

FRIENDS OF CLARK COUNTY
PO BOX 513
VANCOUVER, WASHINGTON 98666
friendsofclarkcounty@tds.net

February 7, 2018

Colete Anderson
Clark County Community Planning
1300 Franklin Street
3rd Floor
Vancouver, Washington 98660

Via pdf and e-mail to Colete.Anderson@clark.wa.gov

Dear Ms. Anderson:

Please accept these as preliminary comments from FOCC for the Work Session scheduled today, and related issues, on Freight Rail Dependent Uses. We have reviewed the PPT that has been posted to the Grid. It appears that today's work session is designed to discuss issues with the Council regarding how to proceed in crafting and, eventually, implementing FRDU Development Regulations. However, it does not appear as if there are any preliminary drafts of any regulations that have been crafted. As you know, FOCC has opposed the breadth and scope of FRDUs, especially the breadth and scope of new CP 3.9.3, as the CP (and the anticipated DRs to follow) appears to allow over 3800¹ acres of land along 31 miles of railway to be used for industrial and commercial uses with the recently passed Comprehensive Plan Amendments and question the process used to produce and pass those Amendments.

However, we want to encourage the Council at this juncture to implement narrowly drawn and precise development regulations that protect the rural and resource areas that will be impacted by these projected developments. At the outset, we agree with Mr. Horenstein's comment at an earlier work session last fall that the county should require that the "landowners do the environmental work, or the developers do the environmental work, when they want to develop. **That shouldn't be the taxpayers' cost. That should be developers' costs, and I say that as a developer's lawyer**". Thus, we

¹ If development is allowed on the full area of 31 miles with 500' on either side of the railway, that is a minimum of 3800 acres of land. It is still unclear from the policy Amendments in 3.9 how far the industry or commercial use can expand away from the railway line or if the use will be restricted to the 500' and not be able to expand past that distance. If uses are allowed beyond the 500' then it is unknown how many potential acres of land are impacted by this policy and the expected DRs.

agree that the DRs should contain specific cost provisions that require the landowner/developer to absorb the costs of the SEPA analysis and traffic studies, as well as impact fees to cover the costs of any collateral public infrastructure² that will be required to serve the proposed uses. To paraphrase Mr. Horenstein “Why should the taxpayers shoulder these costs?”

As to SEPA and environmental review, we do not believe that the 2007 FEIS is sufficient (it is 10 years old and the new CP policies change the use of at least 3800 acres of land plus corresponding traffic and freight corridors) and believe that any new environmental review should include such issues as air quality (due to increases in diesel from truck traffic and any air quality issues created by the business). In addition, it appears from the PPT that some uses could include transportation of chemicals, magnesium chloride and compressed gases. Transportation of these types of products create enhanced dangers and therefore we would encourage that the DRs require the businesses to have disaster response plans in the event of accidents involving more dangerous chemicals.

As to the implementation strategies that have been set forth in some of the County documents, we have the following comments:

1. The Council should set specific criteria for the definition of “family wage jobs”. Certainly, this is not an easy task but, for example, MIT has produced a study that discusses living wages for the United States and their analysis of Clark County can be found here: <http://livingwage.mit.edu/counties/53011>. We note that in the PPT that there is “Warehousing/Storage/Transloading” and recognize that warehouse trucking style jobs are not traditionally high paying jobs.

2. We agree with that any new infrastructure should emphasize transit and ridesharing in the design and construction but are concerned about reducing trip rate calculations unless there are DRs that require the implementation of transit and ridesharing such that increases in corridor capacities are limited.

3. The Development Regulations should be very specific regarding a definition of “dependent on”. Any use might somehow, in some way, be dependent on moving freight. Clearly, moving freight by rail can be inherently a good and efficient way of moving goods and services but not if the cost is ballooning infrastructure required to get the freight to the railway line. It seems that a freight dependent use would be one that is created on site and then placed onto a railway car. It seems less likely to be rail dependent if it has to be trucked to the site and then placed on the railway car as they simply increases freight traffic on existing infrastructure or creates a need to create new infrastructure.

4. However, assuming that the Council believes that no development along the railway lines can occur without having some increase in traffic corridor infrastructure development, and given the nature and scope of the development that the County appears poised to allow on these areas, we would encourage a County Wide Concurrency study prior to implementing development regulations. The study should be specific to what transportation/freight corridors should, or should not be utilized rather than make those determinations on a development-by-development basis. Citizens need to have the ability to discover what lands in the County are going to turn into freight corridors. The recent experiences in Vancouver regarding truck movements along Mill Plain, Fourth Plain and 39th Street (https://www.cityofvancouver.us/sites/default/files/fileattachments/city_council/page/20033/00_ws1_39th_st_truck_traffic_prohibition.pdf) highlight the need for advanced planning rather than subsequent “damage control” measures. We also understand the County might be undertaking a county wide economic study. Certainly, a concomitant countywide transportation study could go hand in hand with an economic study.

5. We are concerned that few of the implementation strategies focus on minimizing impacts on neighborhoods and resource uses and would encourage protection of current rural and resource uses and discourage development along the railway line that would discourage use of adjacent lands for resource uses but rather encourage those resource uses such that those uses could take advantage of the railway lines.

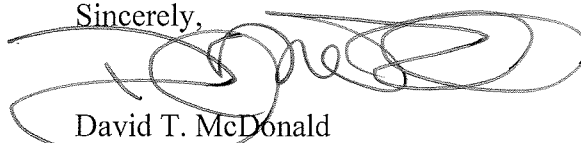
6. Create development regulations that prevent a “rail dependent” use of the property to convert to a “non-rail dependent” use. This appears to be a very difficult task as it is conceivable that a business that ultimately meets the “dependent use” goes under or wants to sell the property but for whatever the business and/or economic reasons claim a hardship in being unable to sell to “dependent use” business and, therefore convert it to a non-rail dependent use. There are ways such as covenants and/or use regulations similar to CCRs such that any business that comes into the property is clearly on notice that the property is for railway dependent uses and cannot be converted.

We also encourage the Council to revise the advisory subcommittee to become more inclusive and diverse and FOCC would be happy to have a representative on that committee. Given the Council’s desire to allow development on these lands, we encourage that a large part of the focus be on implementation strategies that protect and conserve the rural and resource lands and minimize impacts on using those lands for resource purposes.

Ms. Colete Anderson
Page 4
February 7, 2018

We hope to continue to provide factually and legally correct and supportable submissions for this record and also hope that our submissions aid the decision makers as they debate these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "David T. McDonald", written over a horizontal line.

David T. McDonald
On Behalf of Friends of Clark County