WHITMAN COUNTY
PLANNING COMMISON
WORKSHOP MINUTES
October 2, 2019

MEMBERS:

Chad Wetzel, Chairman
Dave Gibney
Bob Hill
Russell Jamison
Guy Williams
Keith Paulson
Brian Davies

Staff: Alan Thomson, WC Planning Director; Katrin Kunz, WC Assistant Planner; Mark Storey, WC Director/Engineer; Elinor Huber, Clerk.

Audience: Ken Duft, Pullman; Shelley Chambers, Pullman; Della Hill, Rosalia; Carla Burton Keifer; James Burton, Pullman; Brandon Woodland, Pullman; David Hall, Pullman; Kathleen Lloyd, Pullman; David Gang, WSU.

7:26 p.m. – Chad Whetzel opened the workshop. We will be discussing the marijuana ordinance that we are currently working on. Last time we had gone through all the indoor stuff and we are looking at Section 19.64040 B.

Alan Thomson – I've made a few changes since last time and I did make a change to the indoor production and processing. Hopefully you have that copy in front of you where you have under #1 some new language there. So, while looking through other county ordinances I came across this and I thought this was a good idea. We really need to have a meeting when someone comes in and is asking about starting a business in WC. We need to have a pre-application meeting.

Keith Paulson – Who is this meeting with?

Alan Thomson – Staff.

Keith Paulson – Then it should say "staff."

Section 19.64.050 – Development Standards

A. Indoor production, processing and retailing.

1. *Indoor marijuana production, processing, and retailing requires a conditional use permit. A pre-application meeting* ***with Planning Staff*** *is required prior to the submittal of a conditional use application.*

Dave Gibney – My first impulse was that you were going to have a public meeting, a pre-application public meeting.

Alan Thomson – Okay, then we need to change that.

Dave Gibney – That seems wise whether it is required or not, they know what they are doing. Otherwise you are going to tell them this is garbage and come back later.

Alan Thomson – To lead up to where we are right now, I've never heard from people. They just start growing. We can't have that.

Dave Gibney – You can't have that with any of the things that we approve. There was a decade back there, a movement in Pullman to try and ask the developers to actually hold a public meeting with the neighborhood before they started. That didn't fly very far.

Alan Thomson – That is very typical in towns and cities all over the country. If there is a development being proposed you, planning staff goes to those neighborhoods. We are obviously talking about larger towns and cities. That is pretty standard operating procedures for large towns and cities in planning departments. We go to the neighborhood and then you present a plan to that neighborhood and there are several different neighborhoods, depending on the size of the city.

When I was working in Denver we had to go out to a whole bunch of neighborhoods when a big plan was coming in and the developer had to present the plan to the neighborhood. That was the first step. It wouldn't work in a place like Pullman. Pullman is not really that big, big enough for that. But this with the wind ordinance as well, where we have to have a meeting prior to anything.

Dave Gibney – Making it clear that it is with the staff.

Chad Whetzel – I assumed the purpose of that meeting is the lay out basically, the way it is supposed to flow?

Alan Thomson – Yes, this is an opportunity to first of all find out where they are thinking. What their intentions are and we've got the ordinance and we know the layout so this is an opportunity for staff to find out where, what you are proposing and then is that an appropriate location?

Brian Davies – Then it is a chance for us to give them all of our language, the regulation language and what they and can and cannot do. So they know going in, so there are no expectations or so they know that this is a regulated process and these are the steps you have to take.

Alan Thomson – If staff finds out that this location they are thinking about is not going to work for whatever reason, that is an opportunity to let them know. This spot isn't going to work or this spot would work.

Chad Whetzel – So as long as we have a meeting with staff. Everyone good with that? Sounds like we are.

Brian Davies – That protects us, too, because we are giving them their due process. They can't come back and say they weren't told.

Kathleen Lloyd – Of that same section that we were just talking about with the pre-application, #8, on that for the indoor production, processing and retailing. Right now it says that Board of Adjustment will determine setbacks that can't be, *"less than a minimum of 20 feet from the front and, rear, and side property lines."*

I am going to make a heart-felt plea that we consider the planning commission that be in line with some other ordinances that planning has that it would be more like 1,500 feet. That is the same language we currently use for the viewshed which is what, from what I understand, when you put that together several years ago, it was for people's enjoyment and what it looks like around people's homes.

It doesn't make sense that you can't build a home 1,500 feet but you can 20 feet from your property line have a marijuana facility. I know there has been a lot of conversation about how is it different than any other ag production or any other business. I have some papers if you would like that I made photo copies of, but basically it is different because the State handles it differently.

You have to have setbacks. They are trying to keep it away from children and hospitals and things like that. You have 1,000 feet, but you also have to have 8-foot fences and it is a Schedule 1 controlled substance. The DEA defines it. I have their definition here as, *"Schedule 1 drugs substances or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse."*

I understand that people can choose to use them, but what I am saying is that it is different than other businesses. It is okay to treat it different than other businesses and it seems appropriate to keep it at least 1,500 feet from somebody's home and we are trying to keep it away from children so they can't go to school next to it. But if they can live with it 20 feet from their house that doesn't make sense. I'm hoping in #8 we can consider 1,500 feet.

The language is already there with the viewshed. I can pass these out, because I have the viewshed ordinance as well, if you would like them. It says that if you are going to have something less than that you can get written authorization from the neighbor if they don't care. If somebody doesn't mind, there is that option available which is already in the code for viewshed. Can I hand it out to everybody, Mr. Wetzel?

Chad Whetzel – I didn't understand what you just said.

Kathleen Lloyd – I have copies of the viewshed ordinance,

Chad Whetzel – Go ahead and submit them to staff and they can distribute them.

Kathleen Lloyd – Okay. There is a copy of the current viewshed ordinance. It is highlighted where it says the 1,500 feet and why and then below that it shows how you can have it lower if the neighbor approves of it. Then the second sheet shows the definition of Schedule 1 controlled substance and what the DEA defined it as. Then the last couple pages show that in the State of Washington they handle marijuana by defining it as a Schedule 1 controlled substance.

So, again, my point is it is different than other businesses. It is different than something else, and you know, other things that we handle. It is not Ag so it is appropriate to keep it away from children and people's enjoyment of their own property by getting it that 1,500 foot setback. Anyway, it would make sense in the #8 section to change that from 20 to 1,500 feet for both the indoor and the outdoor section. My heart-felt plea, can we please do that?

Chad Whetzel – I understand what you are saying because if you keep going down from A., down to #10, the number we come up with is 1,000 feet from all those things you just listed. This is a property line, so

let's just say if you bought 5 acres and you are surrounded by agriculture and you don't have a home within 1,000 feet then those property line boundaries are set, they are defined.
You are confusing what the boundary for the property is for a building, for the marijuana building versus what you can have it within proximity to. So, the licensed indoor marijuana producers and processors, and the number what we have come up with is 1,000 feet and we can, some of these things are still up for debate, but you cannot locate within 1,000 feet of all these things.

Kathleen Lloyd – No, I was talking about somebody's home, is what I am saying because residences are not listed there so we could,

Chad Whetzel – That was something we had discussed about with the clusters and all sorts of things, had we come up with something different? Or did I, am I remembering incorrectly, Alan?

Alan Thomson – So, the way the discussion went was we are separating indoor from outdoor. Outdoor, yes, we certainly are going to set an appropriate setback to residences and property lines there. The last discussion we had on this last month regarding indoor operations and processing, because of the code requirements to make these buildings air tight, and have no venting of odors to the environment, then why would we want to push that any further back than any other business?

The impacts to the surrounding landowners is really the key thing. Is there going to be an impact from this indoor operation? If there isn't, why would we treat it any different than any other business? That was the discussion we had. Like Chad was saying, the BOA has the ability to push it further back depending on the circumstances of the location. Every location is different.

