, and the one for soil conservation and three for historical sites. Next slide, please.

So parcel size needs to be ten contiguous acres exclusive of one home site of one acre and that's except for historical sites which can be tracts that are less than five acres. All applications have to abide by the Clark County noxious weed control program which is established here in Clark County and there's further information provided at this link. Next slide, please.

So we have zero timberland applications. And then we'll go ahead and move to the first historical site, The Normandy Apartments, the next slide. There we go. Sorry, go back one. Thank you.

So the applicant has requested 0.57 acres. It's located at 318 East 7th Street. There is a historical building on-site that was built in 1928 and it is listed on the Clark County Heritage Register, and so therefore it meets applicable code and therefore we recommend approval.

And here's a picture of The Normandy Apartments.

The second application is The Sedgwick Building. They have also applied for historical sites requesting 0.9 acres, sorry 0.09 acres. It's located downtown Vancouver about half-mile north of the Columbia River. On-site review indicates the building is still there. It was built in 1907 and it is listed on the Heritage Register of Clark County and therefore we recommend approval of that application, and here's a picture of that building.

The third and final historical application is the Kiggins 1922 building. They're requesting 0.23 acres of the site. It's located downtown Vancouver at the corner of 9th and Main and it's also listed on the Vancouver's Heritage Overlay District #2, and an on-site review indicates the building is still there and is listed on our Clark County's Historical Register and also recommend approval of this application and here's a picture of the building. All right.

Now we'll move to the Terrace Mitigation Bank. So this application is a transfer from farm and agriculture classification to the soil conservation classification. They're requesting 127.25 acres, and so this site lies within the City of Vancouver's jurisdiction. The current zoning is light industrial with a comprehensive plan of industrial.

And the Terrace Mitigation Bank has established a wetland mitigation bank on the parcels to mitigate wetland impacts within Clark County, and here's a picture of the location. It's in between N.E. 137th Ave. and N.E. 162nd and also between N.E. Fourth Plain and N.E. 48th Street. There you could also see the comprehensive growth plan overlay indicating the light industrial. Next slide, please.

And so Finding 1, the code indicates that in order to be applicable it needs to have a major portion that's incorporated in a comprehensive park greenway plan. And so with my investigation and looking through all the documents, the City of Vancouver's parks and recreation plan as well as our Clark County's conservation areas acquisition plan, they both indicate that these areas, sorry, could you go to the next slide please, include greenways, habitats and farm and forest resource lands that are adequate for maintaining and conserving. And so these pictures are pictures of the site that the applicant has provided.

And so part of the conservation acquisition plan provides guidance with the interconnected system of habitat within Clark County. And if you'd go to the next slide please. So both of those indicate that this area does meet Finding Number 1 of being part of a greenway plan.

And so Finding Number 2 within the greenway plan also indicates that public access may be required provided that public access shall only be required as long as the open space classification is in full force and effect and shall not be deemed to vest any permanent rights of public use. So with my investigation, you know, the mitigation bank I do not recommend public access at this time with you and, sorry, the Planning Commission and Clark County Councilors

could approve a condition of requiring access in the future.

And so I'm going to tell you a little more about the property and what the applicant is also imposed of. They have a conservation easement that is tied to the land that was approved by the Washington State Department of Ecology as well as the Army Corps of Engineers. The next slide, please.

And so I've asked the applicant to provide me that information with looking through those documents, you know, they are retained forever to retain this property as a wetland and improve and enhance the functionality of it. And within that it also states a recreational clause of, you know, undertaking a passive recreational activity such as hiking and bird watching provided that it does not impede any of the functionality of the wetland.

So what they're doing out there building and enhancing that area by providing a trail network through there I think would not be inadequate of exactly what they're doing and especially what they're coveted to by all the related agencies that put them within this easement.

But I would like to continue with I have talked with the wetland habitat program manager and suggested that possibly, you know, maybe a viewing structure down the road could be an adequate way to provide access to the public and see, you know, the conservation of these wetlands and, you know, the enhancement beauty of greenways, what we're all here trying to do is approve, you know, these open space networks. And here's some examples I just found online real quick of just some quick little easy viewing samples of a viewing area. Next slide.

During our work session we talked about trails networks that could be in the vicinity and I looked that up and we've, I found that the closest developed trails are, you know, Padden Parkway which is north 1.26, Burnt Bridge Creek is west 3.27 miles and the Heritage Trailhead is 3.44 miles east and I have a map on the next slide here.

