WHITMAN COUNTY
PLANNING COMMISSION
Wednesday, January 8, 2020
Workshop Minutes

MEMBERS:

Chad Whetzel – Chair
Keith Paulson – Member
Brian Davies – Member
Russell Jamison – Member
Guy Williams – Member
Robert Hill – Member
Gary Moore – Member
David Gibney – Member

STAFF:

Alan Thomson – County Planner
Katrin Kunz – Assistant County Planner
Mark Storey – Public Works Director / County Engineer
Denis Tracy – County Prosecutor
Ginny Rumiser – Clerk

Audience: Chris Skidmore; Roger Myers; Lana Myers; Kathleen Parker; Georgia Wells; Ken Duft; Shelley Chambers; James Burton; Carla Burton-Keifer; Kathleen Lloyd; David Gang; and Zach Dauscher.

Chad – Approval of the Minutes from December 4, 2019

Motion by David Gibney and seconded by Guy Williams to approve the adoption of the Minutes from December 4, 2019 as published by staff.

7:17 p.m. – Motion carried.

Chad - Reports

Alan – There are no reports. Basically all of the letters a-j there is nothing to report.

WORKSHOP

Chad – We're going to continue our discussion on the cannabis ordinance and we have a few different things to go through. First of all, I think we'll start with Mark Storey and let us know some goings on with the Board of County Commissioners.

Mark – Sorry I missed the last meeting, I had a little bit of a fun time, but a lot of things have happened since our last meeting. One of the things that you, as the Planning Commission, expected to happen next, that we've been talking about for a few months, is to sit down with the County Commissioners and present, at least some level of a draft

of this ordinance that you guys have been working on for so long and find out kind of the flavor of what they thought they wanted to see. And along with that we were talking about sending them a number of options. That is kind of what they asked for early on, if you recall. So we've been working on this presumption that we're going to have some documents, not a document, to show them as some point. Well, starting to go back through how the State sets up Planning Commission's and how County Commissioners' are supposed to receive those, we kind of looked at it, the way the rules are set up are not really set up for us to give them a bunch, or to give you guys a bunch of documents, pass several documents onto the County Commissioners' and then have them pick one. It's just not set up that way. In fact I have Denis Tracy here and he can correct me if I say anything wrong here tonight. But in conversations, and keep in mind the Commissioners' have made no decisions, there has been no official meeting of the Commissioners' on this issue, but just discussions about how to proceed. Not necessarily what to proceed with, but how to proceed. The way the rules are written is, we put together an ordinance and then they look at it and they either accept it or they don't accept it or they change it. There are a bunch of options that they have at that point. So the direction that I believe is best suited to meet all the legal requirements of the process, is to create this ordinance, along with some Findings of Fact that support the ordinance and then perhaps a document giving some other options if they don't like that ordinance. So, what they would do is they would react to what you send them as your preferred option. At least that is the way I understand it. Is that how you understand it, Alan?

Alan – Yes. That is exactly it.

Mark – So what we're starting to do is look at this ordinance, as we'll talk a little bit about that tonight, we're going to go through some language with Denis Tracy's review as well. Look at that as, is this what the Planning Commission would like the Board of County Commissioners' to consider and have them pass that on in whatever form you guys decide is best and then have them respond to that. Along with that will be some options for some other things that they can do, if they choose to do something different than what your preferred option is. I think we've talked about those ad nauseam for months. But I wanted to throw that out there so you kind of know what is going on. Because we talked about this meeting with the County Commissioners'. We kept wrestling for about two months with how to do that, because the way you set up a Planning Commission just does not tailor to that at all. I don't know if you have any specific questions on that at all, that is kind of where I'm at right now.

Dave – Could I ask, so was it not appropriate for us to have the preliminary meeting with the County Commissioners'?

Mark – No, there was nothing wrong with that. That is talking about what you're going to look at.

Dave – But, my understanding of the meeting that we were contemplating having with them, was more on the order of a review of, from where we are now are their wishes still

what they were then? And then craft the ordinance, finalize the ordinance based on their wishes.

Guy – Are we even close to what they are expecting?

Mark – I can't speak for the Board, because the Board has not officially met about this, so keep that in mind, this is just process.

Dave – And I'm not objecting, I'm just curious about the process.

Mark – I can't really answer your question other than the fact that they have been reading all of your minutes and your documents all along, and they feel that you are doing a great job of crafting it. Does that mean that they will accept it, I couldn't even begin to answer that question?

Alan – That is the important part, is they've been keeping tabs on everything that you have been doing. The ordinance drafts and the minutes from the meetings, they had it all.

Dave – So if we were way off track…

Alan – Right, we would know, staff would know.

Dave – You guys would be notified of that.

Alan – Yes.

Chad – We're in the ballpark, playing the same game.

Alan – Yes.

Mark – Let me rephrase that a little bit for you, you're in the right ballpark playing the same game, if indeed they desire to legalize indoor and outdoor operations.

Chad – Okay.

Mark – They may still do something different and they've been very clear about that, when I have talked to them in workshops. They haven't decided what they want, that they plan on having their own hearings and find out what folks are saying as well. So, that might unfold and change their opinions.

Chad – Okay.

Mark – So, just be careful, they have not officially weighted in on anything, other than the fact, they like the work you are doing. Does that make some sense?

Rusty – Okay, as far as giving them 3 or 4 different options, I understand what you said, but I am still not quite sure why we couldn't do that. I mean, we've been working on this, okay, if this Board wanted to make sure that they look at all of the options, instead of just this one, we could elect to not have this be our number one option, isn't that correct?

Mark – That is correct.

Rusty – And if they saw that we did that, say this one was labeled as number three, it would still be available for them to review and look at, for them to vote on, isn't that correct?

Mark – I don't know if that is correct and I might at some point have to defer to Denis Tracy, who is our prosecutor, who is sitting in the audience. The way the process is outlined for the interaction between a Planning Commission and the Board of County Commissioners', is kind of how we have changed this up a little bit. But you should have a preferred option and that option should have some code language attached to it. And that is what they consider is what your preferred option is. And what we intend to do though, is also give them a list of options of things they can consider if they don't want to adopt that.

Dave – Can I ask that as a question?

Mark – This get a little sticky, because we've never been down this path before.

Dave – I know, but I asked this question of Alan earlier. So, are those other options something that the Planning Commission is sending to them.

Alan – Yes.

Dave – Or other options that the staff is making available?

Alan – Negative. Everything is coming through you, the Planning Commission.

Rusty – Okay.

Dave – Well, those are two separate…

Alan – You have to agree on those options, and we're not there yet. We haven't presented them to you. They will be your options, not staff's options.

Rusty – Okay, my question is then, as a Board we assume that, we may assume that the number one option would be a unanimous agreement from the Board, but if the Board didn't agree on the number one option and say there were some dissents, and then dissents on a second option, where a third option, sending a message that the

Board didn't really agree on a number one option, then that would force them to have to look at the number that we've sent, three, four or two, if we all don't agree.

Mark – I don't think I could even answer that question, because you're asking something that is not covered in how we procedurally move forward. It's not like an election, there are votes, but I don't even think I could begin to answer that, I'm not even sure Denis could answer that one, at this point. Do you want to comment on any of this, Denis and save me?

Rusty – Let me state though why I am asking these questions and seeing it in the way that I am. Is that, like the one we just voted on here, for LaCrosse, we all agreed on that one? That was pretty easy for them to do because unless there was something that we missed, they're not going to go against our recommendation. But in this case where there are several members of Whitman County that are both pro and con of this, if the Board did make a unanimous recommendation, even on what we have been working on very hard, it really wouldn't represent the voters that are out there, in my opinion. So I guess what I am saying is, if we aren't going to be able to recommend three different options, then we need to some way make sure that they look at three different options.

Mark – I think they will have the ability to look at several options. Alan has already started working on a list options, but that doesn't change the code that you have been working on and the ultimate decision is by the County Commissioners'. What this Board is asked to do is put its best foot forward, what they think the Commissioners' should do. But ultimately it is the County Commissioners' decision as it is with any other issue. And with 40,000 some residents, there will people who like it and people who don't like it and that is their burden as elected officials. Does that make sense? That is how I look at it.

Dave – I understand that we are not subject to the voters, the Commissioners' are. I still am unsure, other than the fact that we not having a meeting with the Commissioners' before we go forward, I honestly don't see that there is any difference in the path that we have elected to take. We intended to draft a suggested ordinance, we intended to make it clear that all those other options, which are in one of the Findings of Fact, that I've already read, are available to the Commissioners'.

Mark – Correct.

Dave – The only real difference I see from where we left last month and where we are now, is we're not having this interim check in stop.

Mark – You know, and frankly this is just Mark talking, we could still try to have a meeting of the two groups, but I don't think it changes the direction of how, of what I'm trying to tell you of how we need to proceed. If that makes sense.

Alan – Look at it this way Rusty, there were two real main options that we were tasked with, you were tasked with. One of them was, let's put an ordinance together and you've researched that. You've done your due-diligence here and we're close to having something ready. The other was, are there other options available? Those are the two tasks and you're going to accomplish both of those tasks. And then it's the County Commissioners' who will have the ultimate decision. They'll take all that information, they're going to have their own public hearing, plural probably. And so you've done your jobs, send it over to them and then they make the decisions with the public.

Dave – And this is where I am still uncomfortable in that. From what I was hearing about the requirements of the procedure, is we do an ordinance. I don't see where that requirement of the procedure has the other parts, I see the report of the other options as not coming from the Planning Commission, but as being something the staff presents directly to the Commissioners' and they still have that it's still based on the facts that we have gathered while we've been doing this ordinance. But from what you were saying, the procedure doesn't have room for anything besides the ordinance from the Planning Commission.

Mark – I understand what you are saying, and it looks like Denis is going to weigh in, but procedurally we couldn't find a way that said you could have a bunch of ordinances. And that is what we are trying to navigate through.

Dave – I'm okay with just sending an ordinance and you guys writing the report that's not from us.

