

**CLARK COUNTY
PLANNING COMMISSION MINUTES
Thursday, April 18, 2013**

**Public Services Center
1300 Franklin Street
BOCC Hearing Room, 6th Floor
Vancouver, WA**

6:30 p.m.

I. CALL TO ORDER

II. ROLL CALL & INTRODUCTION OF GUESTS

DELEISSEGUES: Good evening everyone. I'll call the Clark County Planning Commission to order for Thursday, April the 18th. Roll call, please.

USKOSKI: ABSENT

BARCA: HERE

GIZZI: HERE

QUTUB: HERE

MORASCH: HERE

DELEISSEGUES: HERE

JOHNSON: HERE

MCCALL: All present and accounted for with one absence.

DELEISSEGUES: And before we go any further, I'd just like to introduce Karl Johnson on my left, he's a new Planning Commission member. Welcome to the Commission, Karl.

JOHNSON: Thank you, Dick. Thank you. I appreciate that.

III. APPROVAL OF AGENDA AND MINUTES

A. Approval of Agenda for April 18, 2013

DELEISSEGUES: Good to have you with us. Approval for the agenda tonight, is there any changes to the agenda? Here's your chance.

BARCA: Oh, this is my chance. Wow, we have quite the echo going on. Commissioner, I would like to propose that we move the winery ordinance to the head of the public hearing items since we seem to have a large group for the winery ordinance out here in the audience.

DELEISSEGUES: Is that okay with you, Jeff?

NITEN: Actually, Commissioner, the planner that's responsible for that portion, Gordy Euler, was called to jury duty.

BARCA: And he won't be present?

NITEN: Oh, there you are.

GIZZI: I was like I thought I just saw him.

NITEN: He wasn't here five minutes ago. Okay.

DELEISSEGUES: Is that okay?

NITEN: That's fine with me.

DELEISSEGUES: Then we'll move B to A and A to B and we'll start with the wineries. But, first of all, we want to approve the minutes while we go back. Does everybody agree with the agenda? All in favor of the change. Motion to approve from anybody?

QUTUB: I move we approve --

DELEISSEGUES: The agenda change.

QUTUB: -- the agenda change.

GIZZI: I second it.

DELEISSEGUES: All in favor.

EVERYBODY: AYE

B. Approval of Minutes for November 15, 2013

DELEISSEGUES: The minutes for November the 15th, 2012, any changes? If not, motion to approve.

GIZZI: I make a motion that we approve the minutes for November 15th, 2012.

BARCA: Second.

DELEISSEGUES: All in favor.

EVERYBODY: AYE

IV. COMMUNICATIONS FROM THE PUBLIC

DELEISSEGUES: Is there any communications from the public tonight on any issue that's not on the agenda? Okay, seeing none, we'll then move to adoption changes to the winery ordinance. Mr. Euler, that is in jury duty.

V. PUBLIC HEARING ITEMS AND PLANNING COMMISSION ACTION

A. ADOPTION OF CHANGES TO THE WINERIES ORDINANCE

EULER: Yes, sir. Thank you. Just flew in from --

DELEISSEGUES: Good to see you here.

EULER: Yeah, it's good to be here. It's an interesting trial. Marilee.

DELEISSEGUES: Do we have a staff report?

EULER: Yes, we do. I'm waiting for her to pull up the PowerPoint presentation. For the record, I'm Gordy Euler, Clark County Community Planning.

BARCA: It doesn't look like it.

NITEN: Dick, do you have the sign-in sheet for --

DELEISSEGUES: Pardon me?

NITEN: Do you have the sign-in sheet?

BARCA: Oh, sign-in sheet.

DELEISSEGUES: We'll get them in a minute. Yeah, go ahead, might as well get them now. We're being --

GIZZI: No mouse.

DELEISSEGUES: No signal.

GIZZI: Yeah, there's no mouse, Gordy, that's what the issue is.

DELEISSEGUES: Gordy, was there anymore back there?

EULER: I don't think so, but I'll check. Those were the only two I saw.

DELEISSEGUES: Well, if we never see your PowerPoint, can you do without it?

EULER: No.

DELEISSEGUES: No?

EULER: It's the one we showed last at the work session and you need to see the -- the viewing audience and the audience needs to see the changes that we're proposing, the language, so...

BARCA: Oh, dear. Let's take a break.

DELEISSEGUES: We could be here a long time.

EULER: I hope not.

QUTUB: They need to make copies.

EULER: Well, we have one option might be to send Jeff first, reverse the order.

MCCALL: Well, I need to get his map up on the screen too.

NITEN: That one doesn't have a light in the bottom.

BARCA: So we're just a few batteries away from success.

EULER: Jeff.

DELEISSEGUES: Maybe we should have started with the other one first.

BARCA: He needs the map.

QUTUB: He needs the map, yeah.

BARCA: We are tethered to technology and crippled all at the same time.

EULER: I can give you the background of sort of where we're at, but I can't --

DELEISSEGUES: Yeah, why don't you.

EULER: But what I wanted to do is show you what some of the proposals, suggested changes were that we want people to comment on, so...

DELEISSEGUES: Fine. Give us some commercials, anything.

EULER: Now a word from our sponsor, yes. Again, my name is Gordy Euler, I'm with Clark County Community Planning. And I apologize for the delay here. Hopefully we'll have a PowerPoint presentation up, there are copies in the back, and what we're here to talk about is some potential changes to the Clark County wineries ordinance.

We adopted a wineries ordinance in October of 2010, Ordinance 2010-10-02, and this was to allow wineries to have tasting rooms and/or events. Wineries by definition in the Clark County code are an Ag use, and as such wineries themselves don't need any kind of County review, it's when you add a tasting room or want to have events that the review is required. The new section of the code is Section 40.260.245.

Since the ordinance was adopted one winery has gotten land use approval as well as meeting the necessary building and Health Department requirements, and other wineries that require a permit are in various stages of compliance.

Response to some ongoing issues. County staff met with vintners in June of 2012 in a meeting that was chaired by Commission Stuart, and in a subsequent work session with the Board, staff was directed to look at three issues. The first of these was definition of event. The second was the applicability of noise standards, and the third was what is referred to as on-site food service.

And with regard to the three items above, the following changes to the wineries ordinance are proposed. Again, this is in the staff report if you're following along. Definition of event. Again, you will see this in the PowerPoint presentation. The proposal is to delete the definition. It's the Board's feelings - and which that's why we're here tonight is to talk about the ramifications - is that we would regulate the noise and traffic and parking and other impacts of the event itself, rather than say you can only have so many events or they're limited to so many people.

So the result of this proposal if recommended by the Planning Commission and adopted by the Board, would be to remove the limit on the number of events or the size of events. Although, the Sheriff's Office would have to be notified of any gathering of more than 500 people, and that's consistent with County code. Thanks, Jeff.

Staff had proposed defining an event as something that was advertised that was done by the winery itself, such as a public event at concerts, or for which the facility was rented, a private event, a wedding, a reception, a conference, a meeting, but there is no real good definition that works well.

We'll look at the current definition here. Oh, we do have this up here. Oh, good. Back to our regularly scheduled presentation. The plan -- can the Planning Commissioners see this in front of you?

BARCA: Yeah.

EULER: So, again, apologies.

DELEISSEGUES: Can everybody see that or do you want the lights turned down a little bit? Is it okay?

EULER: I think I've covered most of this. Again, a winery permit I didn't cover, is a review similar to what a home business permit review is. Type I if it's on a public road. A Type I is an administrative decision, it's essentially an over-the-counter action. Type II is a neighbor notice, if the neighbors have issues. Generally, if a winery takes access off a private road, then again there's standards for parking and noise and number of events currently. Restaurants are not allowed because we don't allow restaurants anywhere in any rural area, so that's one thing to keep in mind when we talk about how we define on-site food service. And an event management plan is required.

I think I've covered most of this. We met with the vintners. The Board had work sessions on January 30th and February 20th of this year, asked us to look at these three things again. You'll see in the markup of the wineries ordinance we want to rename the permit to a wine tasting/events permit. I'm not sure what it's called now, but it seems a little long and complicated. And combine the development standards into one section. So you'll see a lot of highlight and strikeout, but the main things we're concentrating on are these, the three bulleted items here.

With regard to event. Again, events, the current code definition you can see there means activities such as weddings, receptions, concerts, meetings, retreats and other similar gatherings of more than 150 people, that's the current code definition. And the proposal for discussion tonight is to delete the definition. One of the things you might ask is, well, how can you if you allow events, what is an event in terms of the rest of the code? That's not necessarily problematic, we're just saying you can have them as part of your winery/tasting room operation.

The second item with regard to noise limits. The provisions, the current code there is on the top. Right now the provisions of -- this is Clark County Code Section 9.14.010(6) relating to public disturbance shall not apply to events except between 10:00 p.m. and 7:00 a.m., that exemption relates to amplified music if you look in the code. And the proposal now is to just take out that exemption and say that wineries have to comply just like any other business or activity in the rural areas. So the proposal, the reason it's worded this way at the bottom, when we redo the code if we recombine all the development standards, it will become the new noise provision, so that's why it looks a little different in terms of how it's proposed there.

The current definition of on-site food service looks like this, meeting Health Department regulations, wineries are allowed limited food services on-site. The food service is not to include restaurants, and again, because we don't allow restaurants otherwise in any rural area, they're a commercial use.