If you are going to grow out there, and I am thinking about the grow operations that already exist, there are some that are close to other buildings. There is nothing that is close to houses and most of the time I can think about, people are going to be slightly out in the country. They are not going to, hopefully they are not going to want to have a grow operation, indoor operation in the middle of the cluster. For one, I don't think we would allow that.

Chad Whetzel – I think their CC&R's would dictate that too.

Alan Thomson – Yes, and the BOA has the latitude to make determinations depending on how close a house is to a potential indoor operation. If people show up and say that they don't want this here maybe the BOA can say okay.

Guy Williams – How close is the house out there on Airport Road?

Alan Thomson – That house is right next door. So, that would be at least a 20-foot setback to the buildings there. That was the code at the time and it is the code right now. That is a grow operation that is right next to a house.

Chad Whetzel – Did you have something else?

Kathleen Lloyd – So, Alan keeps talking about the smell as if that is the only issue that somebody might have with the operation. So, I am grateful that we are talking about when we keep them indoors to have filters and stuff so that this smell is mitigated. However, there are other things that make it different than other businesses, like it being a Schedule 1 controlled substance.

It is also unsightly. I mean it is 8-foot fences, kind of looks like a big compound and if you can't have a home within 1,500 feet so that your viewshed is preserved of the beautiful Palouse, why would you be able to have that right next to your house?

In the comprehensive plan, if I can find it, it talks about how we are trying to preserve that in our county and so it is appearance as well and also keeping this away from children. So, the smell is definitely an important issue. The people's value of their home go down when there is an operation like that that close to their house. And yes, the BOA can extend it but if they don't have some parameters to start with, you know, people don't have some security that they know there is going to be a buffer around their home with this kind of business. So I would, please consider maybe you can add "residence" to that list of other things?

Maybe we can change, which is in #10, we can go to #8 and change that from 20 feet to 1,500 feet to mirror the viewshed. But there are a couple of different options that would protect the homeowners in the unincorporated that seem like small things, that make such a huge difference to people that live in the country. It is different. It is not just the smell. Thank you.

Chad Whetzel – You are welcome. Was there, Ken. Another comment.

Ken Duft – Chad, with your permission I would like to read my comments into the record, rather than say it verbally. And, Guy, relax, it is only a page and a half in length.

Chad Whetzel – Go ahead, Ken.

> *Good Evening. For the record, my name is Ken Duft and I'm a non-farm resident of rural Whitman County.*
>
> *I've witnessed these proceedings throughout and, as earlier noted, "I have no dog in this fight." I possess no strong personal feelings regarding the cannabis matter, but have rather enjoyed listening to all the deliberations linked to this document's contents.*
>
> *I have some appreciation for all those views exchanged, including the responsibilities and functions of the Planning Commission, and the heart-felt concerns of those opposed to the production and processing of cannabis. On at least three previous occasions, I have confronted similar issues which I felt impacted negatively my residence, my family, and my choice of rural lifestyle. I will not bore you with the particulars of those particular incidences, but I also retain some appreciation for the defined limitations of the PC, i.e., its advisory only role to the Board of County Commissioners.*
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> *I would also like to take this opportunity to express my personal appreciation to the Planning Commission and its staff for the time and effort devoted to this matter. Thank you for your patience as this matter has ensued for many months longer that first expected. Thank you for your diligence as you received and reviewed large volumes of documents and written testimony. Thank you for your thoughtful consideration as time was always provided to listen to those concerned and wishing to publicly address the PC on a rather controversial matter. My single regret is that a larger segment of Whitman County's residents have not taken a more personal interest in this issue, both publicly and privately.*

I've read and reviewed the cannabis document many times over and find only a single weakness of note, i.e., its early stipulation that, "for purposes of this ordinance, cannabis production and processing are not agricultural activities." As both a practical and legal matter, this statement is simply not scientifically defensible. One cannot, for any reason, define the color of my hair as black….when it's clearly not. Moreover, in my opinion, this statement is unnecessary, if not confusing. One needs only to acknowledge that, "while cannabis production and processing are agricultural activities, their functions within Whitman County's Agricultural Zone will be addressed, regulated, and constrained as described herein." Indeed this is what the document goes on to do in any case. Any subsequent legal challenge or obfuscation relating to what is, or is not, an agricultural activity can, thereby, be avoided.

Thank you again for your kind consideration.

Ken Duft
801 Brayton Rd.
Pullman, WA 99163

Chad Whetzel – Thank you, Ken. Do we have a copy of that, can we get a copy for staff so we can look at it later if we need to?

Brian Davies – Thanks, Ken.

Chad Whetzel – So, any other comments right now on this first section?

Dave Gibney – I think there may be a point of the protection of the viewsheds in general that might be something that needs to be more greatly reviewed rather than specific of this area. But I don't see any, I could put up a candle making factory with an 8-foot fence that would look just as ugly, or not.

The fact that I am required to do a fence for marijuana doesn't change the fact that I could want to do an industrial activity or commercial activity on the other side of a fence or any other unsightly questions. I think if we go into the viewshed world we need to talk about it as it pertains to any and all buildings built in the County rather than specific to this ordinance and I don't think we want to go there tonight.

Alan Thomson – I would prefer we didn't. I think that would be a tremendous ordeal. That would mean any business would have to be 1,500 feet from any house.

Dave Gibney – Then the contrary argument is that we are putting the burden on proposed residential that we shouldn't.

Rusty Jamison – The way this is written with the 20 feet, and correct me if I'm wrong, the way things are done, currently if a landowner wants to build a house close to a neighbors' line if it is within 20 feet, doesn't he have to get permission from that neighbor?

Alan Thomson – Are you talking residence?

Rusty Jamison – Yes.

Alan Thomson – You can't build a residence within 20 feet from another residential property line. That's what the viewshed is about.

Rusty Jamison – That's what I thought. Unless the current landowner that is the farmer gives permission? Even then there is not,

Alan Thomson – Okay, so there is a distinction here. We've got to separate existing parcels that were there before we changed that law in 2007. If it is an existing parcel we can allow a house to be closer than 1,500 feet because we don't want to prevent someone who owns a parcel through no fault of theirs, we have imposed a viewshed law on them. So those are exempt from the viewshed, only if it is an existing parcel. If you are creating a new parcel you can't have the house that close, unless there is some topography that is blocking the viewshed from one house to the other.

Rusty Jamison – I'm just saying even if there is no other house, if there is just one house that is proposed to be built on a new parcel next to a field,

Alan Thomson – Yes, that is an agricultural setback. There is an agricultural setback to ag land for residences and only residences which is 200 feet or 100 feet with a waiver written from that ag owner.

Rusty Jamison – Okay, that is what I thought and that pertains to a new parcel.

Alan Thomson – New parcels, new houses.

Rusty Jamison – Okay, now in a case like this, if a grow was put out in the middle of nowhere where there are no houses, and we adopted a different, what she proposed, then another landowner who purchased the property next to this building, if they wanted to build a house there, and were not worried about the impacts of this business, with what she proposed, they would not be able to build a house. But with what is written they would be able to build a house. Is that correct? Because the 1,500 feet would put somebody's property out of the ability to put anything there.

Dave Gibney – The 1,500 feet applies to the marijuana business. The putting the house there is an entirely separate ordinance.

Rusty Jamison – But I'm saying if the marijuana building was already there,

Dave Gibney – But there is nothing in the residential building that says you can't put it near the, you can't put within 1,500 feet of another residence. But there is nothing in that viewshed that says you can't put it next to a business.

Alan Thomson – Right, it is just residence to residence. So Dave is right.

Dave Gibney – But I couldn't put another marijuana business there, either.

Alan Thomson – If someone wanted to build a house and there is already a grow operation out there, with a defined parcel a few acres or whatever it is, the setback to that parcel is not an agricultural parcel, so the setback to that parcel would be 20 feet. You could build a house within 20 feet.