Mark – The Findings of Fact and some options are going to come from you and if they decide to not to accept that ordinance that you've developed, that probably kicks off another process.

Chad – The reality is, we could give them a hundred options and they could still choose something entirely different after their public hearing.

Dave – Exactly. Just to be clear, from what I heard first, was telling me that we really didn't have the option of giving other options. That is a separate thing.

Denis – No, I think you're wrong. I think that the Planning Commission ought to decide what process you want to undertake here and if you want to present multiple options that are all detailed out, you can do that. But, what I think Mark is saying and I'll echo, is that the State statues that establish this process of having a Planning Commission and having a change to a zoning code starts with the Planning Commission and have the Planning Commission hold the hearings and investigate the issue, figure out what the facts are and then come up with what the Planning Commission thinks is the preferred way to address the issue that you want to address with the zoning code. That is the way the State statue is set up. And then you present that to the County Commissioners' and then they take it from there and they can adopt it or they can change it or they can send it back to you. That's really the way the State statues are

designed. But if you decide that instead of following that kind of limited approach, that you want to have two or three different, very detailed options that you want to present to them, you could do that. But, what's being suggested here is that if the Planning Commission is unanimous or at least a majority of you strongly favor one approach but recognize that there are other approaches out there, that you could present that as if this is the case and I'm not trying to speak for you, but if this is the case, you could present that as, "Okay, Board of County Commissioners', this is our suggested approach of dealing with this issue, but we recognize that there are other approaches and here is a list" and you could list it out from you, not from staff, but "here is a list of other approaches that are out there that we've discussed, but we think that this is the best approach, this is the one that we have settled on". And you could list all these things out. And what I am envisioning is, a memo coming from you all, to the Board of County Commissioners', with not just the draft ordinance, but with these other options listed out and if you want to detail anything specific about any of them, you could. But it is really up to you.

Dave – I think that is exactly where we were going, except that we had that check in step in between. Other than that, that is exactly where we were going and I was just unsure that the change was because of some, we don't get to do that.

Denis – Not really. You can do something different.

Dave – And really all the other options require less detail than a specific ordinance. So, I think we're real close to where were going to be anyway.

Mark – And I apologize if I confused it at all, I was trying to suggest that this is the feedback that I am getting from the Commissioners'.

Guy – I think, and I don't know how to put it very eloquently, but we were asked to come up with an ordinance, well yeah, if we have to come up with an ordinance, this is not a bad document. You can play with the distances and some of the fine tuning, but as an ordinance this is darn well researched and hard crafted. But, what we're saying is, there may be something else we would prefer the County Commissioners' to consider dealing with marijuana. I mean, from a long term moratorium to disallowing any expansion to in the far corner of the County, I don't know.

Alan – Those are all covered in the alternatives.

Guy – Well, what we're saying is, that we aren't out of bounds with what we're trying to do, but truly this is a whole new format that we're asking to do.

Denis – I think you could record it that way too, if a majority of the Planning Commission feels that there should be just an outright ban, here's an ordinance, but a majority of the Planning Commission feels that there ought to be an outright ban. You could say that, you could report it back that way. Or if it's not a majority.

Guy – But that would be the separate side recommendation or side discussion, this would still go forth as a single presentation to the BOCC and then we would follow it up with options.

Dave – I think we need to send it all in one package. And I'm not even trying to guess right now how the votes are going to be, but I think it should be all one thing.

Rusty – But I think it's important that the public understands that we're not making the regulation for the County, we're only making those recommendations, however many we choose to send, we're volunteers that are not making the decisions for the BOCC. Now on some things it appears that this Board makes the decisions and the BOCC just simply stamp it approved and go on. But this is not, we certainly don't want this to be one of those situations. This is affecting our county in such a big way that the BOCC can't be perceived as being, well they made the decision and the BOCC didn't review it. Well we've got to make sure that they do review it with lots of hearings or however they choose to move forward once we send them the recommendations.

Mark – Can I just make a comment? Is the BOCC, I know all three of them, because I talk to them all the time, they are reading every one of the sets of minutes and going through all of your deliberations and they are staying up with it. I don't believe that any of the three of them are going to stand back and go, well they sent it to us and we'll stamp it and move on. I don't get that sense at all. They get those minutes and they are bugging Alan and me about them all the time. They want to make sure they understand what was said. So, I don't think you're going to get a rubber stamp at all.

Denis – But, one thing I would suggest, and I'll throw in my feelings too, is that I, and I don't have this from them either, but I would imagine that they want a recommendation from you. They don't just want a list of options, they want a recommendation. None of them have told me that, I haven't asked them that, but I'd be awful surprised if the BOCC, I mean that is kind of the whole deal here. And if you are at total loggerheads, you know half of us think this and half of us think that and that is the way it is BOCC, then you could just report that, that's fine. But I am sure that ideally there would be a recommendation.

Dave – One of the things is, what we just did was a quasi-judicial zone change, which is entirely a separate kind of thing that the Planning Commission does from this, which is a legislative craft, crafting legislation. The rules are not the same, the rules of that zone change are more restrictive on the way hearings are held and everything like that. And it is true the BOCC have a somewhat more limited option on that than a site specific zone change. This is a county wide legislative thing and it's a lot different.

Denis – And Mr. Jamison, on your concern about, that the BOCC doesn't just take this and don't discuss it or have hearings, you could put that kind of request in your transmittal memo too, that's coming from the Planning Commission and saying, hey we think this is a very significant thing and urge the BOCC to get more public input.

Rusty – Well I know all three of them very well too, obviously, so I just want to make sure, especially to the public, that they understand this process and I'm really glad that you're going over it, because it needs to be understood, not only by those that are here, but those that are eventually going to wonder how this all came about, the silent majority. And we have got to be prepared to be able to answer those questions when they come, in such a way that they understand what we did.

Alan – And that should be in the Findings. The Findings are your road map from start to finish. What did the Planning Commission do, why did they do it and the way I'm looking at it, you were asked to give your best attempt at regulating this. What would that look like? Well, you've got something here and I think it's pretty darn good. You guys have done a heck of a job. So that is what the BOCC wants to see, they want to see what you have put together, regarding the regulation. Then it's up to them to decide whether they want to take that up or not or they want to change it or they want take one of the other options. Your job is pretty much putting this ordinance together and giving them some other options and then it's up to them.

Denis – And I'll add one thing, which is, if you're able to or willing to do the job also, I'd suggest to make a recommendation.

Alan – Yes.

Denis – So, if you have an ordinance, but you don't think they should adopt it, then I think you ought to spell that out pretty clear.

Keith – So, should we be looking at these other options first before we okay this ordinance?

Alan – You're not going to okay the ordinance by itself, you've got to look at the options as well. And I've got a short list right now, but I haven't given it to you. I will be submitting that to you, but it's going to be your list, so we're going to have to discuss this, probably at the next meeting. And then you can add to, subtract, change it, whichever way you want it to read.

Guy – I've got to say, as near as I can remember on my tenure on the Planning Commission, I don't know that we've ever sent something to the BOCC without a recommendation to approve it. That is what I am saying, I agree with you Denis.

Dave – We have done a couple to not approve. Or I may be confusing this with the other one. In Pullman we have done a couple to not approve.

Guy – Yeah, I don't know that we have.

Dave – The question I would like to ask, while we have Mr. Tracy here is, are there any legal or wording or inability to defend the ordinance as it is, that you would like to talk to about before it goes forward.

Denis – Oh yeah.

Dave – I mean we don't often have the opportunity to have you here, so we want to make sure…

Denis – Well, let me talk about that for a second. I have kind of stayed away from this process, just thinking that I don't want to interfere. It's your process, but I am at your disposal now. Because you are getting at the stage that if you are going to draft an ordinance, then part of that is legal review and input from the lawyer, as far as, wordsmithing things go. I've got no role to play in whether or not there ought to be a setback or what the distance of that setback ought to be, that's not me, that's you. But, how to word it, that is me. I am at your disposal, I'm here tonight and I'm here at any of your future meetings until you tell me to stop coming.

Chad – We want you here every night.

Denis – So, I am here and glad to talk about all these…

Chad – So having kind of gotten to that point, Alan, would it be more than advantageous for us to start with the ordinance portion, with having Denis here, or should we start with definitions, or does it matter.

Alan – I think we can tackle both. So, just to tell you, Denis, Mark, Katrin and I went over this tonight before we met with you guys.

Chad – This is the ordinance?

Alan – Yes, this is the ordinance, so this is Denis' input, which we have to discuss now. I think we should go through that, because there are a bunch of changes in here.

Dave – That is the more red than the one that was sent to us?

Alan – Yes, the more red. Yeah, there is more red in this now.

Mark – Can I ask one question before we move onto that? After this discussion, is there a desire for the Board or for the Commission to ask the BOCC to visit with the Planning Commission? And you don't necessarily need to answer that right now, I came here with my own thoughts based on interfacing with the BOCC, but are you interested in visiting with them? I don't think that changes the fact that we have a single ordinance, but if that would make you more comfortable, I just want to know.

Chad – Why don't we go through this and then at the end we will decide.

Dave – I'm probably not going to insist.

Chad – We'll just discuss it real quick and see what everyone is feeling and then we'll go from there.

Mark – Okay.

Chad – Going through this may or may not change our minds, so let's get through it first and then we'll decide. Okay, so Chapter 19.64 – Marijuana. We're just going to start at the top and move on through this. The first red section is the last sentence, it appears. We're just going to say, this ***chapter*** establishes…instead of ~~section~~. Does that work?

Dave – Yes.

Chad – And then after health that is supposed to have a comma not a period and add ***welfare*** in there.

Alan – It is a comma, it's just got an underscore underneath it.

Chad – Oh, that's why it kind of looked like a period.

Dave – It's just adding the word welfare to the sentence.

Chad – List of things that we're trying to address. So, the next section down, 19.64.020 – Applicability.

Alan – This is just legal wordsmithing. Denis' recommendations.