And then here's this language was taken, if you're interested, from the Walla Walla County code. A couple of options in kind of the bookends of this, Walla Walla County code also has a requirement that says no interior seating will be dedicated solely to the purpose of a meal service, and no food will be cooked to order, although a list of prepackaged food may be posted. And this was their way of saying of not allowing essentially restaurants, but some subset of food service is allowed on-site. So this is one option, this is something we could do.

Another option would be to add a requirement that on-site food preparation is allowed only in conjunction with an event. Since we don't define what an event is, that could be seven days a week. And a third option - sort of the other end of the spectrum - would be to allow food service establishments, and there is a Washington Administrative Code definition of what these are, in conjunction with wineries and tasting rooms, so...

Here's the next steps. We're here tonight for the Planning Commission public hearing, and I'm glad you're all here to tell us what you think. We issued the SEPA checklist on April 3rd as we're required to do, so the comment period will close, actually it has closed. 60-day Commerce review, which is something we're required to do, will end on May 24th. And as far as this topic, we have not scheduled a hearing before the Board, so... That concludes the staff report, Mr. Chair.

DELEISSEGUES: Okay, thank you, Mr. Euler. Any questions of staff?

MORASCH: Yeah, I have a quick question. On this issue of deleting the definition of events, what if we put a period after the word "gatherings"? And that would take out the 150-foot limitation, and you'd still have a definition so that, you know, we don't have a gap in the code and people trying to pull out dictionaries to try to decide what an event means. Would that accomplish the same purpose as deleting the definition or not?

EULER: If you're asking me, I think that question will be two things; one, is you want to hear from, I think, the vintners who you're going to hear from about this topic; and, two, decide among yourselves what you would like to recommend.

MORASCH: Well, I'm asking you because you had the benefit of the two Board work sessions where apparently the Board suggested deleting this definition of event, and I'm not sure that I really understand their reasoning behind that. And if it's just to get rid of the 150-person limitation, then I'm wondering why we don't just take that out of the definition of events?

EULER: That's certainly a fourth option which we didn't consider. The issue is it's pretty hard to define an event, and the thinking that went into trying to define an event is that we're dealing with both tasting rooms and events in the ordinance.

Tasting rooms are something that - from a land use standpoint - generally has a regular traffic flow in and out all day long. You have people coming and going, it's background traffic, if you will, for a neighborhood or a rural area. And an event you could have 100 people, 500 people, 900 people, those people show up all at once, so your impacts are immediate and they're localized, so...

We tried to come up with some separation between those two concepts, and I don't know whether we've done it. But, again, this was a Board suggestion. So the idea is for us to make, or for you to make a recommendation based on your feelings.

MORASCH: I guess I'm just concerned if we just delete the definition entirely, that doesn't mean anything as an event, it means that we don't have a definition of event. And some court at some point might be called upon to decide what an event is, and if there's no definition in the code, the court is probably going to turn to a dictionary. I don't know if that's what we want.

EULER: That's my understanding from -- Chris is shaking her head yes over here, so...

MORASCH: Do you want to comment on this?

COOK: Good evening, Commissioners. Chris Cook, Deputy Prosecuting Attorney. And I think the consequence of deleting the definition as a whole would certainly be as Commissioner Morasch has described, if it ever gets to a dispute in court, the court would look at a dictionary.

To answer one question that you had a minute ago, I don't think the purpose of deleting the definition from the Board's point of view was simply to get rid of the 150-person limitation. And if you just deleted, you know, of more than 150 persons, so everything after gatherings, it would make events broader, and so the regulation of events more applicable to more occurrences, if you will.

EULER: That is correct. 30 people would be an event --

COOK: Right.

EULER: -- if you take out the number, so that's why there's a number was chosen in here. So it would be more restrictive, if you will, if we took the numbers out.

COOK: Or it could be an event in any, so... Anyone else?

BARCA: So, Gordy --

EULER: Sir.

BARCA: -- where we have the definition of winery as you state in the report of Section 40.100.070, is there specific wording that we are using to describe winery at that point?

EULER: Yes. I don't know the exact definition, but it includes harvesting, processing, crushing, fermenting, bottling, the physical activity of actually making wine.

BARCA: So we have a definition that basically says there's some type of value-added component going on with this agricultural production, that is the definition of a winery today?

EULER: I'm not sure the definition uses the term value added, but --

BARCA: I was paraphrasing.

EULER: Yes. -- it would qualify I believe as first stage processing.

BARCA: Okay.

DELEISSEGUES: It seems to me if you take that number out, 150, or you didn't worry about the number of people, you've still got the size of the building and the max is 100-by-120 or 12,000-square feet. It seems to me the fire marshal would have something to say about the capacity of that building and that would be the limiting number of the people that could be in the event.

EULER: If the event was indoors, that's correct.

BARCA: It could be outdoors.

DELEISSEGUES: And also was outdoors. I'm just looking at Clark County's weather.

EULER: Again, I think, Commissioner, you'll hear from some of the vintners about what they propose, what kind of events they do, what they propose and whether or not they're happy with this definition, so that's why we're here.

DELEISSEGUES: We have enough rain during the year it would probably limit the number of times you'd have an outdoor event unless you put up a tent. So is a tent considered a building or is that okay to be outdoors with tentage?

EULER: That's okay. I'm not familiar with what the building department requirements are, but that's what a number of people do.

DELEISSEGUES: And the other question I had was about the road, you didn't mention that, well, you did. Access from a private road and it says, if the majority of the people that are served by that road approve, then, you know, they could work that out and have access on the private road.

EULER: Correct.

DELEISSEGUES: But it looks to me like a road, a public road is one thing, but a private road all of the people have to be involved, should be involved in a road maintenance agreement, not the majority, but all.

EULER: That's correct. And this language differs from the home business ordinance which requires everybody who lives on the private road to be contacted. For whatever reason we ended up in the wineries ordinance with the majority of those people that use the road have to agree.

DELEISSEGUES: Well, I just wondered about it because it could be an issue.

EULER: I don't know whether it has been or not. Again, you can hear from the vintners who are on private roads if that's a --

DELEISSEGUES: So those are things that we hope you'll bring up. I'll save the rest of it until we hear the testimony. Any other questions of staff? My sign-up sheet here doesn't really -- I didn't get a separate sign-up sheet for the wineries, they're all on one sheet. So I'll call the names, and if you're here for some other reason, just tell me that you're here for Yacolt or whatever. And we'll start with Don Unrein, do you wish to testify?

UNREIN: No. I accidentally signed in, I thought that was a sign-in sheet and I apologize.

DELEISSEGUES: Oh, it's okay.

BARCA: Yeah, it's both.

DELEISSEGUES: No problem. Michele Bloomquist. Just if you would, state your name and address for the record.

BLOOMQUIST: Yes. My name is Michele Bloomquist. My address is 27904 NE 174th Avenue, Battle Ground, Washington. I'm the owner and winemaker at Heisen House Vineyards as well. And I had --

DELEISSEGUES: Could you pull that microphone and make sure we can all hear you.

BLOOMQUIST: Yeah. Can you hear me? Is it working?

DELEISSEGUES: If you speak up we can.

BLOOMQUIST: I can't hear if it's working myself, so... I wanted to quickly answer the question about the 150-person limit. I think the reason -- or I've attended every single meeting about this ordinance, so I remember every single meeting and what was said.

And the reason why we came up with that 150 was because if you just cut it off with similar gatherings, the question came up, you know, is a guy on the patio with a guitar and three people sitting there, you know, was that an event. And so I think that was what the 150 was trying to assess out was, you know, that seemed to be where it would be reasonable impact for a lot of people to be coming versus -- you know, if it's any advertised event, that could be we're open Saturday, you know, that's advertised if it's in the paper, so that was the thinking behind that if that helps clarify.

And, actually, in the current ordinance as long as your events are under 150, you didn't - people - you didn't have to fill out the event plan, which was an additional burden if you were going to have large events. So it's kind of an exemption if you were under that number of people, you didn't have to do the event, just the tasting room portion of the permit.

MORASCH: So can I ask you a question, does that mean that you're supportive of keeping the current definition of event in the code?

BLOOMQUIST: I liked it. I was always fine with it. Other people probably have their opinion of it. I think, I'd like to be careful not to make it so that anything could be called an event. Any time you're open could be called an event, or that could become problematic, but I guess if there's no limit on events. I don't know. Other people can have weigh in, but that was just part of the background. But I like the definition currently.

I wanted to ask what the SEPA checklist is or is that something new that's part of the process? What does that entail?

EULER: We have to fill out a SEPA checklist for any project or non-project action. So in a non-project action it's -- unless there's something that's really weird or unusual, the SEPA checklist for a non-project action - which is adoption of an ordinance - is more pro forma.

BLOOMQUIST: Like I said, I don't know what a SEPA checklist is, so I was wondering what kind of questions or what it was looking for?

EULER: In the days before we had a lot more things like critical areas ordinances, stormwater, when you proposed a project there were -- there's a checklist of things you go through to say are there going to be impacts on the land, on the water, on the plants, on the slopes, what kind

of soils do you have. So it's really an environmental review of the area where your project is and what the proposed impacts would be. We still do SEPAs on projects. So any time there's a Costco proposed or a highway goes through, a SEPA checklist is prepared.

And what we generally find for non-project actions is what's called Determination of Nonsignificance, or DNS. So we prepare a DNS, we publish that in the newspaper and say we believe that adopting this action will not have a -- we've determined it will not have a significant impact on the environment. There are mitigated DNSes which means you may find that there are some impact, but you can mitigate. And if it rises to the level of potentially large impact, like, for example, expanding an urban growth boundary, we usually do an environmental impact statement.