Rusty Jamison – But if we change this to the 1,500 feet would they still be able to do it?

Katrin Kunz – If we changed it to 1,500 the parcel has to be 3,000 feet.

Rusty Jamison – Not the building or the house, even though the marijuana plant couldn't do it, If we changed it the new landowner, if they wanted to build their house next to this they could. That is what I am hearing you say.

Guy Williams – They could not do it if we put the house in #10.

Dave Gibney – No, the building of the house is entirely unregulated by the marijuana ordinance.

Guy Williams – What I am saying is, in order to help here to protect the house from the marijuana being in, Rusty's question was if we change it over in #8 then we would limit the house being able to be there. If we left the house in #10,

Alan Thomson – It would have to be whatever the distance is, 1,000 feet or 1,500 feet.

Dave Gibney – In neither case there is nothing in this marijuana ordinance that talks about where someone after the marijuana place is there can build a house. There is absolutely nothing here that says anything about building houses. It is all about placement of marijuana.

Chad Whetzel – You would still be at the 200 feet rule with 100 feet with a waiver for a rural residence because that is what the rural residence code dictates.

Dave Gibney – It is not symmetrical. Where you can build a house is over here in this rural residential part of the ordinance.

Rusty Jamison – Okay that's what I am asking because you are helping me understand. Then even though we are trying to prevent a business from building next to a house, ultimately a house could end up next to this business if someone wanted to build it there. Okay, because the way I was thinking you might devalue the neighbor's property if we adopted what you said. But what I am hearing you say is we would not as long as the people who were proposing to build a new house didn't care about being close to this business.

Alan Thomson – I'm just trying to wrap my brain around that one. Let's use a school as an example. You've got a marijuana business out in the country. It is there, it is existing. A plan comes along to build a school. So, we've got it written in the marijuana code that marijuana businesses have to be at least 1,000 feet from a school. But the business is already there, it was there first. So, would the school be allowed? That would be under the Chapter 19.10, a conditional use in the agricultural district and the setbacks that would apply to that code. So you could build that school then, within 20 feet of the property line of the marijuana business.

Dave Gibney – The first entity there gets grandfathered in and the next entity is subject to the rules of that entity, not the marijuana entity.

Alan Thomson – So, if you think about the house, the marijuana business is already there. You've got a 10-acre parcel, you've got property lines. Somebody wants to build a house right next door. Well, we applied Chapter 19.10 the agricultural district to that application. Not, Chapter 19.46.

So the code says you have to be 20 feet away from other non-residential property lines. Agricultural setbacks wouldn't apply because this is not an agricultural activity according to this proposed code. So again, a house could go 20 feet from an existing marijuana business. That is exactly what,

Chad Whetzel – It would be a minimum of 40 because it is 20 to the marijuana and 20 to the house.

Alan Thomson- So that person that wants to build a house is okay with that, the code would allow it. So there you have a house,

Dave Gibney – It should if the person is okay with it we shouldn't get in their way.

Brian Davies – In perpetuity how do you deal with that or is that a moot point. If they sell the house.

Chad Whetzel – You know it is there.

Guy Williams – Okay, put the house there first. Then what are you saying?

Alan Thomson – Then whatever number we come up with that applies. Right now, according to the code that we have in front of us, it is 20 feet for indoor grows.

Guy Williams – What happens if we put the house over here in #10? The house was already there and built. Where can the marijuana grow be?

Alan Thomson – Whatever number applies in #10.

Guy Williams – So it would be 1,000 feet.

Brandon Woodland – So, the activity being done on a piece of property will change the zoning of that property. Wouldn't, if you were building a house next to an agricultural zoned property, wouldn't those ag zoning or conditions apply to that regardless of what is going on, on that property?

Guy Williams – If you proposed to build a house out in the middle of the field, you buy 5 acres out there. The way it is right now, you have to have a 200-foot buffer from your property line to the agricultural land. So you put the house there. Let's say we are 200-feet from the south and somebody comes along and wants to put in an indoor grow. They want to be 20 feet from their property line or 220 feet from your residence. I think that is what we are trying to protect, is the house. Put that house over here and if it's in #10 then that has to be, they would have to be 800 feet on their own property to be 1,000 feet from the house for the marijuana grow operation. Is that reasonably stated?

Alan Thomson – If we classified this an agricultural activity, just throwing this out as the devil's advocate, this is an ag activity, growing marijuana is an ag activity. Anybody now that wants to build a house, you've got immediately a 200-feet setback because that is an ag activity. You have to have either 200 feet or 100 feet with a waiver. So you pushed it back right there.

Dave Gibney – In terms of this whole general discussion I would go back to the building. It is a building and no matter what is going on inside of it we have sufficient regulations that it should not be an impact anymore. The fact that it is growing marijuana is not a greater impact to the fact that it's making candles or selling candles.

Alan Thomson – There is a perception and some people think you are wrong and others would agree with you. It is an opinion.

Chad Whetzel – The one thing that I would say going back to Alan's comment, is if we were to classify it as an ag activity, then you throw all these exceptions away. There would never be any kind of a setback for anybody for a church, a school or a house or anything. Other than the normal setbacks.

Dave Gibney – But as Ken proposed, a re-wording of that definition, it is ag but it is still subject to the additional language in this ordinance. So you don't have to throw anything out.

Alan Thomson – So the immediate setbacks for an indoor grow operation would be 200 feet potentially.

Dave Gibney – The new resident coming in.

Alan Thomson – So, if somebody wanted to build a house it would have to be at least 200 feet from the property line.

Dave Gibney – The new indoor marijuana grow. I've never even heard of the concept but if I have a piece of what was residential land and I decided that I wanted to convert it back to ag and grow onions and beets and grow crops in it, what is the setback from my property lines that I'm required to keep my ag?

Alan Thomson – We only have one instance of this in the County that I know about. A 20-acre parcel of land that is a residential parcel. At least that is what I was thinking it was, but we got persuaded to call it an agricultural parcel because they are growing Palouse Prairie on it. So, we decided that was agriculture. The setbacks are 200 feet or 100 feet with a waiver, and these people will never give you a waiver.

Dave Gibney – That's what the people outside will do. I'm asking what did you subject them to on their parcel? Did you require them to keep their ag 200 feet away from the residential property next door?

Alan Thomson – You are going down a rabbit hole here.

Guy Williams – So, you could have your residential house 200 feet back from their property line from the ag, along comes somebody and buys the property and they put their indoor grow 20 feet from their property line.

Rusty Jamison – If is it classified as ag then it would be 220 feet,

Guy Williams – No, right here by the #8, they could put their building within 20 feet of that property line. The homeowner is 200 feet but their building could be 20 feet.

Rusty Jamison – So then the total distance from the house would be 220 feet.

Dave Gibney – No they are replacing the house with the grow in Guy's scenario.

Guy Williams – No, I'm not replacing the house I'm adding a grow place next to that piece of property. The distance could still only be 220 feet.

Katrin Kunz – But the house is already there?

Guy Williams – The house is already there.

Katrin Kunz – But then if we have it under #10, it would have to be 1,000.

Guy Williams – That is under #10. It would have to be 1,000 feet or 800 feet on their property.

Mark Storey – This is all entertaining at some level but there is a lot of houses that were built in the County before 2007 when these ag setbacks were set in place. So, there are a lot of houses that are 20, 30, or 40 feet from the property line right now. So, you're not going to magically get 220 feet with any grow operations, if that is what you intend to do. Only from the stuff developed since 2007.

Guy Williams – I'm saying if we take a new piece of property build a house today, they are 200 feet from the property. Next year a guy buys the adjoining piece of property, he can put his indoor grow 20 feet from that property line.