Denis – Yeah, I just changed the focus being on the people that are doing the business to activity that is going on, on the land.

Chad – Okay. I don't see any issues with that section, does anyone else?

Guy – Well, does this imply that we're going to have to come up with an ordinance for Hemp?

Chad – No, because that is a federal deal.

Guy – Okay.

Chad – That has nothing to do with us.

Dave – Well, it may be, but that is a future.

Alan – That is a separate issue.

Keith – Not at this time.

Dave – We're not going to have to do it as part of this process.

Denis – I have a question on that. Is Hemp a cannabis plant?

Chad – Absolutely.

Alan – Yes.

Chad – Hemp is the male version of marijuana.

Dave – Hemp is cannabis with a THC below a federally defined level.

Denis – Okay, but it is still cannabis. We define cannabis as having that upper amount of THC.

Alan – It has to have a THC lever greater than .3% to be considered marijuana.

Denis – Okay, so that works then.

Chad – Okay, then down to the definitions, the second paragraph Agricultural Activity.

Denis – Here this change, this in red, there is an effort to recognize that the Comp Plan talks about agricultural activity and for purposes of the Comp Plan, this is a recognition that growing marijuana for a commercial crop is an agricultural activity in the sense that the Comp Plan is talking about agriculture. But, it is not an agricultural activity for purposes of the zoning code and is specifically the agricultural zone. I want to also say one more thing, before you all start talking, which is I think that sentence that is struck out there, Alan, I don't think I intended to strike that, at least my current thought is to say add in the word "***however***" before that struck out sentence.

Alan – Okay, then I miss-read that one, so we can keep that in there.

Guy – So, "*However, for the purpose of this Chapter…*"

Denis – Right. I think that would make more sense.

Audience member asked a question.

Ginny – Please don't talk without a microphone.

Chad – Hold on, let's try to get through some of this. We're trying to get through the legal portion of this right now, so please hold your questions to the end, if you can.

Dave – I was about to object to, we've gone back and forth on this is not an agricultural activity for the purposes of the zoning and Mr. Denis Tracy is saying that the portion that is stricken shouldn't have been stricken.

Alan – Correct.

Dave – Actually solves all of my concerns. What it is saying is that as far as the Comp Plan applicability is concerned, yeah growing stuff is agricultural, but for the purposes of the zoning code itself, marijuana is not agricultural. And that is a fine line, but I think it's a valid and necessary line.

Denis – And there is also a change to the definitions in the definitional section of agricultural activity under 19.03.

Alan – We haven't put that in yet.

Chad – Okay, so far we are down through Agricultural Activity, do you have anything else on that one?

Denis – So the change for the zoning code, which is 19.03, excuse me, which is Title 19, for the definition of Agricultural Activity is just going to be essentially a recognition or a differentiation for marijuana being a controlled substance. And so since it is a controlled substance it's going to be regulated separately and it's not going to fall under the definition of agricultural activity for the zoning code.

Chad – Okay.

Denis – That is spelled out in the change in the definitional section, which you don't have right in front of you right now.

Chad – Yeah we do have a bunch of definitions. Are there any other questions from the Board on that little portion? Okay, we'll move onto page 2. Indoor production, processing, it looks like in #1 we're just putting "***or***" instead of "*and*". I guess it should be "or", because when you say "and", then you can't have some of those permits together. #2, we're striking out the last part.

Dave – We're basically saying that they have to get past the State Liquor and Cannabis Board before they can come to the County, which is good.

Chad – Yes, that works for me. #3 no change. #4 there are a couple of changes.

Guy – Well, back on #2, though just for a second. Don't we need "Only currently licensed marijuana producers, processors and retailers with a validly issued Washington State… don't we still need a "with" in there or not?

Denis – That would probably read better.

Alan – Yeah.

Ginny – Okay, so where would we add the word "with"?

Guy – Right before validly.

Alan – With a validly issued …

Dave – Well that saying "…currently licensed" and "with a validly", that's redundant.

Guy – I don't know how you get from retailers to a validly issued by the Washington…

Chad – Because only currently licensed marijuana producers… you could strike out, I mean, in the English portion of it, Only producers, processors and retailers are all, you can take that part out and the sentence still makes sense. Only currently licensed marijuana producers, processors and retailers validly issued by the State of Washington…

Dave – Or if you go "Only marijuana producers, processors and retailers with a validly issued…

Guy – That is what I just said.

Dave – Yeah, but you didn't strike "currently licensed" from the beginning of it. You've got to strike "Only currently licensed", you've got to strike "…currently licensed" from the beginning and then you move it to the end. So, "Only marijuana producers, processors and retailers with a current valid license issued by the Washington State Liquor and Cannabis Board." That makes it English, not Scottish.

Alan – And there is a difference between English and Scottish.

Rusty – You guys got that down, because I'm not going to write it on mine.

Chad – So, we're striking "currently licensed"

Dave – We're basically moving "currently licensed" to "current license validly issued" on the other side of the subject.

Chad – So does that work for everyone?

Everyone agreed.

Chad – Are we done with #2?

Everyone agreed.

Chad – No change on #3. Move onto #4.

Alan – That is just like the same under Applicability, we're just changing that to mimic that.

Chad – The actual action, not the people doing it.

Dave Gibney – and the first part of #6 is the same as #4 and earlier. And then the rest of that new stuff is kind of what we were asking for last time.

Alan – Yes, that is from the last time. So, that is just what you decided on at the last meeting.

Dave – It gives some actual teeth to the …

Denis – I would suggest as the start of #6, "No marijuana production, processing or retailing "*operation*" shall emit odors… Insert the word "*operation*".

Chad – Does anyone have an issue with that?

Dave – Would you have us throw that in on #4 too?

Denis – I don't think you need it on #4.

Chad – Then continuing on down to the new #7, we are adding "odors and" to the exhaust system. Are there any problems with that one? Seeing none. We're skipping #8, no changes there other than the numbering sequence. Then #9…

Dave – That's right, "*facilities*" is a better word, than "applications".

Chad – Then the next one down is being changed to #10. And then #11, again we're just changing the "production, processing and retailing" and then we're changing 1,000 feet to "*property lines*", instead of "grounds".

Dave – Shouldn't you actually strike "perimeter" there too? Changing "perimeter grounds" to "property lines".

Chad – Yes.

Ginny – So, we're striking "perimeter"?

Chad – Yes. Then we'll move down to the new #12.

Dave – In #12, that is not what the intent was, at the beginning or addressing the concerns.

Denis – And that language, I purposed because that is what I kind of understood, but I may well and probably did misunderstand. I can try to help with whatever the intent is.
Dave – The concern there was if owner A establishes a valid marijuana production facility and owner C then establishes something up here that is not permitted next door, a church or whatever, that doesn't make owner A, non-conforming.

Guy – Because he was there first.

Denis – Isn't that…

Dave – No, but we never said that owner C can't do the things in the first one, it's just that it's explicitly stated in the grandfather clause, is what the intent was. It was to be explicate that the prior use was grandfathered and the subsequent establishment of a use that would have made it, you know, would have prevented them, does not make it that they are non-conforming now.

Chad – The way that I am kind of reading that is, it's just saying that, and maybe I'm wrong, but the way that it is written, with the proposed language now, is that the sensitive areas, sensitive uses are not prohibited according to this.

Dave – And I don't think we ever had the intent to tell somebody that they couldn't put their church where they wanted to.

Chad – Our intent was to make sure that if someone does want to put a sensitive use next to a marijuana facility, understanding that will not affect the existing marijuana facilities right to continue to operate.

Rusty – Yeah, that is what we discussed.

Chad – Right.

Alan – Wait a minute, I believe you are not reading this correctly. So, what we intended was, if a church or some other sensitive use can opt to build within 1,000 feet of an already established marijuana facility, that is what we intended.

Dave – Well, but no, we intended to be quite clear that such an establishment did not invalidate the previously existing marijuana facility. And that is what the... shall not render the non-conforming. The language that is being stricken.

Chad – So, basically you can't have someone come in and put a church next to every marijuana facility and run them all out.

Dave – If you strike that entire language, you lose that intent entirely.

Rusty – I remember when we discussed this, we used "house" where a builder or developer bought this land next to a facility that is producing marijuana, the developer could build houses there, we can't restrict him from not doing that, but we made it clear that when he sold those houses that the language would make it so that the owner of the house would not be able to complain to this business. I mean we have that already with businesses in our county.

Dave – And I actually believe there was an intent for you to establish a similar, something that goes with the title of the land.

Alan – Yeah, well we all discussed that, so let me just try and wrap my brain around this one. So, what this says with the adjusted language is that, the sensitive use can choose to locate within 1,000 feet of an existing marijuana business. The non-conforming part is what Denis, Mark, Katrin and I were discussing. So, the existing marijuana facility is not non-conforming.

Guy – Correct.

Alan – It's going to be conforming to, if this code passes...

Dave – Again the whole intent here was to explicitly state that just because somebody later comes along and does a use that would have prohibited the facility comes along and adds that there, it does not change, it does not make the facility non-conforming. The facility was there first.

Alan – Right.

Dave – The whole intent, there was never ever any intent on our part to say that churches or anybody else who, for whatever reason, could not put a sensitive use next to the marijuana. The intent here was always to project an existing marijuana installation from a sensitive use coming in subsequent.

Alan – Understood. So, if that marijuana facility has a valid conditional use permit, and it's in compliance with this proposed law, assuming it's passed, what would make that non-conforming? Legally.

Dave – We went around this, nothing. There was a desire on our part to put that explicitly in the ordinance.

Alan – Yeah, but now we're talking legal terms. So, Denis made the argument that it's not non-conforming and it's legally got a CUP and in order for them to be taken away from that location, the CUP would have to be revoked.

Dave – What if they come along and say that we would like to expand our footprint within something that would have been existing, but now there is this sensitive use.

Alan – Yeah, we talked about that too.

Chad – What triggers a revision of the CUP?