BLOOMQUIST: So does the property owner pay for that or how --

BARCA: Gordy, tell her what SEPA stands for, please.

QUTUB: What SEPA is, the acronym.

EULER: SEPA is the State Environmental Policy Act that was adopted in, I think --

MORASCH: '71.

EULER: -- 1973.

MORASCH: '73 maybe, yeah.

BLOOMQUIST: I guess what I'm wondering is what the process is. Is there a fee associated with that and then --

GIZZI: No, it's not something you have to do.

EULER: It's something we do.

BLOOMQUIST: Okay, good. Good.

GIZZI: It's already done, it's done by the County for the purposes of --

EULER: Yeah. I mention this because there is a bunch of administrative things that you don't know that we have to do in order to get the code changed, and doing a SEPA checklist is one of those.

BLOOMQUIST: Oh, okay. Good. I just wanted to double-check that. And then the Commerce review is?

EULER: Commerce review is where we send -- because the Department of Commerce is the State agency that deals with growth management issues, they require before final action that we send any proposed changes to our code to them which are development regulations because those are part of the comprehensive plan. What they do is then they send them to other State agencies and say anybody got heartburn with these. And so that process for us will end on May 24th.

And most of the time we don't hear; occasionally we do. So, for example, when we did the shoreline master program - which you can imagine is a three and a half, four-year project, covered a lot of the county - we got some comments back through the Commerce process. A couple of agencies chose to comment when we sent the SEPA out, so all the comments go on the record and we address them.

BLOOMQUIST: Oh, okay. And let me look through quick my notes. I noticed that Ancillary Retail Sales, 5.8 is crossed out and now on Page 3 and there's 4.7, "Retail sales directly related to

the winery, such as sales of wine and wine-related merchandise." And something I was wondering, if it would be possible, to maybe include again is the sale of other regional value-added agricultural products or items that promote the region, or I was wondering why that was more tightened up. I could see that being kind of a nice thing if you could get local tomatoes and a bottle of wine and have --

EULER: Again, I'd have to go back and check with my notes as to why this was deleted, but we did just adopt an ordinance on agricultural stands and markets and I think that's the reason this was taken out.

BLOOMQUIST: So if a local farmer wanted to bring produce to the winery and put their little blocks out, it wouldn't be allowed?

EULER: It wouldn't be part of the winery, it would be --

BLOOMQUIST: A roadside stand?

EULER: Yes.

BLOOMQUIST: Oh, okay. Got it.

DELEISSEGUES: Let me just suggest that you tell us what you would like to see in the ordinance, you know. You don't have to ask --

BLOOMQUIST: I would like to see --

DELEISSEGUES: -- too many more questions or --

BLOOMQUIST: Yeah. Sorry.

DELEISSEGUES: -- maybe we could accuse Gordy of not being complete in his --

BLOOMQUIST: No, no, no. I'm just asking just for my own clarification. I'm sorry. I would like to see it be a little broader so that it would be possible to have a local farmer bring things and have an artist come and bring something and so on, I think that's pretty standard.

DELEISSEGUES: That's a good point.

BLOOMQUIST: And then I wondered - I think we answered this question - Approval Process E, Number 1, "Wineries without tasting rooms or events are exempt from land use review," and I was just wondering, does that mean if you have a nonpermanent structure that you're not -- you don't have to get the tasting room permit, or what does that mean I guess? Or is there a way to operate and have sales without necessarily having to go through the whole, like if someone wanted to be seasonal or something?

DELEISSEGUES: Well, I think he said there's no permit required.

EULER: If you're just doing a winery, there's no County review, that just restates that, wineries are in Ag use. It's when you get into tasting rooms and events where you have the public on the premises that building code requirements change, so nobody says exempt from a land use review. So if you want to have a winery, and that's all you're doing - as Commissioner Barca pointed out - the bottling, crushing, fermenting, whatever, that's a winery, you don't need any review. So, no, you don't need a land use review.

BLOOMQUIST: Yeah. I guess I'm thinking of like the new start-up person who maybe doesn't have the means to invest in a huge facility, if there would be some way that they could operate with -- or I think that if there was some kind of way for that to happen for -- a lot of people start off really, really small and they're not investing -- other people invest millions of dollars, but a lot of people start off pretty meager, and so just if there was a way to have that mom-and-pop

start-up person.

That's mostly my comments. I want to thank you for your time. And I know the staff and everyone's worked really hard to try to understand our business and we appreciate that. We've all invested a lot of money and time and dreams in what we do, and so this is really - at least for me - a really scary thing because I never know where I stand and I'm already pretty in, so I'd like to feel certain about what's happening to my world. So that's all I have to say.

DELEISSEGUES: Any questions? We sometimes reserve the right to interrogate the speaker.

BLOOMQUIST: Yep, feel free.

DELEISSEGUES: Well, thank you for your testimony.

BLOOMQUIST: Thank you.

DELEISSEGUES: I assume that the people that have a Yacolt address want to speak to that issue, but just to check it I'll call the name on the sign-in sheet. Joe Millea.

MILLEA: I just signed that. I thought it was an attendance, so I'm just here.

DELEISSEGUES: Dan Brink.

BRINK: I'm just here to listen.

DELEISSEGUES: Do you want to testify when the other topic comes up?

BRINK: No.

DELEISSEGUES: All right. Lewis Gerhardt.

GERHARDT: I'm here for the Yacolt plan.

DELEISSEGUES: Okay, we'll come back to you. John Choquer.

CHOQUER: My name is John Choquer. Address is 9213 NE Mason Creek Road, Battle Ground, Washington. From the last planning session I think there was quite a few questions that came up from the panel regarding what vintners or wineries are looking for. And our newly formed association has been working quite diligently to come up with really a good neighbor policy like you would see in areas such as Napa and other well-established viticulture areas. And, unfortunately, we don't have that completely ready, but the focus of our program would be to make sure that we maintain the, or develop really a positive reputation for this area to become a new viticulture area, and that involves the confidence and respect and cooperation of neighbors.

From the two Commissioners' work group sessions the main focus that came up was the impacts, primarily noise, there was some dealings with light, but it was primarily the noise impacts and the neighbors that have had complaints to the County. From that meeting it was brought up the issue of what event was, who's going to administer how many people you have at an event, how many events you have in a year, there was no mechanism in place to really control that and determine are you over your limit or under your limit and what is the actual event.

So the Commissioners - in the spirit of wanting to develop the industry and see it grow - felt that since there's no mechanism to administer that, why are we even trying to establish that. From the staff recommendations two years ago when the ordinance was written we brought up that same question, you know, why is it 150 people?

And at that time it was put in place because it was felt that a wedding would typically be 150

people and under. And so would you want to have a wedding or a small gathering count against your qualifying number of events? So there was not just the number of people, but you were allowed a fixed number of events. And if you look at other AVA areas in the United States, some of them are limited down to as many as six events a year, but it doesn't specify how many people. So, again, it's a very loose term.

So from the last planning sessions that the Commissioners had they don't want to get into this much administration of trying to control that, they want to open this up so that more wineries will grow, they want to see this industry flourish. So I believe that's why they felt that, you know, events and particularly the number should be eliminated.

So at that time the question came up, well, if you're going to eliminate the number of how many people, and you're going to say anything is an event whether it's two people gathering - and we still had in the code a requirement or a limit of how many events you could have - the Commissioners felt also that we shouldn't be administering or limiting the vintners to, the wineries to a number of events even if it's a small number of people because you would quickly use up your count. And I believe at the time - correct me if I'm wrong, Gordy - it was about 50 events a year. So I'm very much in favor, and I know a number of the other people that I've talked to are in favor of eliminating this concept of how many people you count and how many events you can have.

I think there should still be a clear definition somewhere to say what constitute an event or some type of gathering. To me - after hours of discussion with some of the other growers and soon to be wineries - the real issue is what is the main purpose of the winery versus some of the ways that other businesses have operated under the guides of winery. And from the planning group session last time it was discussed that what's stopping from someone hijacking the name winery and becoming a beer salesman or selling pizza and competing with the local pizza parlor down the street, which goes through a tremendous amount of expense, pays development fees, sets up a business, complies with all the County regulations and sets up their business in a true commercial setting. What's to stop somebody from calling their operation a winery but really they're functioning like the pizza parlor or the pub that's down in the city?

So we see that there's a need for really a proper classification of what a winery is and what its main purpose is. And I think the way that we solve this - after a lot of hours of discussion - is to limit the hours of operation of a true winery and its tasting function, such that if you look at in Napa, Sonoma, other counties, they actually do define very clearly what a wineries main purpose is or its main function is, it's the sampling and the sales of wine.

And you'll see in most AVAs throughout the United States - which have been operating for a long time - that a typical winery and its tasting room will operate typically up to about 6:00, some of them may go beyond that, but it's very rarely an evening function. And I think that when you see operations open with published hours to the general public in the evening hours, you really cross the chasm and become a consumption-type of business much that you would see like in a pub. And it's generally accompanied with entertainment whether it be music, movies, food serving, you know, depending how you classify a restaurant, that's kind of a really just as much a broad term as what an event is. What constitutes a restaurant? So I think there needs to be additional clarification of where that goes.

But our recommendation, and we are in the process of defining this and we will submit our recommendation as an association winery and wine growing association to the Board, which will be essentially that a tasting room will operate up to a given hour, whether it be 6:00 or 7:00 at night. And if you look at some of the wineries that have tasting rooms that are open today, for

the most part a good majority of them do function that way, and there are some that operate into the evening hours and multiple days of the week.