Mark Storey – that is correct. What I am saying is the houses built before 2007 you are not going to get your 220. So if you want 220,

Dave Gibney – And he is still going to be 220 feet away from the residence.

Guy Williams – Yes.

Alan Thomson – That is only if we change the definition of ag.

Dave Gibney – We really do need to talk about the outdoor.

Alan Thomson – That's fine we can move on, but have we made a decision on this discussion?

Guy Williams – I would propose myself that we would put houses in #10. That would be my proposal. That would protect the existing houses that are out there now,

Dave Gibney – I would argue not to do that.

Katrin Kunz – It is 1,000 feet of the property line of the residential property, so that could be property.

Alan Thomson – I don't think that would be workable, Guy. The property lines, so 1,000 feet right now from the perimeter grounds of the following, so the property lines. So, a new house or a new grow operation would have to be 1,000 feet away from the property lines of any house. Just like for all the other ones that are listed here. What would that mean?

Keith Paulson – It would be 1,000 feet.

Dave Gibney – It would be a much larger chunk of WC not eligible to have a grow operation on it.

Guy Williams – Yes, and no. Instead of having, if he only wants to buy 2 acres or 5 or what would be the minimum, he moves over.

Dave Gibney – If I go out around the County and I inventory every house that is out there, and I put a 20 foot line around it, I get a much smaller area that is, that I can't put an indoor operation on. If I increase that area by 1,000 feet around the property line, I am substantially increasing the land that is ineligible for an indoor grow operation.

Guy Williams – I have to be honest with you, Dave, I don't see the problem. We've got how many hundreds of thousands of acres in Whitman County?

David Gang – In response to Dave Gibney's comment, the question I have is, what are you trying to protect? Are you trying to protect the small number of marijuana grow operations that might come into the County or are you trying to protect the interest of the citizens that already exist here and these homes are going to be affected by something like that coming into the County?

I don't see thousands of grow operations coming into the County. I don't think that is going to happen. So I think that you're going to be able to find many locations, many, many, many, locations where you could put an operation like that and support those that might come in and that might have an impact. Potentially, if such might exist economically in the County, I think that might be what could happen as a result of these operations coming into the county.

But I guess that is the question. What are you interested in protecting? If you are interested in protecting the current residents, the current landowners, the current citizens, I think that should be your biggest priority. If not, then this small setback pretty much indicates that the other is more important to you.

Dave Gibney – In answer to that I would say that I'm trying to protect the right of all the landowners to do with their land what they wish, when it is not an impact to the rest of us. Harmful impact.

Chad Whetzel – I have to agree. If you have a current resident that has owned an ag piece of field in an ag field for generations and he decides he wants to grow marijuana that is his personal property right. As long as it is not affecting other people. Why are we regulating something that is personal property rights, in my opinion? So we are trying to protect both sides. No one person.

Mark Storey – Around Pullman the lot sizes are much smaller, but when you go to rural WC and you live in rural WC, there are a lot of parcels that are 640 acres in size, so when you go by property line to property line you're not talking about 1,000 feet anymore. You might be talking many thousands of feet and then I think you've added a multiplier that may not be intended. So, just keep that in mind, parcel sizes get very large in rural WC.

Chad Whetzel – That is the other thing that I was looking at this is from the perimeter of property lines to the perimeter of property lines, not from the house to something else. So, there may be some very large unintended consequences there.

Alan Thomson – There is also the parcel size that we've got in there, too. So, minimum parcel size at the moment is 2 acres. You expand that and you push things farther back so that is always an option. But I have to agree with Dave and Chad, Professor Gang, we have to protect the rights of all people in WC and not to pick out any one particular group of people. It is our obligation to protect the rights of everybody. I think that is pretty clear. What we have to understand here is what are we trying to protect, what are we trying to regulate?

So, if you agree with Kathleen Lloyd's premise that this is different, that is up to you to decide. Is an indoor grow operation, marijuana operation different from any other business? You have to ask yourself that question and then defend it. Why is it different? You've got to think about impacts to surrounding landowners. That is how zoning works. How are we impacting the adjacent landowner? That would have to be a part of your findings.

If you agree with Mrs. Lloyd, then specify exactly what impacts you are defending, what impacts you think are happening here. What differentiates it from any other business? Noise, odor, the typical things.

Dave Gibney – Alan brings up an interesting point of this, too, is that it could be argued when we come time for this to be adopted, we need findings of fact justifying each and every one of these lines. Or the sections.

Alan Thompson – Think about the wind ordinance. We had to defend the setbacks. State law, the State Supreme Court had come up with a number which we used, so we had to defend that. Why is 400 feet okay and 1,000 feet not okay? Answer that question here.

Dave Gibney – And findings of fact are facts not opinions.

Guy Williams – What findings of fact did we use to say the viewshed is 1,500 feet?

Alan Thomson – That was a very tricky situation which we had to go to a land use attorney out of Spokane to ask that individual, would this stand up in a court case?

Guy Williams - Okay, then what makes the viewshed to another house any different than a viewshed to an indoor grow operation?

Alan Thomson – The reasons. So again, I think there is confusion as to why we pushed houses 1,500 feet apart and then how that relates to other aspects. We were told, Guy, and you were there, by the people of WC, "We don't want to see our neighbors and we want houses that far apart." So, there was the reason, whether or not that stands up in court was a good question. So, ask yourself the question, what is the reason for an indoor grow operation to be that far away from a house?

Guy Williams – No different than the reason as far away as the house? You can make the same argument on both cases.

Dave Gibney – Did these residences also say that we don't want to see our neighbor's barns? Or the grain elevators or the school bus shelters?

Alan Thomson – I don't think it is the same, Guy. It's not apples to apples. It really isn't because there was a problem with people's perception of where houses were getting built and building on hilltops was part of that too. The ruling of 1,500 feet apart, "We don't want to see them, we don't want to see them from the roads either." That was the reason, "We don't want to see," was the main reason. If you want to apply that to the marijuana grow operations you can, go ahead. "I don't want to see that." That is a reason. Whether or not that stands a court challenge is a different question. But you all have to agree on that.

Kathleen Lloyd –I just wanted to point out that the State has already made it different than any other business. In I-502 there was a lot of language that you can go and find on the LCB site that says we are trying to keep marijuana away from children. You can't have cartoons or things that appeal to children on the outside of any their stores. They are trying to keep them 1,000 feet away from elementary schools and playgrounds.

If you go and look at the language, it's we want to keep marijuana away from children. The language that is in #10, most of that comes out of a law. It is not something we made up here. That is already been determined by the State. This isn't up for discussion. The intent is to keep it away from children. That is why we want to have setbacks for residences for all of the marijuana operations.

As far as an agricultural activity, the State has defined it as a Schedule 1 controlled substance. They have not defined it as an ag activity. So what we are talking about is manufacture of a Schedule 1 controlled substance, which is I think why it has all of these additional rules that the State has mandated. Thank you.

Alan Thomson – For the record, we've already gone over the definition of this as far as the State is concerned and you are incorrect in your assessment there. This is for taxations purposes only. Every jurisdiction in the State has come up against this question. Nobody in the State of Washington agrees with what you just said there.

It is scheduled as a Schedule 1 drug and non-agricultural product for taxation purposes only. It is not written into RCW 36.70 in the Growth Management Act. You would be correct if that was added into RCW 36.70. It is not there, therefore it is not part of GMA.

Kathleen Lloyd – So, what I'm talking about is a separate part of the law. It is not under the tax section. It is a separate part. This is under the drug section. It is RCW 69.50.204 where it defines it as a Schedule 1 controlled substance.

Alan Thomson – Nobody is denying that. It is a Schedule 1. But as far as being called an ag product, that's not what you are saying there. It is not an ag product as far as taxation is concerned. That was the reason why it is in that RCW. As far as the Growth Management Act is concerned, if it were an ag activity it would have to be in RCW 36.70. These are all compartmentalized.