Dave – Again, I don't think it was necessary. I think you are correct that they never were going to be there. And we had that discussion, but the whole point of putting this in there was to be explicit.

Alan – Understood. So, that was part of our discussion and we went through that scenario, the what if, and we talked about if it's an outdoor, and let's use an outdoor facility as an example. When that person walks through the door and is talking to staff about how to get a CUP to operate an outdoor marijuana operation in Whitman County, we're going to tell them all the hoops that they have to go through. First of all, they have to create a 10-acre parcel and then I would tell them, what if some sensitive use facility decides to go in next to you, what are your plans for the future? Do you plan on expanding, is this your proposal and that is the end, because if some what if scenario, if somebody else comes in here with a sensitive use, a church or a school or whatever, you might not be able to expand in that direction. So, think this one through.

Dave – But, again the intent here was to say first one there did not lose any of their rights from a subsequent sensitive use coming in. That they were there and that is the way it was.

Alan – Right, they wouldn't. I can't foresee a situation where they would, because the CUP covers their rights.

Dave – But you were just going through a scenario where they wouldn't be able to expand in that direction.

Alan – There is that possibility and that is why we have to inform them of that. They are buying a 10-acre parcel, there is a lot of room there.

Denis – How about this, one thing that I want to try to avoid though is a maybe unintended consequence. Which is, if a marijuana business gets established and then a different use, a church, comes and builds next door, it's not going to force the marijuana business out of business, because they are within this 1,000 foot buffer, but if the marijuana business then closes for whatever reason and their conditional use permit lapses, unless the Board wants to grant that spot a in perpetuity right to grow marijuana, then I think you need to be careful on how you word it. And here is a suggestion, so the subsequent establishment of the sensitive use listed in paragraph 10 above, within 1,000 feet of a legally established and licensed marijuana production, processing or retail facility, shall not be prohibited by this chapter and shall not there by render a marijuana CUP invalid. I don't know if that would fix it and maybe this a question that needs some thought and I'm guessing you're not going to be deciding this one tonight. That might be some language to consider. To see if that addresses your concern.

Dave – It was just clear to me that this change missed the intent of the original language.

Denis – No, I see what you are saying, you want to spell out that if, say a church moving in isn't going to force the marijuana business to close, they can't do that.

Dave – And then it's not going to restrict the existing marijuana business from what they would have been allowed to do if that sensitive use wasn't planted next door.

Denis – Although, just using this church as an example, if the church moves in and then five years later the marijuana business wants to change their business a little bit, if their change is different from what is allowed in their CUP, then, am I right, you would want them to have to go back to the Board of Adjustment and ask for a change in their CUP and the Board of Adjustment might deny it, based on the fact that there is a church right nearby or any other conditions that they might have changed?

Dave – I personally probably wouldn't, but I can accept that that is the way it should be.

Alan – And that is why I would tell these people you've got to think very carefully about where you are locating and then what are your future plans? And if you encompass those potential future plans in your current CUP application, then you're vested there. Let's think ahead here.

Keith – Sometimes you can't think that far ahead though.

Alan – No, that is true and in those instances you might have a problem. But hopefully a church does not want to locate next to a marijuana facility.

Gary – But, what's to keep some of our radical friends from putting in a kiddie park next door, trying to get it completely closed? That is why we put this in here so that wouldn't happen.

Chad - I think more likely, like with the things going on, it would be like a trail going by, you know, they buy a piece of ground going past nearby. But, I think with the new language that Denis gave is acceptable. I think that would work.

Everyone agreed.

Chad – So, then we will move down, the new #13; #14; #15, everything in the rest of that section, the only thing that is changing is the numbers. So, we will move down to B. Outdoor Production, no changes in #1. In #2 we are striking a portion…

Alan – Which we did in the indoor one.

Chad – Yeah, we're just changing the "pending applications", to "Only currently licensed…".

Dave – Do we want to change that entire sentence to the way we did in the other place.

Chad – Yes.

Dave – Only marijuana producers with valid license, or with a license validly issued… Make is match the same section as 2A.

Chad – So, B2 should match A2.

Alan – Okay.

Denis – And we have one suggest change as well, back to #12, which is just a numbering change. In that first sentence, "The subsequent establishment of a sensitive use listed in paragraph 10 above, it should be #11.

Chad – Thank you. So we agreed that B2 should match A2. So, on page 5 B4, we have some changes here.

Alan – So, this was something that we discussed last time, the first part, I think. You wanted that part struck.

Dave – Well, I think we were looking again for some parallels between that and A6.

Alan – Yeah, and it was somewhat nebulous here, in a concentration of such a duration.

Dave – And actually, I think, we were saying grab this language from 4 and shove it back there to 6, which you've done.

Alan – And we did some wordsmithing with Denis, at the bottom of this #4.

Chad – Are there any issues with that?

Rusty – On #4, it doesn't quite read right, down where you added the property. It needs to have a comma or something in there, doesn't it?

Brian – After the word "property" a comma?

Alan – You could put a comma in there.

Dave – I think there probably should have been a comma even when the word was "premises".

Alan – Yeah, break up the sentence.

Chad – You need to be able to take a breath in there somewhere. Okay so, 5, 6, and 7, no changes there. Excuse me, 5 and 6, there are no changes. In #7, in the second paragraph we have some changes. We're going to add existing" residences.
Dave – Isn't that just more, this is the right language to refer to an existing residence in the County?

Alan – Yeah, there some nuances to RHC's and CZC's. Rural Housing Certificates and Certificate of Zoning Compliance, there are some parcels out there that have been issued, either one of those and haven't been built on yet. So, this is just a subtlety that we need to kind of make sure that we understand. So, to existing residences, if it's been issued an RHC and a CZC and there is not a house there, the code requires,

there is a house there. We've got to look at it as if there is a house there. It's been granted a permit and for whatever reasons, it hasn't been built on yet.

Dave – Now, here where you've changed "parcel property line", we had "fence" and you changed that to "parcel property line"…

Alan – Yeah, I think it should be the parcel property line for the marijuana facility. Because the fence has to be set back 20 feet from the property line. There is a setback for a fence. So that gives more room between a facility and any residence.

Chad – But wasn't our discussion, Dave, if I remember correctly, that you could buy a much larger parcel and not have the entire thing fenced off for marijuana production and have agriculture around it?

Dave – Yeah, we actually did say a fence.

Alan – Yeah, we did.

Dave – Because the parcels are so big.

Chad – This is outdoor too. This is under the outdoor section, so the fence is only around the growing area, so if you had 200 acres and you're only using 10 of that for actually growing marijuana…

Alan – But you have to have a parcel, a 10-acre parcel. You can't just do it in the middle of 200 acres, the code requires that you actually create a parcel. So, you're going to have property lines to that parcel.

Rusty – But I think our intent was, that you have this 10-acres but the fence could be set into the 10-acres 500 feet so that there might only be 8-acres in fact being used for production, but the owner of the property would be the same as the marijuana facility owner. So, then the fence would be the right wording, not "parcel property line" in that case, wouldn't it?

Alan – Well, the owner of the land, whether he or she has a house close by is usually ignored. They're the property owner, they accept the responsibility there. But, if you put the setback to the property line you're giving yourself more room between a potential residence next door and a marijuana facility. If you put it at the fence, now we're closer. That 500 feet is closer to a potential house.

Rusty – Okay, I see what you are saying. So, by using the property line, then the 500 feet would be on the potential neighbor's property?

Alan – No, it would be on the property line of the marijuana facility. Then you've also got another setback in there, and we're only talking about outdoor grow, 200 feet, the facility has to be 200 feet away from their property lines.

Dave – But, the thing is, actually this doesn't… we're talking about the setback of the building, of the land that is going to be growing the marijuana.

Alan – To the marijuana facility.

Dave – This is in the outdoor section, so we're actually talking about that plotted area that is growing marijuana.

Alan – Yes.

Dave – And we're saying that it has to be at least 500 feet from the parcel property line. The foundation of the residence actually doesn't have anything to do with it. If you bring in the parcel property line. The foundation of the residence next door, on somebody else's property, it doesn't fit here anymore.

Chad – Yeah, because what you've done then is, I mean you have the foundation which could be, you know, 600-700 feet inside their own property and you're measuring from their foundation to your property line.

Dave – Basically you're saying that you've got to have the fence around the marijuana that is being grown at least 500 feet from the house next door. That was the intent.

Alan – Okay, I agree. So, the fence makes it further away from the house. The property line makes it closer to a potential house. So, if you're measuring it from the fence of the marijuana operation to a nearby residence, that distance has to be 500 feet. That is what you are saying.

Dave – Yes, that is what we are saying.

Guy – What is the definition of facility?

Alan – Well, the next sentence down tells you how the setback is calculated. It's measured from the foundation of the residence to either the property line or the fence. Which one is closer?

Guy – Well, you address it as the minimum setback from an outdoor marijuana facility to an existing residence. Well, is just the fenced area the facility or is the property the facility?

Dave – No, see you can say that it's got to be, you can say the setback has got to be 500 feet and it's got to be from the parcel property line, and that will put it further away from the house on the property next door. Here you've got this house, over here, and it's on the property that is not the marijuana facility, and then you're saying that somebody wants to put marijuana in this spot on this parcel next door and what we were saying is, that grow didn't have to be 500 feet from the growers property line, it had to be 500 feet from the residence, possibly in the property next door. Which is

already going to be what 20 feet or 100 feet away from their property line. What we were actually saying was that the actual site of the marijuana growing could be closer than 500 feet from the parcel owned by the marijuana grower. It could be closer but it had to be 500 feet from the residence property over. That is what is being said there.

Alan – Does anybody understand that?

Denis – You want it to be the fence line? You just need to say what you want.

Dave – The fence allows the growing area to be closer to the actual parcel line and that is the intent we had when we had this discussion a month ago.

Denis – If you say the property line and the homeowner, their house is within 500 feet of the property line that exists between the homeowner and the person who is going to grow marijuana somewhere on their property, if you say the setback is 500 feet, then the owner of this property will never be able to grow marijuana because this house is within 500 feet of this property line.