So the X is the Terrace Mitigation Bank area, the location might not be exactly accurate but I did the best I could in locating that and drawing where the trailheads are currently. Next slide, please. And so this is within the Vancouver's comprehensive parks plan that I was looking at that shows undeveloped trails in the area, and I put a little red dot up there, it's kind of hard to see right there, yep, where the mitigation bank lies. Next slide.

And so I also looked at the Vancouver bicycle plan that was developed in 2004, it's a 20-year transportation plan, it discusses the demand for recreational biking in Clark County and how to improve that, and looking through that document we discussed at the work session about the BPA corridor that runs through the south of the property and there's no designated trail that exists, it doesn't necessarily show a trail going through there right now and it only mentions that there's land available from Bonneville Power Administration but it doesn't give any details on going any further than that. Next slide, please.

Here's a map of the 20-year transportation plan and I drew another red dot of where the mitigation bank is and so I had thought that this was the BPA corridor but it's technically not, it's 48th, it might be even south of 48th Street a tad or it is 48th Street but it does not go through the BPA corridor. Next slide, please.

And so providing blanket access through the mitigation bank would definitely impede the sensitivity of the wetland and everything that the applicant is trying to do out there, you know, the harm, the creation and establishment of the wetlands. So at this time I do not recommend public access but I do recommend approval of this application. Next slide.

And with that, I'm here to answer any questions. I also have -- the applicant is in the audience if you'd like to ask any questions as well.

MORASCH: All right. Thank you. Sonja, do we have a sign-in sheet? And while she's getting that, does anyone on the Planning Commission have any questions for staff?

BENDER: In the three buildings that we're going to put into historical register, have the facades changed a great deal since they were originally built?

DECKER: You know, I did not do historical archive work on remodels or any, the code doesn't really specify that I go into detail, it strictly asks me if it's on the register or not and honestly I can't remember if, if I remember seeing any remodels any time soon, but...

BENDER: The reason why I ask is Walla Walla, I'm familiar with their program over there, and if a building is going to be put into the register, historical register, it has to be put back into the original condition, is there any such stipulation in what we're doing here?

DECKER: Well, I know within the historical register they have strict guidelines on what type of remodeling they can do within, it does like you said have to be based within certain standards and meet certain expectations within the register, but other, I don't know of those standards and I'm not the one that reviews those standards, but I mean that would be I guess a good question for down the road.

BENDER: Thank you.

TORRES: So all these three buildings are already in the historical register; correct?

DECKER: Correct.

TORRES: So what's the value to the applicant of getting this designation changed?

DECKER: Well, it's a tax deferral.

TORRES: That was the last thing, but that's specifically it?

DECKER: Right. Yes, so the open space current use program is a tax deferral program.

TORRES: Okay.

JOHNSON: Decker, on the open space, you're telling me there's no BPA access that we looked, remember in the work session we looked at we thought it was on the south end I guess, that's not?

DECKER: No. There is the BPA access. I, what I was, maybe I didn't explicitly say that last map I showed I had thought that trail looked like it went through the BPA corridor but it does not.

JOHNSON: Right. But you see that trail there, you see above that trail as I recall, I don't have that map in front of me, the housing development to the south; correct?

DECKER: Correct.

JOHNSON: So we're looking at a potential, you know, no matter what we say you're going to have a push into that area and so my concern is that there's nothing there, a viewing platform is a good start, I get that, but I could just see that doing the opposite of maybe what you're trying, what we're trying to do here because people are going to go down there and then harm it instead of having a place where they could walk through it and --

DECKER: Right.

JOHNSON: I don't know if you got that. Is that right-of-way able to be used as a trail or something like that?

DECKER: Well, currently it is BPA right-of-way, it's restricted to BPA maintenance, there's no public access.

JOHNSON: Is that a road or a trail?

DECKER: It's probably an undesignated trail that people go through that are illegally trespassing through the BPA corridor.

JOHNSON: That's my fear right now. I'm not pushing access into it. I think you have to look at it both ways and say is it, they will come and harm it because, you know, they'll just go in there.

DECKER: Well, if the applicant sees significant harm, it is also upon them within their restriction of the easement that they do all duty to restrict and retain people from doing harm, so I would imagine if access was to occur and then damage was to happen, then they would have to restrict the access due to the, to their easement.

MORASCH: And just for clarity, you're referring to their permitting and their covenant for the wetland bank itself, not the tax deferral program?

DECKER: Correct.

GRIMWADE: But just following on from that, how is the property currently secured defined out in the environment?