Dave Gibney – The writers of I-502 and the legislature as it has subsequently revised all these laws over quite a period of time, could have added residences in the lists that we are replicating in #9 and #10, and they did not.

Alan Thomson – It is up to you. You can choose. It is your decision based on what we been hearing. You guys choose.

Jim Burton – All the talk you've done about fair to everyone and then you go down on #14, it says, *"No facility engaged in marijuana production…."* You're saying it can't be located less than 1,500 feet from the municipality boundary. What is the difference between the municipality and the individual that we've been talking about? Why the 1,500 feet there and you say that we need to be fair to everybody. What is the difference?

Dave Gibney – You will recall I argued against that.

Alan Thomson – The difference is it is a different jurisdiction. One should not impose your regulations on an adjacent jurisdiction such as Pullman. We don't have to have that there. That was something that was suggested and I think most people on the Planning Commission agreed to it. There was a motion to have it 20 feet away from Pullman but the Planning Commission decided that was not appropriate.

Jim Burton – I don't know what you just said.

Alan Thomson – It was a choice.

Jim Burton - The choice is different for a municipality than an individual?

Alan Thomson – Yes, it can be. That is what we are debating right now.

Jim Burton – I understand you are debating it right now. My question is what is the difference between a municipality and an individual?

Chad Whetzel – Why are we treating them differently?

Jim Burton – Yes, exactly.

Chad Whetzel – Forgive me if I don't remember this right off the top of my head. We did the same thing with cluster developments. The City of Pullman requested that they not have, the municipalities for their growth has requested on several occasions that we do various things. I think that was the thought process there is to assist the city in, help them in the future growth if they decide to move into those areas, so it doesn't inhibit their future plans, either.

Dave Gibney – In answer to the specific question, we did have that debate and we had a vote on it and this was the choice that was made. We may yet have a vote on this particular side of it and we may or may not make the same choice.

Rusty Jamison – I'd just like to say I realize this is taking a lot of time for the Board and everything. Thank you for bringing it up. The discussion that we had has been very helpful for me to decide what I think we should do if it does come to a vote. I realize we may not please everybody but decisions have to be made just like they were last time and we move forward. So, thank you for bringing this up. I don't need to discuss this anymore. If all of you want to, that's fine. But I don't need to.

Guy Williams – Do we need to vote or a motion? Is that what we need to do get us off this?

Chad Whetzel – No, we can just decide that we might want to discuss this a little bit later and move on for now. Let's just look at that 1,000 feet and whether or not we want to add houses and we can move on to the outdoor production portion. This is the same one we had last time, so there are a few changes. It is all red. Let's just take this step by step. Outdoor production. Any questions with #1?

Alan Thomson – *"A pre-application meeting with* **planning staff."**

Chad Whetzel – Any other comments on #1? Okay, #2?

Alan Thomson – It is exactly the same as #2 on indoor production.

Chad Whetzel – There is an extra space in the fourth sentence. But it is pretty standard, so #3? Any changes?

Brandon Woodland – How do you limit odors on the outdoor?

Dave Gibney – We are only on #3. That is #4.

Brandon Woodland – Oh, sorry.

Chad Whetzel – So, we are on #3.

Keith Paulson – I think that says everything that needs to.

Dave Gibney – I would make the comment that that clause both in indoor and outdoor you could come up with the argument to try and take a legal appeal that the viewshed would be violated if somebody built an indoor grow because it is saying the underlying development standards.

Chad Whetzel – I'd have to go back and re-read that.

Dave Gibney – I don't want to go any further than that but just to point out that I don't want to change it but I just want to point out it is possible that does address that viewshed question. It probably needs some more research.

Alan Thomson – *"….except as modified in this chapter."* That is the qualifying statement right there. We are making changes to underlying code with the development standards.

Chad Whetzel – On to #4.

Keith Paulson – How are you going to regulate that? No odors?

Brian Davies – You can't.

Alan Thomson – So, read the whole thing.

Dave Gibney – Those are some fairly open ended cause but it does take the complaint.

Alan Thomson – What do you mean by open ended?

Dave Gibney – Who is to judge what is unreasonably infringed upon the use and enjoyment?

Alan Thomson – Herein lies the rub with outdoor grow. Somebody is going to have to make a decision and that would be staff initially.

Guy Williams – Is our area conducive to outside grow? I don't know the foggiest thing about marijuana.

Dave Gibney – If it is or isn't doesn't matter. Somebody might be foolish enough to try it.

Guy Williams – I don't care if they try it, I was just wondering if,

Dave Gibney – If they are then we have to,

Alan Thomson – There are some outdoor grows but I don't think it is large.

Chad Whetzel – Did you want to ask your question or did we get it answered?

Brandon Woodland – Yes, you are addressing my concerns on the outdoor portion of the odor control and then you know how is this going to differentiate from hemp?

Dave Gibney – In answer to Guy's question, I believe that we have heard that hemp is a viable, that hemp itself is viable in some parts of WC.

Brian Davies – I believe that Dr. Gang said it that the acreage under cultivation is going up and up and up. So that's going to change the whole landscape.

Dave Gibney – We are not talking about, if somebody puts in a field of hemp it is not subject to the regulations under this marijuana.

Brian Davies – It is an ag product then, right? If it is commercial hemp?

Chad Whetzel – Correct.

Alan Thomson – According to the State and the nation, the Federal government as well.

David Gang – Just a comment on that. In the State of Washington we have about 100 licenses for hemp this year. There are 5,500 acres across the State. Last year there were only 142 acres. We expect that will probably quadruple next year. If you drive down to the Tri-Cities you see there are fields that you can see that some of them are big, over 400-600 acres in places.

Brian Davies – In Yakima Valley there are a number of orchardists that are putting up trial plots and stuff, too.

David Gang – Yes, it is going up all over the State. The different types of hemp have different levels of odor. The ones that are grown for fiber or seed oil or seed meal protein tend to have very low odor. The ones that are grown for CBD are very much like marijuana plants only minus the THC. They tend to have odors very similar to the marijuana plants. I was just down there last week-end and there are some areas like down in Oregon by Boardman for miles and miles you can smell the stuff. It is really strong. I think we are going to find that that overwhelms the marijuana issue in terms of odor.

Rusty Jamison – My question is pertaining to #4. If a person, this is hypothetically here, is an outdoor grow and he burns his waste pile, and he gets a citation but the odor condition is cured within the 7 days, i.e. the rain comes, then what teeth would we have in him producing an odor?

Chad Whetzel – The State would regulate that because the waste is very heavily regulated by the State laws on what they can and can't do. They can't burn it. It has to be composted and mixed with inert material.

Rusty Jamison – I understand what you are saying but it doesn't appear to me there is any teeth in this because if the problem is cured within 7 days then,

Chad Whetzel – The State laws says they get their license taken away.

Dave Gibney – That doesn't change the fact that a second violation would be a second violation.

Rusty Jamison – Oh, okay, that's what I wanted to know.

Chad Whetzel – In your example with the burning, that's not allowed. So they would get their license yanked.

Rusty Jamison – Okay, I used a bad example but if there is an odor and Bret sends a sheriff out there, you know, if there isn't some way for the sheriff to have some way of stopping this, pretty soon if you just send people out there and then they cure the problem, pretty soon he will quit sending people out there.

Dave Gibney – It wouldn't be the sheriff.

Rusty Jamison – Okay, whoever would be the enforcer.

Alan Thomson – You're looking at him, right here.

Rusty Jamison – So, how are you going to stop someone from offending here if you don't have more than 7 days?

Dave Gibney – The teeth here is after the second violation even if he fixed the first one in one day, after the second one, Alan can take the license away.

Rusty Jamison – Okay. That's what I didn't understand.

Dave Gibney – That is some pretty strong teeth there, actually.