Dave – Right, and that is what we were…

Denis – They could never satisfy that setback. I'm not saying good or bad, I'm just saying…

Dave – No, that is what we were avoiding last time.

Denis – So, you want the setback from the residence to the fence of the grow?

Mark – The I-502 fence, as they call it.

Dave – We spent just about as much time as we just have on the same subject a month ago.

Denis – And I know that 500 feet thing may be a bone of contention.

Guy – Personally I think the 500 feet to the property line to the house.

Denis – Again I'm not saying good or bad, but if this house is within 500 feet of this property line, then this…

Dave – Then that parcel will never be allowed to grow marijuana.

Guy – A person has to make a separate parcel to even qualify.

Denis – Unless they did that, you're right.

Guy – So, he could take, and all we're saying is, instead of being right near that house, he's got to be 500 feet from that house to his property line.

Denis – That's true, that would fix it.

Guy – And that is the simplest language to apply.

Alan – 500 feet to the property line, you could make your parcel there. If it was to the fence, then that fence actually moves, could potentially move closer.

Dave – Right, but it's still 500 feet from the house.

Alan – Right, but one of the added things was, we're pushing it further away from the house if you use the property line.

Dave – But that was not the intent last month.

Alan – I'm just laying that out for you.

Rusty – I understand.

Alan – Do you want it to be closer to the house?

Guy – No.

Alan – If you're okay with that, if you want it further away from the house then you've got to use the property line. Your choice.

Denis – Or increase the footage to the fence line.

Dave – And again, a month ago we had this discussion that, yes the people have to make their parcel… but we specifically were in this case, saying that the non-marijuana growing is going to occur on the (inaudible) part of the parcel that is within the setback, could be okay and that the setback of the fence of the marijuana growing facility itself had to be 500 feet from the adjacent residence. And the parcel line itself did not have to be 500 feet away from the adjacent residence.

Alan – Fine, you now have a choice, two choices.

Mark – Can I just throw out an example for Denis? That you could buy a section of land, 640 acres, and if there is a house within 500 feet of that square mile, you could not grow marijuana on that property, if you go from the property line.

Denis – Unless you divided it up like Guy is saying.

Mark – But State law only allows you to do 4 parcels and it gets a little weird. I'm just saying, make sure you know what you're intending.

Guy – You've limited the amount of grow to begin with, in the whole thing. 640 acres is more than enough, they can section the thing out and be fine. I think it's going to be…

Mark – If that is what you want, great.

Guy – I'm just saying, 500 feet from the property line makes it very explicit and very easy to apply. It's not confusing and it's going to be more palatable to more people who are living in the county. I don't know if it's still acceptable, but I'm just saying the farther away we can make it, the better it's going to be.

Alan – Keep in mind, you're creating a parcel here, I mean, the section situation is not really relevant, because within that section you've got to choose 10 acres. You've got to create a parcel

Dave – If I have landowner A here on the right, and I have landowner B, who owns a piece of land here, let's say he owns 3x what he needs to make a marijuana parcel. You're saying that he has to make his marijuana parcel at least 500 feet away from the property owner next door.

Alan – Yes.

Guy – From the house.

Dave – No, he has to make his parcel line at least 500 feet from that house. But, say he wants to do it…so you're asking him to make a 350 foot strip of parcel, of the other parcel that he's never going to be able to do anything with.

Guy – He can park his car there.

Alan – He can farm it. It's farmland.

Dave – Okay, but again why not let him have his fence at 500 feet from that house?

Guy – Because I want him farther away from the house.
Alan – So, you guys have a choice to make. You've got two options, you tell us what you want to do.

Denis – You've got more than two options here, because you could also increase that 500 foot distance and you can use the fence line. If you wanted to increase it. I'm just saying.

Dave – We went through that one too, of how big of a parcel, you know, if you've got a 1,000 foot setback and you've got 10 acres, there's actually no place on that 10 acres that you could grow marijuana.

Chad – Been through that one.

Dave – We've been there.

Guy- So, we're making it real easy for them.

Dave – In my mind you cannot, through funny language or setbacks, make it actually impossible to create a parcel and put a marijuana grow on it. You can't sidestep, if you're going to outright ban it, you've got to outright ban it. You can't sidestep around it, by making the rules so draconian that in practicality you can't do it.

Guy – I don't think that would do that, to make it 500 feet or more, from that house to the property line of the facility that they are going to get the conditional use for.

Dave – The thing is, somewhere else in here we do say, the minimum setback, right above there we say, the minimum setback for an outdoor marijuana facility is 200 feet from the property lines. So, you're now saying that not only that, but the property line itself has to be 500 feet from the residence next door.

Guy – All the better, now we're 700 feet.

Dave – And then you're at a point where you cannot divide the property into a point to where marijuana is possible.

Guy – Sure you can, Dave. All they've got to do is move back there, step it off and buy 10 acres.

Dave – He doesn't own…there aren't 10 acres there to do it.

Keith – Then he won't put it there.

Guy – Then he's picking the wrong piece of property. The house was there first.

Alan – So, what do you guys want to do, fence or property line?

Guy – Take a straw vote.

Chad – Okay.

Dave – Fence.

Rusty – Fence.

Gary – Property line.

Bob – Fence.

Guy – Property line.

Keith – Property line.

Chad – Wow, it looks like I get to be the deciding vote.

Dave – I will speak, but I guess the other two members who aren't here would go with the fence.

Guy – I'm sure they would.

Rusty – But, they're not here.

Chad – I'm going to go with the fence on this one.

Alan – Oh, and the fence wins.

Dave- You know, we're not done yet, so you guys all get another fight.

Chad – But for now, we'll go with the I-502 fence on that part, until we decide to tackle that again. Moving right along.

Dave – On #10 is kind of the same thing that we discussed in whatever the number under A was. The new A12, the language in B10 should match the language in A12, whatever it ends up being.

Chad – Yeah, that's easy enough for us. Onto page 7, #14 at the top of the page there.

Dave – That is the agreement we had last time.

Alan – Yes.

Dave – to go from 1.500 feet to ½ mile.

Alan – (Laughing) we've got fence line in #2. Dave you lucked out.

Guy – Which one are you on?

Chad – Now we're in Section 19.64.060.

Guy – What happened to #14?

Dave – That is the one I said we agreed last time to make the 1,500 feet to ½ mile.

Alan – Mark, Ken Duft has a question.

Dave – Are we doing questions?

Alan – I don't know.

Chad – If we could kind of wait to the end, Ken, that would be great. Can you write it down and ask it at the end?

Ken – Yes.

Chad – I appreciate that.

Guy – Explain to me again, and I apologize again for my lack of attendance at times, why are we making it ½ mile from municipal boundaries and yet we want to put it within 500 feet of a house?

Dave – Well I argued for no boundary between facilities and cities.

Guy – Well you can argue that as much as I can argue for property lines.

Dave – I agree, right.

8:40 p.m. – Brian Davies joined the meeting.

Chad – The thought behind that was, as I recall, things especially like the City of Pullman and the cluster developments, that was kind of what we had standardized that.

Guy – Why do they have any more rights than the single homeowner out there?

Chad – Right and that was a big discussion. Not just the City of Pullman, but that was the major example. It would go for any municipality.

Guy – What are we opening ourselves up to Denis?

Denis – If you've got a basis for it, then I think it's valid. So, I would guess that a community can be looked at a little bit differently than a single home, in that the number of people that are going to be impacted. An individual person who lives in a community is no more deserving of protection from foul odors than someone who lives in an isolated home in the country. But, when you're looking at the impact that a grow is going to have on the surrounding area, if it's going to have an impact on 100 people versus one person or three people, then I think it would be about a valid restriction to have a bigger setback from a town or an unincorporated area where there is a community of people. Whether you should or not, that is a policy choice.

Chad – Part of that was that we had that ½ mile already mapped for the clusters. So that is an established line already and it's easy to find.

Denis – And if it's an area that is likely to be targeted for growth, an area that people are likely to be moving into and so there is going to be more people there, then that is another reason to give it a bigger setback than a house that is out in a more isolated area.

Dave – The reason we went from 1,500 to ½ mile was to be consistent with other codes. The reason that we went with anything at all, was that was the general consensus.

Chad – Right, most people wanted it and some of us thought that maybe 20 feet was plenty far enough.

Dave – Or whatever matches the other setbacks.

Alan – And the ½ mile also matches the Cluster Residential Code being within ½ mile of the City of Pullman.

Chad – And it's all mapped out.

Alan – And we've mapped that out already.

Guy – Alright.

Chad – And we're trying to make it easy on the GIS guy.

Guy – That part makes sense.

Keith – So, do we need to have another vote on this fence and property line, since we have another member present?

Dave – No, it's a completely different issue that is saying the details we want in the plan that they give as far as the application process. And in the outdoor the fence line actually is the facility.
Rusty – They're messing with you a little bit.

Dave – I know.

Chad – That brings us to, page 8 on the back, striking the last section.

Alan – The last thing, Mr. Tracy?

Denis – I recommend striking that, because I think that just creates grounds for confusion. The language that has been in there is, I would say, is true, but it's not

anymore true if you put it in this ordinance. If there is an existing business and the zoning code changes, then that existing business is considered a legal pre-existing business. I don't know that I would use that exact wording, but it is whether you say it is or not. And if you put it in here, I think that just creates grounds for mischief for me later on. So, you don't need it and there is a potential for problems, so I'd say don't.

Chad – Creates grounds for what?

Denis – Mischief

Dave – Oh, I thought you said mystery.

Chad – I think the reason why we kind of talked about that is because there has already been a lot of confusion on some of the early facilities that are already in existence and yes we recognize the fact that they are grandfathered in. But, I think there is a lot of confusion from some people on those points, I guess. So, I guess it's up to the Board.

Dave – It was another case of explicitly stating the grandfather clause that we all new was there.