DECKER: Well, there's a couple of pictures there that showed all four aspects of the property, I do not believe it is fenced at all and I know currently they're out there doing mitigation work and improving the sites, there is I believe some silt fencing.

GRIMWADE: So apart from the people associated with the mitigation practices, are there any other members of the public currently using that property?

DECKER: No.

GRIMWADE: No.

BENDER: There's a homeless camp right off of 162nd that they just cleaned up, but that area was being used at one time in the most near future probably two months ago.

TYLER: Kevin Tyler with Clark County Public Works, Lands Manager. I think these are really good questions for the applicant to maybe address that so they're on the site. I don't believe that the fences that they're fenced around the site yet, but maybe the applicant can address that or if there are any long-term plans to, you know, completely restrict the access.

The conservation easement suggests that informal passive recreation is allowed within the conservation easement, so bird watching, walking through the site that that would not be prevented, but to state that nobody is using the site right now is not something that we can really say for sure one way or the other.

GRIMWADE: No. The reason why I'm asking that is that when natural areas are within the urban environment, there is a propensity to lock them up, shut everyone out, the reality is that works in the opposite. It is far better to acknowledge from day one there will be human intervention no matter what policymakers, planners expect in the natural environment and to provide controlled access day one so that you distill a required form of behavior.

So the establishment of a viewing platform from day one when this facility is say made into a mitigation bank may be highly advantageous, not only for the benefit of the community, but for the benefit of the owner that is managing that resource because they'll be spending less money on managing undesirable recreational use of the land, that's where I'm coming from.

MORASCH: And the only thing I would add to that is I mean they've already gone through the permitting process to set the bank up and it sounds like a lot of this discussion is something that's probably already handled by the agencies when the, you know, when the bank was set up. What we're looking at now do we let them into the property tax deferral program which is a little bit of a different issue, but...

TYLER: Yeah. I think if you look at the code, the County code that applies to this section, there's two criteria and Hunter's attempted to address those two criteria, and the one that talks about public access it says public access may be required, not shall, but may.

GRIMWADE: Yeah, but he also asked us and said either the Planning Commission or the Clark County Council can actually ask for access. So I thoroughly agree with you not providing total unfettered access. A viewing platform can constrain access limited from day one. There's a perception that there's a public benefit coming back for what is also a tax deferral to the applicant, it's a win/win as opposed to 95 one way and 5 the other.

DECKER: Right. And that's with Mr. Bender's work session comments about trails was I think very adequate and good discussion to bring up and show, you know, what locations, you know, is there access currently and nearby and there isn't right now, but maybe down the road when some more development happens and there's more need for a path through there perhaps that municipality approaches the applicant and maybe works out access through the BPA and then perhaps provide a viewing platform of some sort.

MORASCH: Any other questions before we open the public testimony? All right. With that, we will open the public portion of our hearing tonight and no one has signed up on the sheet. Is there anyone in the audience that wishes to come up and give testimony and maybe answer questions? I don't see anybody rushing up.

ROTSCHY: Is there a question for us?

MORASCH: Well, I think you heard that there were a lot of questions, so if you want to come up and answer some of the ones you heard particularly about public access and fencing and any of that, you know, now is the time.

ROTSCHY: Sure.

MORASCH: And please spell your last name for the record. Yeah, she's transcribing the hearing so if you want to sit and speak in the microphone, give your name and spell your last name, try to speak slowly enough that she can transcribe the hearing.

Public Testimony

ROTSCHY: My name is Cornell Rotschy, R-o-t-s-c-h-y, and I represent the applicant and so I'm here to answer any questions you might have.

MORASCH: All right. Does anyone on the Planning Commission have any questions for the applicant?

JOHNSON: I just, I was just, it was more of a follow up on what we were talking about with the access and I just, excuse me, I assume that I think what was answered was that there could be, what limited access was, that people could walk through it.

My fear is that this is great except if there's nothing there, they're just going to use it as something other than what it's intended to, but I didn't really quite understand the limited use and that makes sense if somebody walked through it or somebody was looking for birds they would have that opportunity.

I was sold kind of initially that the BPA was maybe a potential trail around it to buffer that was all I was, that's where I was coming from. I don't know if that makes sense, Decker.

BENDER: There is a driveway off of 162nd that goes to a cabled barrier gate which most of the time is down and from time to time there are vehicles doing their doughnuts in there, is that going to be secured?

ROTSCHY: The requirements in our MBI, Master Banking Instrument, did not indicate that we would need to control that location. We were obligated to put gates on the accesses on the north end and the south end, which we did gate. There are some existing fences but we have not, the agencies have not required additional fencing; however, they have required that there would be some hedge, shrub hedges put up to kind of buffer the public's access to the wetlands area.