Alan Thomson – This comes from another jurisdiction as well. So this is new. This was not in the last version. I stiffened this up because of concerns of the outdoor grow. The outdoor grow is really going to be a problem and the best way so far that I can think about curing that is the way we have the language here. There is a process.

First of all, the violation has to be confirmed. Somebody complains, a neighbor complains. We've got to verify that there actually is a violation going on. If that is confirmed, that is strike one. You go seven days to fix it. The second violation comes up then we are into the BOA and your permit is now going to be reviewed. The ultimate is if you cannot cure it, if you cannot stop odors from coming from this location, you have two options. You bring it indoors or you stop.

Keith Paulson – What's to say your sensitivity of the smell? Like Elinor's perfume has made my nose plug up. No offense. The next planner might put up with the smell.

Alan Thomson – No, not put up with the smell. He has to identify the smell.

Dave Gibney – The thing there is if Alan doesn't agree there is a violation the complaining party can appeal that to the superior court, probably.

Alan Thomson – No, the BOA. Any appeals to the decisions by staff goes to the Board of Adjustment.

Dave Gibney – So that is appealable and if Alan says it is a problem that is appealable.

Alan Thomson – So you have to know what pot smells like.

Guy Williams – So why did you cross off "smoke?" Is there a reason?

Alan Thomson – Yes.

Dave Gibney – It is illegal. It is illegal for any of these grow operations to burn.

Guy Williams – What if he is putting out smoke for some other reason?

Chad Whetzel – You can burn ditches if they own a piece of property and they have a ditch. If they got a bunch of weeds in there and it is a burn day and they are legal, they can burn that as long as it is not any of the marijuana.

Dave Gibney – That is subject to the standard air quality.

Chad Whetzel – If there is a fire through no fault, if there is an electrical issue or whatever and it catches on fire, are they subject to having their license revoked because of an accident?

Alan Thomson – So we struck that and just stuck with odors.

Rusty Jamison – I understand you are going to have a new role.

Alan Thomson – I have to react to violations, comments from the public anyway regarding any matter to do with zoning laws. I am obligated to respond to any complaints regardless of the subject matter. It is not anything different and we don't have a whole lot of grow operations in WC.

Dave Gibney – But we did have a junk yard.

Guy Williams – It's gone. It's clean.

Chad Whetzel – There are a couple of cars left.

Alan Thomson – So, what do you think about #4? This is my best shot at trying to regulate this.

Guy Williams – I'm ready to take it for a ride.

Chad Whetzel – I think it is okay unless anyone has any issues with it.

Rusty Jamison – I'm going to suggest though I know Bret wouldn't have any jurisdiction but you might just have him read it. He might give you some ideas to think about it.

Chad Whetzel – Okay, #5. I think we need to modify this slightly. You say, *"….except for access driveways and parking areas."* They still have to have a gate across there.

Alan Thomson – So the State requires anything to do with production of marijuana has to be fenced off. But the driveway and the parking area is not part of the marijuana operation but there will be a gate there, yes.

Chad Whetzel – I'm thinking of in particular, and it is not a bad setup necessarily, but their parking area is within the confines of the gate of the fence. So they have to have a gate.

Alan Thomson – The parking area doesn't have to be inside the fence.

Chad Whetzel – No it doesn't have to be but if it is the way this is written it kind of sounds like you have your fence all the way around but your driveway in, well, we don't need anything in there. Anyone can walk in.

Dave Gibney – How about "the crop shall not be visible from outside the property line?"

Chad Whetzel – That's hard with the hill, so we would go over that with the wrecking yard out there on 272 when you get up the hill, you see it.

Dave Gibney – "It shall not be visible from the adjacent property." The intent is to keep the crop from being visible. What you are talking about is if they got a great big parking lot and you can see through the gate and see the crop, that's not what you want.

Alan Thomson – Or buildings. Keep in mind that there could be a combination of indoor and outdoor grow in one facility. So, you don't want to see any of that. So that would include buildings, where marijuana is being processed or produced.

Katrin Kunz – But it pertains also to other purposes, right? Security.

Alan Thomson – The intent here is to block off everything within the compound. But you don't have to block off the parking lot.

Dave Gibney – Unless it is inside the compound.

Chad Whetzel – There is always going to be some sort of an access point for people, whether it is walking in or driving in.

Alan Thomson – Okay, *"….except for access driveways and parking areas."*

Chad Whetzel – My first thought was you have the fence all the way around and your driveway has nothing. No gate or anything. It can be open.

Katrin Kunz – I think that Mark has a good idea. Just cross out ~~*"…except for access driveways and parking areas."*~~ Just strike that.

Chad Whetzel – Okay, I can live with that one.

Rusty Jamison – Okay, but does this mean the grower couldn't plant his crop on a hill?

Alan Thomson – No.

Rusty Jamison – The last one I saw was in Oregon and there are a lot of pretty steep hills just like here in Colfax. I mean the fence didn't really do anything.

Chad Whetzel – That's why I was hesitant to say you can't see any of it. You have the 8-foot fence and you get on a hill and you can see anything around here.

Guy Williams – Isn't the 8-foot fence more of a security issue?

Rusty Jamison – This one had Constantine.

Chad Whetzel – It's a combination. You can't see through it.

Dave Gibney – Isn't that also from the State laws?

Alan Thomson – Yes, that is in the State law in I-502. They have to have the 8-foot fence.

Rusty Jamison – So then the purpose of the fence is just to keep people out.

Alan Thomson – Also to keep it invisible. The public doesn't want to see that. That is part of it. Then obviously on the Palouse there may be an instance where you can't do that unless it is 50-foot fence? That wouldn't be feasible.

Chad Whetzel – You'd have to have an enclosed building all the way around in some places.

Katrin Kunz – Isn't it the same with junk yards?

Keith Paulson – I really don't think #5 reads so bad.

Chad Whetzel – I'd like to see the driveways and parking lot areas,

Keith Paulson – I think you can drive into the driveway and the parking area, it is open and everything else is contained. As far as height we have too many hills in the Palouse. You can from somewhere see something or a plane going over.

Chad Whetzel – If everyone else is okay with it, then I'll get over it but that was just my thought on that one.

Keith Paulson – It looks simple enough.

Chad Whetzel – Okay, lighting, #6.

Rusty Jamison – Okay, my question would be the same if it is on a hill, you can see a light on a hillside a long ways away.

Alan Thomson – That is not the objective, here. Yes, you can see it. Directing that light towards your face is what we are trying to stop. It has to go down. So, yes, you are going to see the light from a distance away but you don't want it shining in your bedroom window from the car dealership down the road. That's what it is trying to alleviate.

Rusty Jamison – Maybe what you are trying to do with the lighting is maybe similar to what they do in in Hawaii. It is not obscure at the skyline so it would be down.

Alan Thomson – Full cutoff lighting.

Dave Gibney – This is the version of that, "must be full cutoff," that we put in everything.

Rusty Jamison – Again, for you, going out there and inspecting. If you went out there and the grower had just bought these new lights that didn't meet your standards, then you could issue a notice and then they would have to replace them with the correct lighting.

Alan Thomson – Keep in mind there is going to be a conditional use hearing on this too. There is going to be a CU permit with all the conditions so the BOA can change the language and make sure it is clear and the light has to be shining down on the property and not outside the property lines. I think there is a bunch of choices of what kind of lights you can have but shining downwards onto the property is the main thing.

Keith Paulson – But that is in the code anyway isn't it?

Alan Thomson – It is written into pretty much everything.

Keith Paulson – How many times have you gone out and enforced that?

Alan Thomson – One time I can remember with the Toyota Dealership. I had to talk to them about it.