Chad – I don't have a problem striking it.

Rusty – The statement is true, no matter whether it's there or not.

Denis – I agree.

Rusty – It's just a case that if it's not there, then it would be up to the existing operations to know their rights as an operation that was preexisting. Not ours to list it telling them that. That is what you are saying.

Denis – Yes.

Chad – I think we're good with that. Shall we move along with our definitions?

Keith – Or did you want to take the questions?

Chad – Oh, yes. We have two questions, I think.

Kathleen Lloyd – On page 7 #14, when we were talking about the distance from municipal boundaries of the incorporated towns and the unincorporated communities within Whitman County. Does that mean the unincorporated communities are cluster housing? I know there was discussion about trying to protect cluster housing from facilities being near them and nothing else actually ended up addressing it. I think we forgot that along the way, but if unincorporated communities counts as cluster housing, if we're trying to have the impact low for large groups of people, that would make sense to include that there. And if not, do we need to include that elsewhere, like on our list of

sensitive areas, like we had talked previously. Number 11 on page 3 and then there was a second place for outdoor grows. But the cluster housing, we were going to talk about it and make sure it was included and it's not there anywhere. Or groups of houses that are together, we're not talking the one lone one in the middle, but you know, where there are 6-7 houses or whatever all together.

Chad – So, if memory serves me correctly, unincorporated communities would be places such as like Albion, Farmington, and Steptoe.

Alan – Yeah, so they are specific communities that are named and Cluster Residential is not one of them. Cluster is a totally different thing altogether. So, the examples would be Steptoe, Thornton, those are unincorporated towns that at one point in time were incorporated or were intended to be incorporated and never eventually did that. So, they've all been platted, so they've got lots and blocks there and they never really expanded. So, that is an unincorporated area. And we have put in here, within ½ mile of Pullman so some of the clusters are actually no outdoor grows within that ½ mile of the city limits of Pullman and also the unincorporated towns. Some of the clusters are within that, not all of them.

Kathleen – But not all of them.

Alan – Yeah, and then the setbacks to individual houses on top of that, so some of the houses, such as in your area, will have those setbacks that we've put in here for just residences.

Chad – The other thing to remember is, your particular area is not a cluster development.

Alan – That's right.

Chad – That whole development out there on Country Club Road is all under the old rules of the 3 year set aside. And I think after we deliberated on that, we decided to pretty much treat houses as houses, not separated clusters from houses.

Rusty – So, just so I understand then, say somebody wanted to have a grow outside of Farmington, I'll just use that as an example, where it's non-incorporated, then the regulation of 500 feet from the fence would fall for those people. And if they are an incorporated town, the distance would be ½ mile, or 2.640 feet, is that correct or not?

Guy – No, it says from incorporated and unincorporated.

Rusty – Oh, okay.

Alan – So, Farmington is incorporated and Steptoe is unincorporated, it's still the same.

Rusty – Okay, I see that now.

Dave – But you are talking about things where there is a plat where that was put in place.

Alan – Yeah, that is the interpretation of an unincorporated town.

Dave – Where a town was platted but it hasn't been incorporated or it was incorporated and it has become unincorporated.

Rusty – Okay.

Chad – Ken, you had a question?

Ken Duft – Well, thanks to the question from the young lady, my concerns have been addressed. Thank you.

Chad – Thank you.

Denis – Sorry for missing a lot of this discussion that has already gone on, but could you clarify for me then the setback for an indoor grow operation?

Alan – Setback to what?

Denis – From anything, I don't know.

Dave – Actually setbacks for an indoor building are pretty much the same as the setbacks for any other building and any other commercial and industrial.

Alan – It's just the same as any building, any business, it's a 20 foot setback to the property lines.

Dave – In fact, actually didn't we, yeah that is all in #3, A3, subject to the development standards of the underlying zoning district.

Alan – Chapter 19.10.

Dave – Any building is subject to whatever the zoning code already says.

Denis – So, you all are much more familiar with the zoning code than I am, so a business building coming to…being built, those setbacks are..

Alan – Well, it depends on where the location is.

Denis – In the AG District.

Alan – In the AG District? Twenty feet to the rear and side property lines and depending on what road it faces, on major roads 35 feet, minor roads 20 feet.

Denis – Okay. And is there an existing setback, I'm not talking about marijuana, but just a building in regards to a neighboring house?

Alan – Not house to house. Well, houses are different than business.

Denis – Well, if it's a business that is going in, and the developer is putting his business building here, their restriction are from their own property line, it's nothing in regards to a neighboring use, whatever the use is?

Dave – Well, if they are putting a business into the AG zone…

Alan – It has to be allowed first.

Dave – It has to be an allowed business.

Alan – It's got to be zoned for that particular business. That is the first thing.

Denis – Okay, so let's call it a marijuana business then. So, then this code would apply as a conditional use permit and the Board of Adjustment would require the, on #3 there, the development standards of the underlying zoning district and could the Board of Adjustment increase that? I know that in the outdoor section they can increase the setbacks, you label minimum setbacks, can the Board of Adjustment, is there a provision where they can require more?

Alan – Not for indoor. The presumption is that odors are contained within that building, therefore why treat it differently from any other business.

Denis – Okay.

Rusty – And we discussed if the business doesn't comply with the odors, they could be shut down.

Alan – Yeah, we've got that written down in here, if there is odor problem, it gets investigated and the language is in there that it can be shut down, yes.
Denis – That was my question, thank you.

Brian – It is my understanding that any business, any indoor business facility, is going to have an I-502 fence around it.

Alan – Yes.

Brian – As part of the State's requirement. So, there is that perimeter besides the setback.

Alan – Correct. And there is a 20 foot setback for the fence to the property line, as well.

Kathleen – So, I just want to reiterate that a marijuana business is different than any other business, it's a controlled substance and the State treats it differently and has many other restrictions on it. And if you have it 20 feet from a residence property line, first of all you're right, it has an 8 foot fence, there's lighting issues, there's going to be water use and it is different than any other business. And some of my concern is that, I have a copy that I did show you guys at one point, of the rural residential use, residences have to be 1,500 feet from another residence and why should residences have to have such a stricter rule than businesses? It doesn't make sense, it's not consistent, why should a business be able to be 20 feet from a house and a person can't build a house 20 feet from another property line? It doesn't make sense, it's not consistent. And the reason why they have this is they wanted to preserve their view and if you have an 8 foot fence 20 feet from the property line and you have lighting that is required, then your view is shot and that is why you can't build a house next to it. And so, it doesn't make sense that you can have a business and especially a business that requires all this other stuff. It ruins the people's residences out in the country. It's not fair, it's not right. Why do residences have to do it and marijuana businesses don't? Well they can contain the smell, but there is more than the smell.

Audience member spoke without the microphone, unable to hear their comment.

Kathleen – Well that is different, that is a different subject.

Chad – So, basically what it comes down to is we are mirroring the same rules that any other business has within the Agricultural area.

Kathleen – This is different.

Chad – You say it's different, the Board currently has a different opinion on that. If you can't see it, you can't smell it, it's the same. We're not going to treat them differently. Thank you.

Brian – There is no way that a residence could be 20 feet from an existing grow, indoor operation, I mean, there is no way.

Chad – We're going to move along to the definitions. The first one that we have a change on…

Dave – I understood that there was a definition that we don't have here, a change to Agricultural Activity.

Alan – Yeah, you don't have that yet. I haven't changed that yet, for you to look at tonight.

Dave – And we're not going to have it to look at tonight.

Alan – No, I'll give that to you as soon as possible. Mr. Chairman, can I just ask a favor here, we've asked Chris Skidmore from Environmental Health to come here tonight to talk about water. There were some questions raised about water usage and legality et cetera et cetera. And Chris with Environmental Health would like to talk about that and explain some things.

Chris – Okay, so I believe there were some questions about how we determine legal availability of water in Whitman County. And so, you can prove legal availability of water one of two ways. The first is very easy, you have an existing water right. The second way is to file a notice of intent with the Department of Ecology (DOE) 72 hours prior to drilling the well with a licensed well driller. The well driller comes out, he drills the well then you are required to prove potability and in Whitman County we prove potability by way of a nitrate and total coliform test. And so as soon as they pass those tests, they then put the well into a beneficially use and so that can be unlimited stock watering, 5,000 gallons or less per day of industrial use, 5,000 gallons or less per day of residential use or I think it's up to ½ acre of irrigated lawn. And those are your exemptions. And as soon as you put that to a beneficial use you have demonstrated legal availability of water. And those are the only two ways that we determine that right now.

Dave – That second part, that doesn't suddenly constitute a water right?

Chris – So, as soon as you put that second, so as soon as they put that to a beneficial use, that in time starts the water right for that well.

Keith – You said watering livestock is unlimited water?

Chris – Yes, right now stock watering is unlimited.

Brian – So, that is kind of like improving on a mining claim or whatever, when you improve on it, then you establish a timeline for ownership of that water right.

Chris – Yeah, exactly. So, if I punched my well yesterday, I put it to a beneficial use, had the potability tested, that day starts my water right.

Dave – Can I ask for additional clarification? That is a water with the State of Washington and at this time we don't have anything that talks about the limited amount of water that might be available overall in the county, in the ground or anything like that.

Chris – Okay, so for right now our water basin is considered open by the DOE. So, there aren't any restrictions other than that 5,000 gallons or less. So, other water basins throughout Washington State have had that 5,000 gallons or less get knocked down and I think they have gone all the way down to 1,250 gallons per day, in some areas, but we're not there.

Dave – That could happen to Whitman County, but it has not as this time.

Chris – Yeah that could happen to Whitman County and that is going to be, probably be something up to the DOE to establish.

Keith – What constitutes livestock? I mean, is there a limit, if I've got two cows then I've got endless water?

Chris – That's a good question. I think that is getting down to the weeds a little bit, but that would be something that the DOE would be able to weigh in on a little bit more to kind of define what that unlimited stock watering really means.

Chad – If you've got two cows and you're pulling 1,000 gallons a day, you've got some issues.