With that said, I know that the Commissioners - after having some private and also work group sessions with them - they do recognize that for this type of business to flourish it's important to be able to have the opportunity to do gatherings into the evening, but I think it needs to be done at a very controlled fashion. And the current changes that are proposed I don't think will address the main focus that the Commissioners had, which is to eliminate or drastically control the noise impacts, and that's really what their focus was.

They recognize that as long as you have to go through a State Health Board to make sure that you have the proper food and sanitization of your glassware and any utensils associated with serving food, that you're already being regulated to that extent, there's not much difference with what it would require to open a restaurant. So they are intending - from my understanding of the Commissioners in the last meeting - that winery operations should be able to serve food. And it's not, for the most part, it's not a negative impact or it hasn't been to date to other, to neighbors, and that's really what their focus was about and I would agree with that.

I do recognize too that there are restaurants in the community that have made significant investments and they're going to object, they're going to want to protect their investments of what they've had to do to become an establishment as a restaurant in the county.

So I think it's important that as wineries grow and continue to develop new wineries, that the reputation in this industry become established. And I think it's very incumbent upon this board to look at those issues and recognize that it's not just a free-for-all and someone can't just bridge into these other forms of business just because they want to make more money, or they feel it's important for their financial growth to step beyond what really a winery should be and what is demonstrated in other areas of the United States.

So it's really going to be our recommendation as an association that a proper set of hours be associated with the tasting room, really for the sole purpose of the sampling and sales of wine, and that one to two nights a week there be an allowance for some type of special event or gathering. I know we're not using the word "event" at this point, but there is a need to be able to grow the business, to grow, you know, customers, to be able to have access to other types of activities at a winery beyond just some of the tasting room hours, but I believe that should be controlled and limited to one to two nights a week in the respect of the neighbors.

And so our proposal will accompany, be accompanied with a good neighbor policy and we'll have an escalation process to allow review to make sure that people don't overstep those bounds. And then lastly, that it's incumbent upon all the wineries and operations of this type to make sure that we protect the reputation and grow a positive reputation in the industry. So any questions at this point?

DELEISSEGUES: Any questions of John?

JOHNSON: Yeah, I have one, John. It seems - and you may have addressed it - but, you know, I'm looking at three different things here. A, the definition of an event, the noise thing, and then I have this -- I can't get my hands around this third part, these three options. And, you know, and I know we've taken them from Walla Walla, or just some ideas, but I'm just going to ask you flat out from the food side, okay.

Because, like I said, noise seems like we're taking care of that. Event, it's overstated I think. But now we have this food thing. So I have one here, one option that I could say, yeah, I like

this, no food will be cooked to order - this is under the options - although a list of prepackaged foods may be posted. And then the second one had a requirement that on-site food preparation allows only in conjunction of an event. Well, if you can have any events, or we don't have a definition, basically it's Number 3.

So I'm just flat out asking you, which one of those would you like to see? I'm trying to get my hands around what the vintners want me to do. I mean, you know, what do you want? No food or --

CHOQUER: Again, I would say that if you look at this from just, you know, pick A, B and C, we've all failed, we haven't addressed the issue. And the issue is are we going to grow the industry, and what kind of industry are we going to grow. Is it just going to be an open-ended free-for-all where somebody can open their doors, post the name winery, but then they're really they've got a rock band there that night and they're serving alcohol till whatever hours and now they're really a pub. Okay. And then, oh, by the way, they can throw food in there to make sure more people come.

JOHNSON: But isn't there --

CHOQUER: I think the way that we address this is to look at what is your primary function as a winery really being represented as a winery. And if you look at how most wineries operate, they operate a tasting room in a daytime typical hours and occasionally with some limited numbers. You see in other regions they will have one or two nights a week in the Summer peak times, they will have maybe it's a wedding, maybe it's a business social, maybe it's private club members that come and attend, and there will be some food associated with wine at that event such that it -- and some have played the game a little bit calling it wine pairing and so forth.

I think that because of the tremendous amount of expense that it takes just to be licensed by the State to be able to wash your glasses, you have to have a three-compartment sink, you have to have a hand-wash sink, you have to have I believe, you know, mop areas so you can mop your area, you go through a lot of expense in plumbing and appliances to be able to just have basic sanitation just to serve a single glass. Now if you do a plastic cup, you don't need any of that.

So you're so close to what a restaurant is required to have that the Commissioners didn't feel that food was a major roadblock to what a winery should be, so they want to see us succeed. And I think everyone here would like to offer some type of food service because wine is a food, Mondavi said that. I mean, wine is part of what all of us consume when we have food, but when we get into alcohol consumption as the primary focus, it starts to change the dynamics considerably.

And so I think when we look at this food on-site, I don't think we can take it isolated and say, you know, pick A, B and C and what do you think is the best choice. It should be coupled with what is your focus part of your business, and can you allow a winery to operate so that they can do special promotions or activities to a limited basis and still meet the needs of neighbors and not create a continual disturbance.

The complaints that have come up - and I've talked to some of the folks that have been neighbors of these wineries - have found that, you know, music and activities go till late hours, even beyond the 10:00 at times and it can go four or five nights a week in the Summer, and so their quality of life is highly diminished. And that's why I believe the Commissioners have been asked to step back and to review of this ordinance, because if everything was working perfectly, we wouldn't be reviewing any of this. And if we don't address this with the right answer, we will be back here in a year from now doing it all over again because instead of one or two

neighbors having issues and complaining, we're going to have 20, and in five years from now we're going to have 100 neighbors complaining.

And so when you look at other areas that have operated, you know, wine regions successfully, and they're growing successfully, it's because they've put safe controls in that allow a winery to really function what it's intended to function and to not step into this realm of competing with the local restaurants and competing with the local bars. So it's my belief and recommendation that a tasting room should be allowed to operate up till 6:00 p.m. every night, seven days a week if they want, at that point they're not a hindrance to neighbors for the most part. And occasionally, I'm believing, something like one to two nights a week to be able to operate up till approximately 8:00 or 9:00 for special gatherings, whether it be weddings and so forth.

Now in terms of food - to answer your question directly - I think that it's very clear that the Commissioners don't want to see, you know, restaurants. And a restaurant from the public health standpoint is something where you have a published menu, people can make choices, custom food to order, I don't believe that we should compete in that arena. So I think that food should be allowed from catering for some of these special events and, you know, some food pairing that goes with wine, but I think we should allow food.

I don't know if I have a complete answer, and our group is going to continue to work on this and we'll make that part of our recommendation. It's not an easy answer, but I think it's much more broader than just simply pick A, B and C and we'll get that in the code and we'll sweep this under the door and let the Commissioners pass it and then we'll just see what happens in six months.

Well, I'll tell you what right now what's going to happen is you're going to have more neighbors complaining. And the ones that are already living with, you know, the extra noise and all the activities that are going on on a continual basis, their life's a living hell and they don't want to live next to a winery, so it's having a negative impact on the industry.

DELEISSEGUES: We're going to have to ask you to summarize it so we can get on with --

BARCA: Well, that was actually a question. That was the answer of a question except for you didn't answer the question. Okay. So my turn. I need to understand about your association, Mr. Choquer. You are --

CHOQUER: We've recently formed a Mount St. Helens Wine Grape Growers Association.

BARCA: And you're speaking on behalf of them?

CHOQUER: Yes.

BARCA: So we have a lot of --

CHOQUER: We have approximately 19 members.

BARCA: -- people in the wine industry here. How many of you people are part of Mr. Choquer's association? We have two.

PUBLIC: How many are not?

BARCA: How many in the industry are not?

PUBLIC: And we invested far beyond this association.

BARCA: So I just want to make sure that we understand that there's a divergence of opinions here, that you're not necessarily speaking for Clark County's wine industry, you're speaking specifically for this St. Helen Wine Growers Association, is that the correct --

CHOQUER: Yes.

BARCA: So I see the need to have variety of choices going into the business. You seem to have a very, very parochial role on how you expect the industry to mature, perhaps your experience in Napa and Walla Walla shows that as a successful model. You've seen other varieties of business, though, succeed selling wine; is that correct?

CHOQUER: Yes.

BARCA: And the definition of a winery, do you accept that as a good definition of winery? Somebody who's producing the product on-site, that they're creating value-added product, does that seem to be an acceptable definition to you as a winery?

CHOQUER: It's a very open-ended definition. I don't think that it really encapsulates what you see in other regions from what we have here in this county.

BARCA: So perhaps when you go ahead and your association comes forward with your recommendations, you could give us what you would prescribe as a definition of a winery at that time.

CHOQUER: Okay.

BARCA: I appreciate that. Thank you.

CHOQUER: Will do.

DELEISSEGUES: Any other questions of John? Okay, thank you for your testimony.

CHOQUER: Thank you.

DELEISSEGUES: Gary Gouger. I hope I pronounced it correctly.

GOUGER: That's fine. It's Gary Gouger.

DELEISSEGUES: Oh, missed it.

GOUGER: That's all right. Gouger Cellars Winery.

DELEISSEGUES: Do you have an address?

GOUGER: Yes. Presently it's 1812 Washington Street downtown Vancouver. So several items that I'd like to say. I'm completely on the opposite side of the coin from the last person that was up here on several of the things. One is I'm a natural winery. What they are is a group of people, it's a grape growing association, and that's separate from the actual needs and requirements for an actual winery.