Mark Storey – Yes, we talk to a lot of people and they almost always voluntarily do it. A good example on Airport Road is the building for Strata, it is now called GPI. Everyone who has driven over that hill, the lights would shine up and blind you coming down the Airport Road. So we called them up and said, "Your CU said full cutoff lighting," so they replaced them all at their cost. The alternative is to go back and lose their permit. It says that in every CU we issue.

Chad Whetzel – So, can we move onto #7?

Alan Thomson – This is exactly the same discussion as #4 in indoor and I am now proposing 1,500 feet.

Guy Williams – You are a good man!

Keith Paulson – For the indoor.

Alan Thomson – No, for the outdoor. At the moment it is 20 feet for the indoor. At the moment.

Chad Whetzel – But this one is from the setback from their own property line as opposed to somebody else's.

Alan Thomson – This 20-foot setback is to their own property lines as well.

Chad Whetzel – This doesn't mean if there are no houses within a mile they can put right up to their property line. This is from the edge of their property line to the crop.

Katrin Kunz – It would be a big parcel then, 3,000?

Dave Gibney – The next one says it has to be at least 10 acres.

Alan Thomson – That is up for discussion, obviously. It was 1,000 feet last time.

Rusty Jamison – If a waiver is given with the 50% and then the adjacent landowner sells the property and a new owner comes in to apply,

Alan Thomson – It goes with the property. That's buyer beware and that needs to be part of the title, a part of the contract.

Rusty Jamison – So the new owner would not be able to say he doesn't want this.

Alan Thomson – The new owner would have to be informed of that restriction on that property. If they chose to buy that property then that is okay. They can't make the claim they didn't know.

Brian Davies – Would they lose their earnest money if the realtor didn't divulge it?

Alan Thomson – That would be big trouble for their realtor.

Dave Gibney – The only question I have on #7 and #8 is if somebody should do the calculation to make sure that the minimum the 10-acre parcel has enough room 1,500 feet around if to the largest.

Keith Paulson – That is dictating if it is a square ten-acres and not a funny shaped ten-acres or a rectangle.

Alan Thomson – The parcel will probably have to be created. So, the surveyor is going to work out those numbers and so it says, *"…no less than 10 acres."* So it can be more than 10 acres. We do that with houses because the minimum parcel size for a residential parcel is two acres in order for the drain field, replacement drain field and the well. So, we on planning staff have no idea whether that is actually going to work.

So, we have the environmental health, the surveyor, and the landowner go out all at once and they figure out how big this parcel is going to have to be. Can it fit in two acres or does it have to be 3-4 acres?

Dave Gibney – Obviously ten acres, that is 3,000 feet wide and however long that takes isn't going to fit.

Alan Thomson – That number of 1,500 feet is up for discussion. Maybe someone who has a math background can figure that out.

Chad Whetzel – If I figured it out correctly, if you have one acre square in the middle and a 1,500 foot setback on all sides you are looking at about 240 acres.

Katrin Kunz – That is what I just came up with.

Alan Thomson – Maybe that needs to be re-thought.

Dave Gibney – Wasn't it 1,000? You're still going to be above ten.

Chad Whetzel – It would be 112 acres to have one acre of crop, if everything was square.

Alan Thomson – That needs to be investigated a little bit more.

Dave Gibney – One of the questions is the State calls it cannabis space. If somebody wanted to put the maximum size the State would permit in one place, how big of a piece are we asking them to own in order to do that?

Alan Thomson – I think that 1,500 feet is way too big. Mark just calculated it at 200 and some acres.

Chad Whetzel – I just got 237. Somewhere in that neighborhood.

Alan Thomson – We need to look at that one a little more closely. Next time.

Chad Whetzel – That needs to be flagged and discussed. Let's move on to #8.

Alan Thomson – That ten acres needs to be re-thought as well.

Chad Whetzel – Obviously it can't be less than ten acres.

Rusty Jamison – I have a question on #7 and #8. Would the wall be around that acre or the property?

Alan Thomson – No, just the grow operation or the processing operation.

Rusty Jamison – So, in a situation like that you could have a wheat field right next to a marijuana grow. It wouldn't matter.

Chad Whetzel – We did decide the unused portion of that acreage from marijuana could be used for crops or other types if they wanted to.

Alan Thomson – I don't remember if we put that in here or not but that is correct.

Chad Whetzel – So, #9.

Keith Paulson – On #9, E. we added “trails.”

Alan Thomson – Right, we added that in.

Chad Whetzel – Okay,

Ken Duft – Just a matter of pure curiosity as I read #9 J, it raises a question of logic. Why do we not want the roadside fruit stand next to the orchard? Why do we not want the winery next to the vineyard?

Chad Whetzel – Doesn’t that have to do with State law?

Alan Thomson – That is written into the LCB regulations. LCB requires retail to be at least 1,000 feet. That is state law. From the production.

Kathleen Lloyd – First of all I have a question. What did you decide for #7? We were trying to figure out how large a marijuana operation could be.

Alan Thomson – We haven’t.

Chad Whetzel - We are tabling that one. It seemed ridiculously large.

Kathleen Lloyd – Then on #9 E. where it says “public parks.” On the indoor grow we said public parks and trails, hoping that can be the same.

Chad Whetzel – We got it. We just discussed that. We have added that.

Jim Burton – Back to #8, did you decide on #8?

Chad Whetzel – No, #8 and #7 were not long enough at all.

Jim Burton – They conflicted each other drastically.

Chad Whetzel – Okay, so back to #9. We decided to add trails to letter “e.” Anything else with this one? Okay, #10. This is basically out of the WAC’s.

Alan Thomson – So, we are quoting the WAC’s.

Chad Whetzel – On #11 was added in.

Alan Thomson – That was already in there because we had that in the indoor grow as well.

Chad Whetzel – Any questions on that one? Okay, #12?

Alan Thomson – This is the same as the indoor stuff.

Chad Whetzel – So why do we have #13? Thought we had already addressed that one elsewhere.

Dave Gibney – You are just replicating that from the indoor also.

Chad Whetzel – Okay.

Dave Gibney – And #14 is being struck because you have the more enhanced #4.

Alan Thomson – Yes.

Guy Williams – Item #13, match for the indoor.

Alan Thomson – Yes, it needs to match.

Guy Williams – Let's throw houses in there too.

Chad Whetzel – So we are going to match that one with the indoor so it says 1,500?

Alan Thomson – Yes. So, Section 19.64.060 is new. I came across this in other ordinances. Conditional use submittal requirements. *"The applicant shall submit a site plan t**o the planning staff**."* This will help us understand what they are planning on doing and so we can advise them.

Dave Gibney – This actually applies to both the indoor and the outdoor because they are both CU's.

Alan Thomson – Correct. Different section so it is not indoor or outdoor.

Keith Paulson – So did you write down *"to planning staff."*

Alan Thomson- Yes.

Chad Whetzel – In #1, you get down here and I know what you are talking about, under *(c) all existing and* inte*nded uses of any buildings or structures, grow areas, parking spaces*…" Should that be parking areas instead of spaces, because they don't have a large group of people coming in and I'm thinking most of these don't have lined out specific spaces. It is just an area.

Alan Thomson – Okay, we can change that to **"….parking areas."**

Dave Gibney – In #1, Site plan, sixth line down it says, *"…. property under the control of the license holder,"* and subject to this permit. I don't want you to, if I read that straight there it says, if I own some land down in Oregon it has nothing to do with this, I still have to tell you about it.

Guy Williams – You could say, "under control of the license holder in Whitman County."

Dave Gibney – If this is a conditional use for something near Garfield and I also own some property by Lamont, this says I have to tell you about both. If I own property in California I have to tell you. *"If property under control of the license holder…"* and there is no limit to this proposal.

Chad Whetzel – It has to be limited to this CU request, this specific one.

Alan Thomson – This is a WC code and everything refers to in WC. I'm not going to be asking them to produce information in Oregon or Latah County or anywhere else.

Dave Gibney – The wording here says you are.