Chris – I think if you're in a closed water basin and you were trying to claim an unlimited stock watering and you had one cow and you were pulling 20,000 gallons of water, the DOE, there is a very good chance that they would come down and say hey.

Chad – I think if I remember correctly, that when you get into it, they're talking about watering and actually providing water to those animals and not irrigating ground for feed.

Chris – Exactly.

Keith – But, my brother-in-law has his cows on my property once in a while and I water his cows. That's in the weeds, right?

Chris – Yeah, I think I would reach out to DOE for a little bit more clarification on that aspect.

Chad – Right now, I mean, we have a couple years ago when we had a power outage, we had to haul water and for all of our critters, we were only hauling 250 gallons a day.

Keith – He's got 180 head.

Chris – And it should also be mentioned that those exemptions, you can stack them. If I'm on my parcel I can pull 5,000 or less a day for industrial, I can pull 5,000 or less a day for residential and I can also do unlimited stock watering. I can stack all three of those. And so that is a lot of water.

Guy – I didn't realize that.

Brian – That's a lot of water.

Chad – Are there any other questions right now?

Dave – In a lot of cases that is what is allowed not what is actually happening.

Chris – No, exactly.

Chad – You don't have to use it or lose it.

Kathleen – So some of this discussion is because last time I was concerned about water in the marijuana facilities. I was suggesting that we include in the ordinance a total of no more than 4, possibly 5 tiers in the conditional use permit of marijuana production on any, I guess at any location, because the government website fortress estimates how much water each tier is going to use and we don't want to approve a business that we know is going to be using more water than is legally allowed. So, yes they are legally allowed to use 5,000 gallons of water a day, but if we have 10 tiers there we know they're pulling more than that, because we know that they take that much water. And so, that is why you are probably here, is to clarify some of that. But, I've been talking with the DOE and the conversation was, DOE takes care of all of that, they monitor all of that, that's not our job, but everything else in the conditional use permit, we go over to make sure it is complying with the law, why not the water issue as well. And when I went back and talked with the gentleman again he told me in this email, almost all exempt uses are not monitored by DOE, so if we don't do this then they could easily be taking more than their water if we don't have some kind of cap on how many tiers are allowed at any kind of site. I am curious about the piggy-backing that you are talking about is, because he actually was very explicit about and he said that he was willing to come a talk to us about this, I'm surprised we haven't followed up with that, because he's done it with other counties before and is happy to talk about it. He said that there has been several court cases where several different, okay so one company will have different names and they are drawing from the same well and trying to piggy-back like that and say we're different organizations and so we can have our own and actually the law has gone in and they have gotten in trouble for that. So, we should have him come and explain that, but he gave me some links for those court cases.

Chris – Campbell and

Kathleen- Yeah.
Chris - Is that the one you are referring too?

Kathleen – Say that again?

Chris – Is it Campbell and Gwinn, the case that you are referring too?

Kathleen – Hold on, I'm scanning through the email. Significant law, decisions around exempt cases. Campbell and Gwinn is one of them, I have links. Kim and PCHB, Kittitas-GMHB.pdf. They're on the DOE website and he sent me links for three different of those law cases. But the other thing he said is that in 2016 there is a Hirst case that says that the counties are responsible in water use. So, counties responsibility in water use was established in the Hirst case and he has a link for that, in 2016 saying that by law under the Growth Management Act, that, okay I can go back and look at that.

Chad – the Hirst case was fixed through legislation, so that one is pretty much a no point at this time.

Kathleen – Well no, but it says the counties under the GMA have to under the conditional use permit make sure that you're not approving a business to be there that is going to be using more water than they are allowed to use.

Chad – Right and what I am telling you though is, through case law, that was fixed legislatively and that court filing or whatever you want to call it, that lawsuit has been taken care of. They changed things legislatively, they changed things because they couldn't make the counties responsible for everything.

Dave – The legislature addressed the findings in Hirst and put it back into Ecology, if I remember right.

Kathleen – That is not what Ecology told me.

Chris – Okay, so the Campbell and Gwinn case that you are referring to, that is not the same as stacking water exemptions. That is a little bit different. So the Campbell and Gwinn, and I don't want to get down to the weeds too much on that one either, is when a group formed a bunch of different LLC's and they had one big chunk of land and they split that thing up into quite a few different pieces and they formed a bunch of LLC's so it looked like there were a bunch of different buyers, buying these and forming these clusters and then they wanted to pull a 5,000 gallon water exemption on every single one of those parcels and it doesn't work like that. That huge one chunk of land that they split up is subject to one 5,000 gallon exemption, not one for each and every single parcel that they created. So, it's a little bit different, so they weren't stacking those exemptions on top of each other, they were trying to claim multiple exemptions for each and every parcel that they had just created.

Kathleen – Can you help me understand what the stacking means then?

Chris – So the stacking is, I just have one parcel of land and I want to pull, say I pull 5,000 gallons per day out for my residence and then I have maybe some livestock and I want to maybe pull another couple thousand out for them, I can do that. I've stayed under my 5,000 for residential and then I can do unlimited for the stock water.

Dave – And if for some reason you have a greenhouse business next door, you can do 5,000 for it.

Chris – I would be allowed up to 5,000 gallons per day for the industrial too.

Dave – So, to get back to what we're, I think the one point that I do understand that Kathleen may have something to say is, that there are tiers or sizes of marijuana grows defined and some of them, there is some statistics or knowledge that they will use more than X amount of water. And she is asking us, should we put into our ordinance such

that we don't allow grows that will use more than the 5,000 gallons of water that they would be permitted. I think that is really the bottom line of what is being asked of us. I personally think that Ecology is going to do a good enough job of taking care of things for us. But, just to get us down to the discussion of what I believe is being asked.

Chris – And I can't comment about how much water usage these tiers and stuff pull out of the ground, I just don't know.

Chad – So, right now while we're here, let's table that discussion on the tiers and the water usage. Are there any other questions, right now for Chris?

Chris – And I can show up at more meetings too, to provide clarity for you guys if you guys have any more questions, I'm more than happy to.

Chad – We appreciate that.

Kathleen – So, just so I am clear, it's not 5,000 gallons per day per well, you can have one well and several different uses for that well?

Chris – Pulling off that same well. So, you can stack those exemptions on that same well. So, that one parcel that we're talking about, where we're stacking exemptions, that's not multiple wells, that's not like a well for the stock watering, a well for the residential and a well for industrial, they all pull off the same well.

Chad – And conversely if you had two houses pulling off the same well, it would only be 5,000 for those two houses.

Chris – Exactly.

Kathleen – Whoa, Whoa, say that again, I thought you just said…

Chad – If you have two houses sharing one well, those two houses have to split that 5,000. They don't get 5,000 each.

Chris – So, the well is under the 5,000 exemption, it's not the person. So, the well that was drilled and the parcel that it is on is under that exemption.

Brian – It's based on the use. So if it's residential use, the total is 5,000 regardless of how many houses have to split that 5,000.

Dave – And if that proves inadequate, then they have to drill another well.

Chris – Yes. You can see that if that was a lucrative land developer, like in the Campbell and Gwinn case, I would want to take a 50 acre parcel, split it up into 100 parcels and get a 5,000 gallon exemption on every single one of those and that is kind of what happened there and they got caught.

Alan – Thanks Chris.

Chris – I am more than happy to show up at any future meetings.

Chad – Thank you, we appreciate it. So, looking at the time.

Alan – One last thing, and we can get that out of the way pretty quick. The definitions, so we looked at different definitions and this one comes from Spokane County. Denis liked it, so what do you think?

Chad – Which one are you referring to?

Alan – The alternative in yellow.

Dave – So, we're moving over to page 7, the 19.03.356.

Alan – Yes. And the original one we've got is the one before it, Marijuana.

Dave – And for what it is worth, I wondered what was that RCW and I did look it up.

Alan – It's huge.

Dave – But, the definition of marijuana in that RCW is exactly what you had before in 19.03.356, so yeah, referring to the, I'm all for, rather than replicating the language from the RCW, to referring back to the RCW. I wanted to know what you were trying to change on this and in fact you're not changing anything.

Alan – Well if you look, and Denis may want to pitch in here, if you look at the language in this, the one under yellow, it talks about agriculture and Whitman County. It kind of explains the definition, the difference there. We thing that is a little better than what we had before.

Chad – So, you said the 69.50 is more or less is what is already said in what we have.

Dave – Right.

Alan – And that is already referenced in the body of the code anyway.

Chad – I just wanted to make sure that I heard that correctly. Because I was confused on what this whole deal was about, why we had two separate definitions.

Alan – It's just an alternative for you, a choice.

Chad – I get it now.

Rusty – I have a question. Denis which one of these did you like the best, the yellow one or the other one?

Denis – The yellow one.

Rusty – Okay.

Denis – I liked the yellow one, because like Dave is saying, it abbreviates but says the same thing, but it also then adds the other stuff about, that it recognizes that marijuana is a controlled substance and that supports why you are treating it differently. While I have the microphone and it's on, I'll just jump in on that water issue and say that I know that it's difficult to monitor…

Chad – Just a moment Denis, Kathleen if you guys want to talk take it outside because I can't hear, I'm sorry.

Denis – I was just going to add on that water issue, you're not going to resolve it tonight, I know. But, I know it's very tough to monitor how many gallons are coming out of somebody's well, but if there is a study that shows how much, and I'm going to use the word, canopy area, which might not be right, but many gallons typically are used in a certain amount of canopy area, that's one condition that you could require in the conditional use permit, is limit the canopy area per conditional use permit, would then necessarily limit the number of gallons that are at least required, just so they would know exactly how much people were pumping. But that would limit the requirement to support that canopy area.

Chad – If you do that though, I mean for argument sake, they have some fancy water reclamation process where they're not using much of anything, then you've suddenly limited them on your canopy even though they are not using any more water.

Denis – That is a very good point. Maybe it only could only apply to an outdoor grow. Even then, I don't know if they've got a sophisticated water system.