So in order to become a winery you can't just make claims that you're going to start being a brewery or whatever, there are specific -- and by the way, I'm from Sonoma County so I know, I interned down there. I went to school in Australia, I got a degree in wine making. And I, you know, didn't grow up in Sonoma County, but I spent 15 years there, I did my internship there at a winery, so I know the wine business down there quite well.

There are many fail-safes put into place both on the Federal level and on the State level. In order to be a winery you have to make at least five gallons of wine according to the Feds, according to the TTB. There are all kinds of requirements by the State, and the State actually allows with a winery license allows what are like add-ons. So, for instance, if you go and buy an automobile and you want whitewall tires, it's an add-on. So they have the same kind of a thing for wineries.

So what happens is you get a winery license and now you can add-on to that certain privileges, one of which could be a restaurant, that's one example. With a restaurant license you can do certain things besides the food aspect, you can now sell beer and wine, you can get -- with that add-on you can sell it by on tap. You can also have a snack bar add-on. With a snack bar add-on you can sell beer by the can or by the bottle, you cannot have it on tap. So there's these different add-ons that the State allows and it puts certain things in place so that you can't do or can do certain things according to that license add-on, but the winery is the basic. You get the winery in order to be able to produce both wine and cider, cider is considered a wine.

So addressing the hours issue. I don't think that it would be good to have designated hours such that the winery would have to close at 5:00. Now I'm in city limits and I'm going to be -- I'm moving up to Ridgefield, again I'm going to be in city limits, but I'm saying all these things because I don't think that that's the correct path even though that the, you know, some of these things may not be applicable to me.

The hours issue I understand, you know, that there might be some issues with upsetting the neighbors and noise issues, but I think that that should be addressed by other means other than trying to set and make a winery have to close at 5:00 in the evening or 6:00 in the evening, especially when the sun goes down much later than that in the summertime. So I don't think that regulating the hours is really within reason. If you want to say a 10:00 cutoff, you know, just like bars have I believe a 2:00 or a 1:00 or whatever it might be, I can understand that type of a thing, but to say that a winery should be closing at 5:00 or 6:00 at night I don't think is a very good idea.

The food aspect. Now as far as competing with restaurants or whatever, I don't think that that's an issue either. It is very good to have food when you're drinking alcohol because it does several things; it slows down the absorption of the alcohol, number one, and, number two, it goes along with that business.

The whole thing about wine is that it's an experience. It's not just a single product tied to only what's in this bottle, it's an experience. And part of that experience is being able to consume it with food, it changes the flavor of the wines, it makes, you know, people gather, it has a lot of a lot more of a picture, it's a broad picture that the food brings to the table. And I don't see it as being anything that's in competition with a restaurant or something else that's in town, that's a different type of an experience. People go to wineries and expect a certain experience, and they go to a restaurant and it's a different experience. So I do not advocate, I do not advocate eliminating food or putting pressure on the wineries as far as food.

I can perhaps understand the restaurant, not necessarily wanting it to have a restaurant in it. I kind of think that it would be okay to allow a restaurant. But it's not that the winery is trying to do all these separate other things, wine tasting includes many of these things, it's a package. When you go to Napa or you go to Sonoma or you go to many -- it's all built around, the whole industry is built around all these things happening all simultaneously. You've got the hotel industry that builds upon the people that come in to tour, and you've got the restaurants that build and they've got -- for instance, there's wineries down in Sonoma County, some have a bakery in there, they have guest chefs that come in and do prepare different meals, and, I mean, it's a whole industry that all is tied together.

You know, the whole thing about events, if you start putting binders on what an event is, if you start limiting and defining what an event is, I think it becomes very difficult to distinguish between -- let's say I have an event that has 50 people, I've put it out there, I'm going to have a Lucy look-alike contest and so that they can stomp the grapes, and so I send it out on Facebook

and it gets to however many, I have no idea how many people are going to show up for it. Let's say that there's 100 people that are going to be allowed for the event, but now I have another 50 to 75 people that show up to do wine tasting at the same time.

So now how am I going to judge the number of people that showed up for just to do a wine tasting because I have signs going up on I-5, they've shown up from those signs to do wine tasting that day, but I also have 100 people that are showing up for the Lucy look-alike grape stomping thing. And so now if there's any numbers associated with what the event is, what part of it is the event and what part is the wine tasting. Because now the people that showed up for the wine tasting are going to want to come over to the event and say, oh, this looks like a lot of fun.

And so it really blurs, you know, between what an event -- I like the idea of eliminating the event term and being more open. I think that there's other safeguards in place that take care of noise, you've got your noise ordinance that I saw up here and other problems. So that's where I, you know - I would like - I agree with eliminating the event. Do you have any questions for me?

DELEISSEGUES: Any questions of Gary?

GIZZI: Yeah. You had said that I think the Federal government --

GOUGER: Yes.

GIZZI: -- stipulated that in order to be a winery you needed to make five gallons of wine?

GOUGER: So the Federal government, the TTB, in order for a winery to be -- you have to fill out forms as well, and in order --

GIZZI: I understand that. But the limitation on quantity is --

GOUGER: It's five gallons.

GIZZI: -- as low as five gallons?

GOUGER: Yeah. That qualifies you to be in a winery.

DELEISSEGUES: A year or what?

GOUGER: A year. And then that is one. Then, of course, you've got the State, you have to also get the State license for a winery as well.

BARCA: And does it also have some type of limitation or minimum requirement for production?

GOUGER: That I don't know. I'm not sure of that. But I think that they just follow the Federal guideline, but I'm not sure on that.

DELEISSEGUES: The first time. Okay. Well, thank you very much.

GOUGER: You're welcome.

DELEISSEGUES: Roger Rezabek.

REZABEK: Very close. I pronounce it Rezabek. And I represent probably the newest winery in Clark County. 11700 NE 279th Street just north of Battle Ground. We just call it Rezabek Vineyards, but we do have some grapes that we crushed last Fall and so we have started the process, and we have the TTB permits and the State permits, and so we're off and running.

We are very much in the category that Michele mentioned before, the mom-and-pop type of

winery, small scale, small production, doing it mostly from personal resources and so we're progressing very slowly. But I have 2,000 grapevines in the ground and I hope to double that within the next few years. And, as I said, we have some wine that's aging and so we're off and running.

One of the issues that I'd like to address - and I very much appreciate Gary's comments as well as John's - because I'm also part of the organization as a new grower in the area, but I think one of the things that I took from the concept of the food service -- and at first glance the information listed there about Walla Walla seemed to me to be pre-appropriate, pre-applicable, relatively flexible, but the one question that I come up with is no food will be cooked to order.

Does that mean a pizza? That you have a pepperoni pizza, you have a sausage pizza, you have a green pepper and tomato pizza, those are each cooked in turn. Does that mean that a winery wouldn't be able to do pizzas? Because technically those are cooked to order, and yet we find that pizzas are offered at wineries and they provide for a very, very enjoyable evening, and, again, coupled, paired with some of the excellent red wines that are produced around here, it seems to me that that would be a possibility and would be appropriate.

Another issue not -- well, I guess it was last Fall I was in the Red Mountain area, and partly at a conference and also was able to visit some of the wineries in the Red Mountain in Eastern Washington. And in the afternoon I thought I would stop at one of the wineries and just have some food, have a sandwich or something. And it turned out that most of the wineries that I went to had no food whatsoever, and it became a little bit of a problem to me. I finally happened upon one at 3:00 in the afternoon that had a cheese plate, and it was a wonderful cheese plate with Kalamata olives and wonderful aged cheeses and some fruit and so it took care of my yearning for some food, but was that made to order? I mean, it wasn't prepackaged because they put it together right there. Would that be allowed in the description that you have here?

And I think where I come down is - as I think that there needs to be some flexibility in whatever language is decided upon so that a winery in the area can have some dinners perhaps on a Friday evening or perhaps a pizza or cheese plates, things of that nature - I think those would be appropriate and that there needs to be enough flexibility that this could be allowed.

I don't know if any of you read the Oregon Wine Press, but it's a major publication that's in Oregon, and it's distributed throughout the state and even beyond the state, and in the issue like a week ago they had an article about basically the food venues that are starting to show up at Oregon wineries. And it became -- or it is becoming to some extent a destination, then, where people can go to a winery to not just sample wines - which I agree is the main purpose of a winery and the tasting room - but also to be able to sit, maybe enjoy a nice view of the surrounding vineyards and area, and sit down with a glass of wine and some sort of a food item, that's becoming a little bit more prevalent, maybe a little bit more popular.

And in terms of competing with restaurants, most restaurants are going to be within city limits and they are going to attract people from the near area. However, if you're in Yacolt, Amboy, maybe beyond, you may not have a restaurant or a food venue close at hand, and maybe it would be an enjoyable evening to go to a tasting room and enjoy some light refreshments, including some food. So I just think some kind of flexibility there would be appropriate so that that option is left for the wineries that choose to move in that direction.

One other item I'd like to address is near the -- well, it's 4.7 -- or, no, I'm sorry. .4, it looks like D.4, it's in the Retail Sales, it's in the first couple of pages. And you have struck 5.8, Ancillary Retail Sales, which I thought was a good statement when it was originally presented, and I'm not

sure why it is struck completely unless it is that wine-related merchandise are permitted in item 4.7. Is that going to include other related or ancillary items?

And, for example, artwork, pottery, T-shirts, caps with your logo on them and things of that nature, maybe some other regional items that are available, those items that were mentioned in ancillary retail sales seemed appropriate to me, and so I question why that should be struck. I would encourage sustaining, keeping that particular item. So I think that concludes my comments. I'd be happy to answer any questions.