Chad Whetzel – *(c) all existing and intended uses of any buildings or structures, grow areas, parking spaces, property lines, property under control of the license holder…"* So that implies any property under control.

Alan Thomson – That is someone else's language. Maybe they are in trouble too.

Chad Whetzel – I agree with Dave. We need to narrow that down so it is specific to that one request, not the fact that he has a vacation home up on Rock Lake.

Rusty Jamison – I understand what you guys are saying but I will say as a neighboring property owner it would really irritate me if I didn't know who my neighbor is. I have a situation in the real world like that right now and there is no way for me to find out who the real property owner is. I understand what you are saying.

Chad Whetzel – It needs to be focused to this application and that chunk of ground.

Rusty Jamison – I just know there is the property owner next to me it would be nice if I could call down here and find out who my neighbor is.

Alan Thomson – Call the assessor.

Rusty Jamison – They don't know.

Alan Thomson – There is a problem there. They should know.

Rusty Jamison – They do not because it is a corporation.

Dave Gibney – That is unrelated to a CU permit to grow marijuana on. If they wanted to do that you would be able to find out.

Alan Thomson – Somebody give me a suggestion on how to limit that. Tell me how to write that.

Dave Gibney – "Property under control of the license holder to this permit, subject to this application."

Alan Thomson – Shouldn't that explanation be at the beginning of here, because everything from that point onwards is going to be subject to this application. So it should be up front.

Dave Gibney – You can relocate that whole clause, then.

Katrin Kunz – The headline, *Conditional Use, Submittal Requirements*.

Brandon Woodland – Wouldn't that be referring to the license holder leasing ground on a larger facility and only has control of that said piece of that property? So, like the Port District, they have the Port of Wilma. There is a facility down there. They would have submitted under this to the planners just the facility that they were renting from the Port of Whitman not everything on the Port of Whitman.

Dave Gibney – That is the intent we are trying to get to.

Brandon Woodland – We don't want to have to disclose all the other properties that said person would own in WC or any other state.

Chad Whetzel – Yes, that is what we are trying to narrow it down to. Maybe this needs to say all this is subject to the parcel only in question.

Alan Thomson – That kind of goes inherently. This is how codes are written. This is somebody else's code and this is how they are written. You don't have to explain that. This is specifically for only this application.

Dave Gibney – I may be wrong but still as I read that it says that this site plan shall be describe the following and then I see, *"…all existing and intended uses of any,…."* and then the commas start and *"….property under the control of the license holder."* If I read that and I placed my commas and my grammar right, this is asking any conditional use permit to tell you everything that they may want to do with every piece of property they own in the world and Mars if they happen to. That's what it says.

Rusty Jamison – So, you're saying this is just for WC?

Dave Gibney – No, this application for just the piece of property. That language extends the information requirement to be in this site plan to every piece of property the applicant owns.

Keith Paulson – Then you can strike the, "~~*property under control of the license holder."*~~

Dave Gibney – Maybe it doesn't have to be there at all.

Brian Davies – You could say, "subject property."

Keith Paulson – As per applicant.

Alan Thomson – Strike, "~~*property under control of the license holder."*~~

Keith Paulson – That's what I just said.

Chad Whetzel – So, we struck it.

Dave Gibney – You may find other things to be added into this section of what they have to submit.

Alan Thomson – I did go over that pretty well and there were a bunch of other suggestions that I didn't think were necessary. I can do that. This is what I thought was pertinent for an application to give staff and the applicant an opportunity to figure out how things are going to happen.

Brian Davies – Maybe we should take it home for a month and do some homework and write what we think should be added or deleted.

Chad Whetzel – If you guys don't mind, we got like three left and if they get to be real detailed, maybe we can put it off but if we can have this mostly done that would be fantastic in my book.

Keith Paulson – Okay, #2, 3, and 4 look good.

Chad Whetzel – We won't be done with this but at least we have gone through it once.

Alan Thomson – Okay, #2, 1,000 feet is something we haven't figured out yet. That is something that needs to be looked into again.

Chad Whetzel – That is basically just saying what the CU mentions.

Keith Paulson – And #3 we have already talked about.

Alan Thomson – So, Rusty, that explains a little bit more about the lighting.

Rusty Jamison – Yes, this one is more specific to just buildings. Why is this in there twice?

Chad Whetzel – This doesn't make a lot of sense because this is outdoor.

Alan Thomson – There is still going to be lighting.

Chad Whetzel – But when you read it, it pertains to black out curtains, etc.

Katrin Kunz – No it pertains to indoor and outdoor.

Alan Thomson – It is both indoor and outdoor.

Keith Paulson – But #6 is lighting for outdoors and then we say it,

Dave Gibney – What we are saying here is they need to bring to the table for the CUP.

Alan Thomson – They need to submit that to us. So it is mentioned in indoor and outdoor but I want you to give me a plan.

Dave Gibney - This is how they are demonstrating that they will be in compliance.

Chad Whetzel – So, #4 is quoting the WAC again.

Alan Thomson – The waste disposal plan. That is just asking for the plan that the code requires you to have. We want proof that you are going to do what the code says you should do.

Dave Gibney – You might want to add a #6 for any variances that they may be asking for while they are doing their CU.

Alan Thomson – Variances for what?

Dave Gibney – You allow the BOA to increase or decrease the setbacks. That would be done in the form of a variance.

Alan Thomson – It wouldn't be a separate variance. It would be written into the code that the BOA can just make that decision in the CUP.

Dave Gibney – When they come to you with the materials and this is what we are applying for, wouldn't you like them to tell you that they are going to ask for a 50% decrease in the setback at that point?

Alan Thomson – Yes, I will probably ask them that.

Dave Gibney – So why don't you put it here?

Alan Thomson - Okay.

Chad Whetzel – Basically saying that if there was any variances requested, like we have a minimum setback, the ideal setback was 200 feet and they are asking for 150 because of the contour of the land or whatever. The planning department wants to know that up front before they start all the plans.

Alan Thomson – That variance would have to come with a written agreement from the adjacent landowner.

Chad Whetzel – The permit is what they are going to be asking for. They will have time to get the written permission later and if that all falls through then they might have to go to Plan B but at least know going in what they are going to be requesting.

Dave Gibney – I used that as an example. I don't know if there is anywhere where you or the BOA has discretion. They should be asking for that as part of the application.

Alan Thomson – Okay.

Keith Paulson – I'm still questioning this #6 and #3. We are still talking about outdoor lighting on both of them, aren't we?

Chad Whetzel – Yes, but remember they are two separate sections. This is what they need to have submitting when they go to ask for their CU permit, where the other one is applied to the building itself. They are two separate sections. They need to have a plan.

Keith Paulson – Shouldn't they both be about the same?

Chad Whetzel – Right, they need to have this plan to be submitted.

Dave Gibney – The first one is this is what you have to do and the second one is this is how you are going to tell us how you are going to do that. Maybe the language should be more parallel.

Keith Paulson – I just was thinking it should be.

Katrin Kunz – It is just a check list. Site plan, location plan, etc.

Chad Whetzel – The CU requirements is if someone comes to them and wants to build a marijuana facility they hand them that 19.64.60 and say that this is what you need. Then they gather all the information and bring it back.

Alan Thomson – So, if it is an indoor grow operation, show me your lighting plan. Outdoor grow operation and indoor, show me your lighting plan. That is all it is asking.

Keith Paulson – That's fine.

Chad Whetzel – So, is there anything else on the marijuana tonight?

Alan Thomson – I think that is enough.

Chad Whetzel – Any new business?

MOTION by Keith Paulson and seconded by Brian Davies to adjourn to next month. Motion passed.

The next meeting will be November 6, 2019.

Adjourned – 9:20 p.m.

Alan Thomson – Oh, there is just one more thing. Updating the comp plan. Just a little project for us.