Chad – My personal belief is, I don't want to be involved in water regulation, because that is a slippery slope that agricultural in general is having a hard time with.

Brian – Denis, do you recall our field trip?

Denis – Yeah, right.

Brian – So, I think best practices in these facilities is to run a hydroponic system, which means they recycle their water. So, I think we may be getting lost in the weeds here guys. They are not using as much water as a house with six kids.

Denis – For the indoor grows especially.

Brian – For the indoor facilities, correct.

Guy – On commercial establishment, the State can require you to put on a water meter anyway.

Chad – Yeah, and then it's back in the DOE's hands, not ours.

Guy – They get the right to require that on residences.

Dave – I think if we were a county that leant itself to irrigated agriculture there would be a lot more of it than just marijuana. And we do not have circles all about our county like others, so there are other factors that are at plat there. Probably one of which is the acknowledgement that our water supply is limited. What about all the other red definitions, do we have…And just to kind of cut to the chase, does anyone have any problems with any of them?

Chad – I didn't see anything when I read through them.

Alan – We put these in the front of the ordinance, initially, as you know, and so we decided not to have that and put them in Chapter 19.03 instead. So, basically you've looked at these before and they are all in the RCW's or the WAC's.

Chad – While you guys are looking over that, Mr. Burton has a question.

Jim Burton – My question falls somewhere in between definitions and what we're talking about. And I need to go clear back to the front of your proposal and when you say addressing the use and growth, in Section 19.64, I guess I need to have Denis tell me what is a drug, what regulations refer to, are referring to production of drugs, manufacturing drugs? When you say growing and processing marijuana. What is processing marijuana?

Denis – That is a great question and I think it's in the definitions, which I don't have in front of me. I think there is a definition in the code.

Dave – We've got those here under 19.03.357 and 19.03.358, in the new definitions on page 7 of the definitions.

Jim – When you say processing, what is the difference between marijuana processing and a drug manufacturing unit, like Cigna or any of the rest of them? Are you guys permitting a drug manufacturing unit in Whitman County?

Chad – No, because the State has decided that marijuana is not the same as other…

Dave – Okay, I think a different answer to that would be, if some pharmaceutical company wanted to put in a plant making aspirin in a proper industrial area of Whitman County, we'd be all for it.

Alan – Yeah.

Dave – I'm not saying that any company or pharmaceutical company wants to do that, but there is nothing in the codes that would say that they can't.

Alan – As long as it's legal.

Denis – I don't have the definitional sections in front of me. Can you ask your question again?

Jim – My question is, what makes this marijuana production and processing different than a drug manufacturing process?

Denis – I don't think it is necessarily different, other than its being called out into a different, under this proposal, it's being called out into a different section of the code and identified specifically. Because there is a recognition that it involves a controlled substance and under the Federal law, and yet under the State law, it's regulated by the State Liquor and Cannabis Board. And so, this is an effort to have the two systems work together so that business owners can conduct business that is legal in the State of Washington.

Dave – I remember that we did have some discussion about putting language here to facilitate this applicability, that if for some strange reason, the State of Washington were to legalize the growing of opium poppies or some other controlled substance and we pretty much chose not to take those steps, but at one point we had some of that discussion, of a controlled substance crop other than marijuana potentially becoming legal in the future. And we didn't do that.

Denis – I'm just thinking of the problems that could have.
Dave – The big problem still is going to be Hemp, but that is a different issue.

Denis – I get the sense that you're going somewhere with this question. Do you think there is a conflict in this area?

Jim – Yes I do think there is a conflict in that we're asking these people to say okay, you can grow marijuana and process it in Whitman County and we're going to give you a permit to do it. But there is no regulation on the processing program. I think we're asking these guys to say okay you can do it, it's a crop. Now we're going to process it and as we've been told, the marijuana that we're growing right now is several times stronger than the old marijuana. It's a drug that we're trying to get out of the marijuana. So now we're processing it. Those are two different things, growing and processing and we've combined it all into one operation. We kicked out the hemp because we said, nope we don't want to address hemp. Well marijuana is a hemp product. Now I think we need to address the processing program and I don't think that is clear.

Alan – Well, Mr. Burton, it is very clear. It is called the Liquor and Cannabis Board. Highly regulated how you can process, produce and grow marijuana. There is no need for Whitman County to do that. When these people get a license, they are strictly regulated in how they produce and process marijuana. Highly regulated from the seed to the retail outlet.

Denis – So in theory, the zoning code could address processing in a more rigorous way, it could. And if there were particular aspects of processing that were particularly dangerous or something, then I think the Planning Commission would want to take a look at that, like the production of fireworks. If there was a serious risk of explosion, I would guess that maybe that might…But, zoning is just concerned with location, basically and the general use. The specifics of keeping a production facility safe, that is has a certain level of cleanliness and isn't spilling its contents out, that is governed not by the zoning code but by the Liquor and Cannabis Board, it's supposed to be anyway.

Mark – Can I just add to that a little bit? The building codes address a lot of the explosive and safety issues, which is not land use based but building occupancy and use based. So, anytime we get a new building proposed for something like a processing facility, we go through a fairly rigorous code review of what they are going to put in a building and how to deal with it. Those of you that are on fire response teams know that there are some real big issues with that. One of the early on issues that we looked at with cannabis, was the use of butanes and explosive fuels and it turned out that there were a lot of people all excited about that but it turned out that it wasn't much more than a lot of other building uses, you just had to deal with it in your building code issues. So, that is as least a partial answer to that at the local level.

Chad – A lot of those things, Colorado was kind enough to show us the light on. They were doing things that were really not that safe, buildings blew up and we decided that we're not going to do it that way.

Mark – I think the new International Building Code actually has more on it than the last version, from what Dan Gladwill, Building Inspector, tells me. So, that is at least part of that answer, I think that might deal with some of that. But, the land use is what we are dealing with in this particular part of it.

Chad – Right.

Comment made off microphone.

Mark – They have, but any given facility that is why we look at them individually.

Keith – So when is the next meeting.

Chad – Well according to my schedule, it looks like maybe February 5th would be our next one.

Dave – Does Alan have any more to give us, like perhaps the list of those alternatives we talked about earlier?

Alan – Yes, so I'm going to suggest that we meet before February 5th, whatever that date is…

Chad – Okay, so are we going with the third or the fourth Wednesday in January?

Dave – I am not available on the 22nd, because we are having a special meeting of the Pullman Planning Commission.

Chad – Well, January also has six Wednesdays in January this year, so we could…

Alan – Yeah, it's an off time.

Dave – I am available on the 15th or the 29th.

Alan – The 15th is too short notice.

Chad – The 29th would be one week before our regularly scheduled February meeting.

Alan – So, here is what we still need to accomplish. One, you need to settle on something here and I don't know that you have right now with the ordinance, but we need to go over the Findings and the Conclusions and then the list of alternatives. So, that is kind of the objective for the next meeting. And the end of January, if that works or the beginning of February, which would you prefer. I mean, there is only a week difference there.

Rusty – Which is best for you?

Alan – Maybe just the scheduled meeting in February 5th. Is everybody okay for that date? I'm going to be sending you, we've got some changes that we made to the Findings, so I'm going to put that together and we'll send that to you, probably tomorrow. And then the list, we haven't quite finished that yet, but when we get that one done and then there is a change to Chapter 19.10. We need to add in conditional use, marijuana into the conditional use list, so that is a minor change. But, that is going to have to be a part of the package that you hopefully, eventually get to send over to the BOCC.

Chad – So, it sounds like maybe doing the February 5th meeting and then depending on how things go there, possibly doing the 3rd Wednesday in February.

Alan – And we're getting close to trying to make a decision on this ordinance. So, put your thinking caps on, what do you think? Eventually you're going to have to pull the plug on this one and find out which way you land. But, let's go over the Findings the next time we meet and the list. And of course you can add to that list, subtract from that

list, you can change things, it's going to be your list. I am trying to capture as much as we have gone over, over the last several months.

Chad – So, this list that you are talking about, just the Findings of Fact, not…

Alan – No, no. The list of alternatives.

Chad – Oh, okay. I was just making sure I was on the same page.

Rusty – What day is the 5th?

Alan – It's going to be a Wednesday.

Brian – So, that is our date?

Dave – That is our regularly scheduled meeting.

Rusty – The only thing that I can of that is a conflict, and I'm not going to worry about it, but the AG Show is the 4th, 5th and 6th.

Chad – I believe you are right.

Rusty – So, if any of you were going to go on that date, you would just have to make sure that you were back.

Dave – Where is it?

Rusty – In Spokane.

Karla Barton Keefer – I was wanted to clarify, you were saying the 3rd Wednesday. What date is that, after the February 5th?

Katrin – That would be the 19th.

Chad – Yeah, that would be the 19th of February, the 3rd Wednesday of the month.

Karla – Thank you.

Alan – So, if we get the entire package talked about on the 5th, maybe on the 19th?

Chad – Yeah, we'll see how it all goes.

Dave – Hold an actual hearing?

Alan – Well, if you're ready for a hearing on the 5th, if you decide that you're ready.

Dave – After the 5th, if we decide we're ready.

Alan – Right, after the 5th, if you decide that you're ready. Here is the other step, the SEPA, there is a SEPA involved here so I'm going to have to have a final decision by you guys, what you want to do and if you decide on an ordinance and send that over, then we've got to run a SEPA. If you decide that you've got something, on the 5th, then immediately I'm going to start running the SEPA. So, that is a 14 day comment period from the Thursday when we get it into the Gazette. So that would be the following week before we could get it into the Gazette. So, we've probably got three more weeks after that, before the SEPA comment period is up.

Dave – So, you're really looking at the 4th of March meeting.

Alan – The beginning of March for the earliest possible time to have a public hearing with the Planning Commission.

Chad – Okay.

Rusty – Sounds like a good schedule.

Chad – Is there anything else?

Alan – That's it.

9:38 – Adjourned.