QUTUB: I have a question.

DELEISSEGUES: Go ahead.

QUTUB: I'm wondering if you - or anybody actually in the audience that is going to speak if they haven't already - have come up with an idea of what actually should be said about the options for food? Because actually when I read the Walla Walla code, it surprises me, it seems very restrictive. And this whole packaged or, you know, not made to order, I would have thought that that maybe was an old ordinance, but not one that exists now because it's kind of a destination for wine tasting and growing and buying and so forth. So do you have ideas about what another option should be?

REZABEK: Well, again, at first glance it looked like it was flexible enough to accommodate some things. I would not have a problem of an interior seating, you know, that would be dedicated solely for the purpose of meal service. But down the road, five, ten years from now maybe some larger wineries will move into the area and they would want to have a food service available and a dedicated area for food and, you know, perhaps evening activities, so perhaps that is too restrictive. I don't know.

Now I don't really have specific language to plug in here at this point, but I think the flexibility, if that can be allowed and accommodated, some kind of flexibility. If it's okay in the state of Washington for a winery to get a restaurant or a food service permit, then I would think that it would not be in our favor to restrict, try to artificially restrict wineries from doing something that would be legal and appropriate in other parts of the state. I think the noise is probably the most important negative factor that we need to deal with with those kind of things.

QUTUB: Mr. Chair, the other thing that I thought about in the testimony we heard about what you have to go through to, for instance, clean glasses and do all these other things, it sounds to me like you've gone huge steps even to taste wine, therefore, what I seem to hear was since we've gone to these steps, we don't want to be so restrictive with the food because we're almost there anyway.

REZABEK: Right. Yeah.

QUTUB: So, you know, that seems to be what I'm hearing. And I didn't realize how much -- well, I should have realized that when you're serving the public, you do have to have clean things and the Health Department is going to be involved and so forth. So I would just say that while we're here hearing this and you're thinking about what some of these ideas would be, you know, some of the options would be, you should think about it and we should hear it.

REZABEK: Right.

DELEISSEGUES: Roger, maybe the vague language in the ordinance it allows the flexibility.

REZABEK: Uh-huh, it could be.

DELEISSEGUES: Maybe we want to keep it vague.

REZABEK: Yeah. That's possible, yeah.

DELEISSEGUES: Any other questions of Roger? Okay. Well, thank you for your testimony. We're going to take a break here for a while and we'll come back about five minutes after 8:00.

(Pause in proceedings.)

DELEISSEGUES: We're going to resume the hearing tonight. And, Gary, you wanted to come back and answer a question and then we'll get on with the sign-up sheet.

BARCA: Briefly.

GOUGER: Yes. Hi. I wanted to -- you had asked a question at the very end -- Gary Gouger, Gouger Cellars Winery. You had asked a question regarding with the food. There's three levels of the food permit. There's the very basic level, Level 1, which a winery can get, which a winery gets.

The Level 2 is a little bit more complex. It's if you want to have up to two -- you can have potentially hazardous foods. There's seven sinks required, three compartment sink, a hand-wash sink, a mop sink, if you're going to prepare, you have a food prep sink. The lights have to be -- you have to have special coverings over the light bulbs. There's all these different -- that's the second level. And you get two potentially hazardous foods at that level, however, no raw protein which includes eggs. If you want to have a barbecue with meat, you want to have ribs or whatever, you have to buy everything precooked or you have to have a caterer come in.

The third level, which is the most, you know, you can do the most. You can now have raw protein, such as the eggs and the meats and you can have barbecues, and you can do all these wonderful things. So there's the three levels that are already in place by the Department of Health that have all of these requirements.

There's other things as well. You can't have a popcorn ceiling, that all has to come off because the popcorn could fall into the food. You have to be able to know all the temperatures that the meats have to be cooked at and how to hold them, and how to cool something like a soup, you have to be able to cool it down quickly and put it in a flat pan, and, et cetera. You have to store your meats at the bottom of a refrigerator, it can't be at the top because the juices could come down and fall into other foods. So there's a lot of restrictions when it comes to as you move up the chain of those levels of being able to prepare food.

And the thing about having the food - which I mentioned before - is that it's wonderful to have it with the alcohol because it helps to slow down the absorption of the alcohol so that people do not become, you know, inebriated especially if it's fatty or food.

DELEISSEGUES: Well, thank you.

GOURGER: You're welcome.

DELEISSEGUES: A rather complete answer, appreciate it. Donna Anderson.

ANDERSON: No comment.

DELEISSEGUES: Jeremy Brown.

BROWN: Jeremy Brown, Rusty Grape Vineyards, 16712 NE 219th Street. We obviously own and operate the Rusty Grape, and we've spent a significant amount of money to do so into the community. We also - as a full transparency - have a few neighbors that don't care for the

impacts, and I'd like to address that first and then the food service.

For us we recognize the impact to our neighbors ourselves, and we are fine with the WAC definition of the sound. And for a couple of policy changes that we made starting this year is no more live, amplified live music out in the courtyards during the Summer months. And then the biggest one - which I think is a greater impact - is we've also gone away from hosting very many weddings. To give you an example, we had 15 last year, not all of them having live music or DJs, but we had 15, and this year we had 4 because we struck DJs or live music from our contract. So you can no longer have those at our event, or our venue, so therefore the attraction of our venue has been decreased greatly because a lot of people of course want those at their special day.

So in that case it brought us to coming up with the food part of what we're doing - which is very important to us - as we needed something to replace that income. And I'm with Gary, and I think everybody, most everybody likes the idea of food served with wine, paired with wine.

Currently we have a permit from the Health Department, it's a Type II, so Gary just went over that so that was a nice intro. So we're not allowed to do full-service raw meats and those kind of things. So mostly what we have is a very limited menu mostly constructed of pizzas, meats and cheese plates and a few salads, and that's pretty much our menu in a whole.

Although, we have in the past had caterers come in and be able to do full dinners, which are wonderful to be able to host those and pair those on particular nights. And it would be nice if we were going to open up the food portion of this to be able to instead of pay a caterer to come in and do that, to be able to do that ourselves with our own staff so that we are able to keep attracting people and bring people to the winery under that umbrella of, you know, an experience.

And that's pretty much -- everything else as far as the sound and the other options and the event -- for us, events, you can label it if you want. It sounds like there might be some reason to label it for a later date just so that we knew what an event was, but numbering it or restricting it or trying to put a finger or a grasp or a hold on it seems maybe a little tedious.

And really the point is is to attract people to the winery to sell your product and contribute to the community. And right now as of today 80 percent of our sales are from our wine sales. So even though we offer other things, we still produce and we still sell wine as our main business, that's our main vein is to do that, and that's what we're trying to do every day -- or that we're open, which we're only open 38 hours a week, Wednesday through Sunday, evenings Wednesdays and Thursdays, and then more normal tasting room hours - as quoted earlier - Saturday and Sunday. So that's pretty much my two cents as far as the food and events and noise. Do you guys have any questions?

DELEISSEGUES: Any questions for Jeremy?

GIZZI: So you had decided to give up amplified music?

BROWN: In the Summer. We play indoors in the Winter because the building obviously shields any impacts to violate the WAC or any impacts on the neighbors, so as far as the sound goes.

DELEISSEGUES: Any other questions?

JOHNSON: Yeah. Jeremy, just real quick. You'd like to see just be allowed to serve food based on what the WAC requirements are now?

BROWN: Right. I would like -- you know, the State gives us the ability to be able to have a

restaurant for our licensing. Even the State Liquor Control Board even says as a winery, sells wines, offer food, and they're very -- I mean it's that vague, and I don't mind you guys putting a little bit more on that. But I would like to be able to serve food in conjunction with wine sales, hire a chef and be able to, you know, have cooking classes, and I think the more wineries that come will want to do that as well.

And there's going to be a fork in the road where one winery is going to choose to be a noon to 5:00 winery and have just sampling, and there's going to be other wineries that are going to want to do and go this other direction. And it's not -- we're not reinventing the wheel, it's happening everywhere.

British Columbia has a huge -- it was just in the Oregon Wine Press, they just had a huge story on the Oregon ones, but they also had ones on British Columbia, all through the states and other countries there's wineries that have full restaurants in conjunction. Even over in Prosser there's a winery called Desert Wind, they have a huge tasting room and they have a restaurant connected to it and they offer cooking classes and a full-scale restaurant, and it's a great attraction for people to enjoy and especially when you've been wine tasting.

And that's one thing that's great about wineries is you don't usually just go to one, you usually go to at least two or three. And so as you go along maybe the first one only had wine, and maybe the second one had a cheese plate, and maybe the third one you could get a Kobe beef steak with French green beans, I mean, who knows. But the point is is that each person can present their own way of wine tasting.

I think when this -- our industry is so young, I don't think we want to tighten it down so hard that we can only let it grow this way, just this one narrow definition. I think we want to see -- as long as we're meeting impacts and noise and traffic and those things, that people aren't pushed out by them, then I think that's it. I think it's all about impacts and making sure you're not pushing neighbors out.

DELEISSEGUES: Okay, thank you.

QUTUB: I have a question. So regarding food, I think what I hear you saying is that a winery should be able to determine whether they were a level -- whether they want to be a Level 1, a Level 2 or a Level 3 and serve whatever goes with any of those levels, and that we shouldn't basically be having these options in the code, is that what you're saying?