BENDER: Thank you.

MORASCH: So do you know, is anybody using it right now, are there people going on the property and bird watching or whatnot?

ROTSCHY: Occasionally there's people from the neighborhood that will walk down that BPA access road.

MORASCH: And do they go on to the wetland or do they stay on the BPA?

ROTSCHY: I think for the most part they stay on the BPA.

MORASCH: Yeah, that's what I thought. And is there anything in your permitting documents that would prohibit people from wandering through the property to do that kind of bird watching or whatnot?

ROTSCHY: No, nothing that actually prohibits it other than the gates on the north end.

MORASCH: On the end, yeah, to prevent vehicles and, but we're talking about like pedestrian type --

ROTSCHY: Yeah.

MORASCH: When you went through the permitting process, did they look at maybe putting any kind of trail through the property, was that an issue that was discussed?

ROTSCHY: It was discussed to some degree but the intent of the agencies, the Army Corps and Ecology is to limit public access. And as far as the conservation easement that, as Hunter explained, showed that it does limit development of public facilities and that conservation easement was ultimately a template that was designed and created by the Corps and we were limited to using that specific language.

MORASCH: And so that language you used does not allow for a formal trail to be constructed it sounds like, you said no public facilities, would that include a trail?

ROTSCHY: Yes.

MORASCH: What about a viewing platform, that would be more peripheral?

ROTSCHY: It's something that could certainly be approached with the IRT and it could be reviewed alongside the conservation easement language and ultimately the conservation easement is held by a nonprofit organization.

MORASCH: So it sounds like a viewing platform would require some further permitting work and then looking at the language of the --

ROTSCHY: Correct.

MORASCH: -- and maybe amending the language?

ROTSCHY: Approval. Yeah, it would need approval by the agencies.

MORASCH: Yeah. Okay. All right. Well, that's all my questions. Do we have any other questions? I was just trying to summarize their earlier questions so we could get a good discussion. All right. If you have anything else to add, we'd be happy to hear it, otherwise we can let you go.

ROTSCHY: Okay. Thank you.

MORASCH: And I appreciate your testimony. Thank you for coming. Is there anyone else that would like to testify or answer questions on the matter?

Hearing none, I will then close the public hearing and return it to the Planning Commission for any follow-up questions of staff or if not then deliberation and a motion if no one has any deliberation.

Return to Planning Commission

JOHNSON: Yeah, it's just interesting. Thanks for taking us down the pathway but, yeah, or metaphorically of course. But, yeah, my concern is just always, you know, like Robin said, you know, you have these pressures and we try to build these things in and say, yeah, this is going to work, but there's a reality to it and that's the only reason I'm looking at it is to further allow for what's meant to happen to actually happen and too many times I think we, with best intentions, we come up here and it's the exact opposite.

So I support obviously what's going on here. And, again, the idea that it has some limited restraints to it, gates or whatever, I think it's a start and, but I'm sure you'll have people down there wandering around in there hopefully not doing nefarious things, so...

SWINDELL: I make a **MOTION** that we approve the open space and timberlands applications as presented.

JOHNSON: **Second.**

MORASCH: All right. It's been moved and seconded to approve the open space and timberlands applications as presented. Is there any discussion on the motion? All right. Hearing none, Sonja, can we have a roll call, please.

ROLL CALL VOTE

JOHNSON: AYE
BENDER: AYE
TORRES: AYE
SWINDELL: AYE
GRIMWADE: AYE
MORASCH: AYE

MORASCH: All right. The motion carries unanimously. Thank you everyone. Great discussion tonight. And that concludes our public hearing items on the agenda.

NEW BUSINESS

MORASCH: Now to the important work. We have to elect the chair and vice chair for the next upcoming year. Anyone want to be the chair or nominate someone for the chair?

BENDER: I'd like to make a **MOTION** that we keep status quo until Ron Barca is available.

GRIMWADE: I **second**.

MORASCH: It has been moved and seconded to keep the status quo until Ron is available for a vote. Any discussion on the motion?

JOHNSON: It makes sense considering he could be losing or gaining a position, I don't know.

MORASCH: All right. It's been moved and seconded. All in favor?

EVERYBODY: AYE

MORASCH: Opposed? All right. We will defer that matter till the next hearing when everyone is here.

OLD BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

None.

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

Television proceedings can be viewed on CTVV on the following web page link:

<http://www.cvtv.org/>

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