BROWN: I would like to see that only because I think it's going to grow and I think that you're not -- I don't want to say, hey, let's just do a Level 2 and then the next person wants to do a Level 3, I don't want to speak for somebody else.

But on the flip side of that there's been discussion is -- and, you know, someone even mentioned it tonight, we don't want someone to buy five acres and throw up three vines out front and call themselves a winery and operate way out of line. Everybody in this room, as far as I know, that's a winery has invested a great deal in wine, it's what they love, and they all produce wine. They've all spent maybe hundreds of thousands of dollars becoming a winery.

And so no restaurateur is going to go down that path and spend all that money to become a winery just so that they can sell food on five acres out in the middle of nowhere. I mean it seems --

GIZZI: Hey, it's not nowhere.

BROWN: Well, yeah.

QUTUB: It's a beautiful nowhere.

BROWN: His place it's in the middle of nowhere. I could say something else my grandpa used to say, but we'll leave that. So the point being is I think that if you do, if you can leave food open, then that's great. If you feel that you want to put something on it that kind of makes people think twice about throwing two grapevines out front and calling themselves a winery but they're really operating, you know, a restaurant, then, no, that doesn't make sense either for everybody.

Because people that own wineries usually are pretty, you know, they're pretty focused on culture, they're not going to just throw up and do a bunch of stuff. We understand the impacts that we had on our neighbors ourselves and we started to mitigate them down. Unfortunately, we couldn't do it as fast as we wanted to based on financial restrictions, but we're there now, so...

QUTUB: May I, Mr. Chair, just one more question. So what do you think the possibility of this rampant putting a couple, three vines out in the front and somebody establishing a restaurant out in the middle of nowhere is? Do you think that's going to be really rampant?

It sounds to me that even a restaurant has pretty tight levels to meet, and then the code doesn't allow in rural areas for it, so that's why they would do it. But is this kind of an exercise in futility here that where we're actually restricting more than actually encouraging?

BROWN: Well, and I think that's hard to answer because I think what the problem is is I think -- you think, oh, that's wonderful in this setting, a winery is going to be able to serve food. But then your mind automatically goes the other side and goes, well, what if someone starts to abuse that? And so it's like as a Planning Commission, a community, how can we protect from somebody that unfortunately looks to those loopholes and tries to take advantage of that and abuse that, which then creates issues, because where's the stopgap on that? And so it's hard to say which direction you want to go and how far it is. But, I mean, for us an example, and all the wineries, some of the other wineries had to do it too, but we because planning --

HOLLEY: Hold it. Slow down, please.

BROWN: Sorry. I'm a fast speaker. I'll get you a Red Bull. So the point I was trying to make was that you have to spend a lot of money. And we spent a lot of money on a septic system just to be able to do what we were planning on doing and, therefore, that's going to probably stop a lot of people there. Because what we spent on a septic system is usually less than what your impact fee would be in the city. Your impact fee would be less -- excuse me -- than what we spent on a septic system just to be able to handle our traffic and the restaurant side of things or whatnot, or the food preparation side of things, whatever you want to label it.

QUTUB: Okay, thank you.

DELEISSEGUES: Okay, thank you.

BROWN: Are we all done?

DELEISSEGUES: I think so. I hope so.

BROWN: Hope so.

DELEISSEGUES: We got a long night here ahead of us. This is only one of the issues we got tonight. And along those lines, if you agree with what some previous speaker has said, maybe you could just say I agree with whoever that you agreed with, if you agreed with anybody, and

kind of summarize that and we can move this along, because it's going to be a long night for all concerned. And I'm starting to feel sorry for Yacolt, I think we could have got them out of the way in five minutes. And, Jeff, of course he's happy to be here; right?

NITEN: I'm a very patient guy.

DELEISSEGUES: So go to Steve Unruh.

UNRUH: Yacolt.

DELEISSEGUES: Yacolt. Okay. We'll write you for Yacolt. Charles Igby.

ISELY: Isely.

DELEISSEGUES: Something like that.

ISELY: Close enough.

DELEISSEGUES: Hey, I got a name that nobody can pronounce so I'm not too worried about it.

ISELY: Charles Isely, 100 West Evergreen Boulevard here in Vancouver, Washington. And thank you for allowing me an opportunity to address the Commission this evening. And I guess I want to spend just a couple of minutes on the pretense issue that several Commissioners have talked about.

Because when I review the Clark County ordinance, I think it is possible to satisfy what are some very general development requirements. You know, you've got 20 percent of the land that has to be dedicated to vines, you've got some building square footage requirements for tasting room and events to use as pretense to allow for other activities that have nothing to do with wineries.

If the purpose of the wine ordinance is to increase the industry, I think the Commissioners need to be careful that we're not broadening this so much that it can be used for other activities to create essentially what amounts to a rural pub. I question what serving beer or Mimosas every Sunday at 10:00 a.m. or wood-fire pizzas have to do with the promotion of the wine industry.

So with respect to the food issue, I would be an advocate for the most restrictive alternative which is along the lines of Walla Walla. You know, if you want a cheese plate, great, have some cheese; do you want a little bread, a baguette, fantastic. But they call it wine tasting because if you're going to be sampling five different vintages from five different wineries, you probably shouldn't be drinking that much and being on the road in the first place. You should probably be doing your drinking in a restaurant with a designated driver.

And I think that also that the proposed amendments implicate the underlying zoning issues too. Because if you're creating what amounts to a rural pub or a rural restaurant, maybe that's not consistent with the underlying zoning issues, you've got GMA or comprehensive plan issues. So those are some of the matters that I would raise before the Planning Commission this evening.

I wouldn't be in favor of limiting, you know, amending the event issue where you've essentially taken the cap off. So now an event can be any number of different people and you only have to alert the Sheriff's Office when you meet 500 folks. So I would just sound a cautionary note that I think that the ordinance as currently drafted is potentially subject to some abuse.

DELEISSEGUES: Okay, thank you. Any questions?

BARCA: Yes. Mr. Isely, so if you feel it's too general, and we are in deed trying to promote this burgeoning industry, how much production in your estimation is necessary to preclude

somebody from doing the pretense of a winery, going through all the trouble to getting all of the licenses and all of the capital equipment necessary to produce wine? How much wine should they produce to no longer have it be a pretense, but in your estimation a genuine business of it being a winery?

ISELY: I think the old adage follow the money is most apt. I don't think it's a production issue, sir, I think it's more of where you're generating your revenue. Is the revenue coming from the production of wine and the sale of wine, or is it coming from events and the sale of food that have nothing to do with wine? That's where I would start.

BARCA: So we're dealing with this, though, as an agricultural industry, but you're saying that it should be judged on revenue as opposed to production in the agricultural sense?

ISELY: No. I think that revenue is indicative of what's happening on the property. Are you deriving your revenue from actual agricultural activities as opposed to ancillary matters that have nothing to do with wine production.

BARCA: So all the testimony we've heard so far is from people that produce wine and are trying to market their product. They're looking at the addition of food production as something to compliment their primary source of revenue and their business. Do you find that the testimony is in some way not indicative of that motive?

ISELY: And, again, I'm sounding a cautionary note. I think if you look to Walla Walla, which has had incredible success with its wine industry, I think it's indicative. As one of the previous person's who offered testimony indicated, that they couldn't find a meal at one of these wineries, they had to go to a restaurant, and I think that's the way it should be in Clark County.

I think there should be a symbiotic relationship in the sense that you generate wine at a winery. It creates a symbiotic relationship. They go out, they taste the wine, and if they want to eat at a restaurant, then they head into town to do that.

So, you know, you're not going to find a restaurant at a Walla Walla winery, you're going to go to Whitehouse-Crawford or you're going to go to Public House 123. You're not going to be out there at L'Ecole or Woodward Canyon, you're not going to find a restaurant at Woodward Canyon or Leigh Daddy Cellars, they're separate.

BARCA: Okay, that's your answer.

QUTUB: Do you represent the restaurant association by any chance? Do you represent anybody?

ISELY: No. I actually represent a neighbor that's here in Clark County that has been impacted by a winery, so that's my interest. I'm an attorney in town and I represent a neighbor that's impacted. And I also happened to grow up in Walla Walla.

QUTUB: Interesting. What we did hear for testimony, though, about somebody who I think is serving food and producing wine is that 80 percent of their income is derived from wine sales. That sounds like a pretty high threshold to --

ISELY: I have nothing to impeach that testimony. That testimony has to be what it is and I have no comment on that.

DELEISSEGUES: Okay. Any other questions of Charles?

MORASCH: I have one. You said you represent someone who is impacted, can you elaborate a little bit on what exactly the impacts are that are concerning your clients?

ISELY: Certainly. The largest impact would be the noise issue where events, events, and I think that the Planning Commission has talked about the difficulty of the definition of that word and it's rather broad, but if you're talking about amplified sound outside beyond the maximum noise levels allowed by the Washington Administrative Code, and beyond the time limits established under local ordinance, as well as the WAC, I mean, that is the most significant issue.

Also traffic impacts. I noticed that the current ordinance - and correct me if I'm wrong - I don't believe provides for on-street parking, you've got to have the parking off, you can't be clogging up the roads and that sort of thing, and I think that is also a negative impact. So those are the two primary ones.

But, again, I mean the other issue is the underlying zone. I mean, you buy a property out in a rural area thinking that you're going to have an idyllic setting, peace and quiet, and all of a sudden you find yourself next to what amounts to a rural pub, how is that consistent with the underlying zoning regulations? That's also another concern.

MORASCH: Okay, thank you.

DELEISSEGUES: Any other questions? Okay. Well, thank you very much.

ISELY: Thank you for the opportunity to speak.

DELEISSEGUES: Yeah, you bet. Jeff Waddell.

WADDELL: Jeff Waddell. I own East Fork Cellars. We have a location in Ridgefield that's connected to a restaurant, so I don't have some of the same problems some of the other folks do.

DELEISSEGUES: Do you have an address that you could give us?

WADDELL: 24415 NE 10th Avenue in Ridgefield. And we also just took over the Slocum House at Esther Short Park so we've expanded a little bit. But a couple of observations I had. One is I thought I was going to come here tonight and just get a rundown of where we are and where the ordinance is, and I see a lot of changes in it. Some of the changes are surprising in that there's only a handful of us here that are fully compliant as a winery based on the ordinances that are in front of us now. And part of the rub is that we're arguing, or we're making changes -- a lot of these changes -- some of the testimony and stuff is from folks that aren't even compliant. Get compliant, then you have an opinion as far as I'm concerned.

We deal with wine, we make wine, we grow, I've been growing for about 14 years, Pinot Noir. My hands are purple tonight only because the guys picked me up from my winery when I was spilling a lot of wine, so I don't say I'm really good at it, but anyway.

Part of the issue I have, I was one of the original architects of the wine association of Clark County with the late Carl English who had passed, and a lot of us who actually have legitimate wineries have put tens, hundreds of thousands of dollars and become a true winery. We found out that when we turned into an association, we had a lot of folks who were hobbyists jumping on board and weighing in, and we couldn't even get wine tours together because there was 4 or 5 legitimate wineries and about 15 others that made five gallons and weighed in and didn't even have a license.

So the only reason I got a little animated tonight is because I've invested hundreds of thousands of dollars in becoming a winery. I've looked at the models in Napa and Sonoma, Eastern Washington when it comes to food and live events. I mean, when I hear an association that apparently is in its infancy -- and some of us didn't join it because, you know, we think that that investment should be there first before a body comes in here and starts weighing in on what

they think an association or a true winery is. Be a winery first, you know, be a winery, one vintage, then weigh in.

But that's what shocks me is I don't -- it's surprising that we have to be here just to defend a legitimate winery who has put millions of dollars in their place and have to weigh in about, you know, hours and stuff. I'm saying, you know, it's surprising me because what I was hearing sounded like a legitimate body that was going to weigh in on what the rest of us legitimate wineries are doing. I'm not saying they're not legitimate, I'm just saying, you know, three hands went up and then all the rest of us, we don't belong to any association there.

So that just kind of got me upset a little bit in that we want to make sure -- and, Ron, I appreciate you asking for a show of hands because all good people here mean well, I think the associations mean well, but to become a voice of an association that hasn't even weighed in on any of the true, the wineries that at least have been around for ten years, surprises me.

And so with that said, you know, I was just -- I was a little taken aback on that. And I would ask that if some of these wineries who aren't here, like some of us haven't been here -- we're noticing changes in the ordinances that we didn't know anything about, and we've been in all the Commissioner meetings, and some of them were ones that we, from the County's perspective, came in and weighed heavily on us. I mean, they hammered us, we had to pay all these fees, we paid tens and tens of thousands, and then we come into these meetings and we find out from a spreadsheet from Gordy's group how many are really actually compliant.

Well, I think they're all in the process of doing that, that's not a problem, but all of a sudden we're seeing these things we spent tens of thousands waived, we didn't even know anything about it, you know. And I'm not here saying give me -- can I have my money back, but that would be good. But the issue is that we'd hope that you would reach out to the entire body that was here today, the wineries that have been in business, have been growing for ten years plus before you weigh in on any association, because I'll start an association tomorrow morning if I had to defend myself, but that was one of the issues.

The other thing on Walla Walla you had mentioned was when we first launched this, we were surprised that they chose Walla Walla as a benchmark because they're extremely restrictive. And part of that was if you really want to grow a winery economic development in this area, you got to be a little bit looser, which I think we've been coming a long way and we have done that. But your initial question is Walla Walla, we were all saying at the time we knew Walla Walla, that was the most restrictive, let's choose, you know, Tri-Cities or someplace like that. And Gordy's group has done a fantastic job of bringing it back to the middle, so we're happy with that.

But as far as the food, we don't have an argument in that game, you know. But I will say that entertainment, you know, we won in a top entertainment venue, you know, last year in Clark County with music. But you go look at the \$3 million that Maryhill put into their concert venue, the staging and all that, what is it that these folks like that have all these - even Mondavi has concerts that they get - what is it that we over here is saying, well, we shouldn't have these shows, you know, anything after 6:00. It seems like their think tank over there has done a pretty dang good job of figuring out that entertainment does go along with this depending on the venue.

So I was just hoping that going forward if some of these wineries aren't here - and, Ron, I think you know most of them - we'd hate to see anybody that's created an association weigh in on the rest of us who don't even belong to it and have put millions of dollars into a winery. Now, I'm not saying we don't want to, we've been invited, but there's a good reason I think a lot of folks

didn't join that because we've been down that road before, so... That's all I have to weigh in on, but...

DELEISSEGUES: Jeff, you mentioned that there were some changes made to the ordinance that you're not in compliance with, or some people may not be, can you point those out? Can you be more specific and tell us what those are?

WADDELL: Well, there's some testimony after me I think it will come out and be more point about it. But what it is is there's several wineries -- some of us are very, I guess, in their scope, and they weighed even heavier on one of our other partner wineries in North Clark County that they didn't even make me do, and then weighed heavier -- it was just that it was pick and choose who you think can pay these fees and on all this stuff, all these assessed charges and stuff. Septic systems that were brought up that cost 50,000 and then turn around and waive it for the next guy. So there is -- there's a huge plethora of that that's come on, at least the folks that the County thought that they could get at least the money out of these guys, but these guys let's let these guys slip, you know, slide by.

DELEISSEGUES: The septic they would have to comply with the County Health.

WADDELL: Yeah, you would think.

DELEISSEGUES: You couldn't get off too easy I wouldn't think.

WADDELL: No, it doesn't, but you'd be surprised how long some of us -- you know, some of us say you've got 30 days to comply, and then there's other's they got five years to do it. And then we're still all competitive, but we're all friends, too, so I don't want to see anybody here to shut down, I just want an even playing field or my money back, but that's not going to happen, we know that, so anyway.

But that's part of the issue is that it seemed to us that only the folks that they felt had the pockets, deep enough pockets, and had been successful in other big businesses, they could get the money out of right away and put the heavy hand on us, and we turn around and we see that, you know, half of them are still in process. In process is good, but, hey, I've been doing it five years and it's still in process. I'd love to have that capital sitting in my bank account, you know, financing my growth of my winery versus having to pay it all up front and then, you know, it just hasn't been a level playing field.

The other thing that I would caution - this is the last one because I know everyone needs to go home - is Gordy's group done a fantastic job at building these, just bringing it back to the middle, but the issue is it seems like there must be another meeting that starts checkmating what we thought we were making progress on, which was like tonight and like Number 9. So I would -- I think there's more testimony coming up on that, but it was surprising to us that if we're not here, we're not sure what you're hearing and who you're hearing it from, you know. If there's an association or whatnot, that's great, but it does not speak on my behalf or any other ones that have put in, you know, tens of hundreds of thousands of dollars in a winery and have been operating for 5 to 10 years and been growing for 14. So that's my two cents.

DELEISSEGUES: Okay, thanks. Any other questions of Jeff?

QUTUB: I'm sorry --

DELEISSEGUES: Go ahead.

QUTUB: -- but I have a question.

DELEISSEGUES: Go ahead.

QUTUB: What's before us here, all of these markings and changes, did I hear you say you didn't know about these --

WADDELL: No. No.

QUTUB: -- and these are --

WADDELL: You know, it's like the purified water, the septic system has been marked out completely, like, what's this all about, you know, and all the upgrades we had to do.

MORASCH: I think that's actually been moved. Gordy, I think he's talking about --

QUTUB: It would be on Page 3.

MORASCH: Page 3, Number 9, restricting, but it looks like you've added it back on Page 1, Public Health.

DELEISSEGUES: I think what they did is take it out of this ordinance and reference to Public Health.

MORASCH: Right. They reference Public Health on Page 1. (Inaudible) I think, I'm asking Gordy if that's what it is.

EULER: I believe that's why 9 is moved, it's stricken, it's moved to another location.

MORASCH: Okay, thank you.

GIZZI: It certainly doesn't mean that they don't have to provide septic on-site or drinking water.

WADDELL: You want to be healthy and all, so...

QUTUB: Right. So that was basically I just wanted to be clear that --

GIZZI: Was that a question then? Oh, I'm sorry.

QUTUB: Well, that you weren't -- go ahead. Go ahead.

GIZZI: So entertainment venue of the year, do you provide amplified music outdoors in the Summer?

WADDELL: We do, but we apply to the County ordinance at 10:00, shut it down. We have yet in five years have ever had the police called to our location ever, not even for a drunk driver or any of that because we run a real tight business and we are cognizant of noise. And so what we do is on the occasion when we do have outdoor shows, we start shutting it down about 9:30 that way we guarantee that there aren't people leaving, screaming, disrupting the residents around there. But mainly we do it indoors, and then we have amplification in there, and we have what's called a compression system that will drop it down to 80, 85 decibels so it protects your ears whether you're sensitive or not, so we're within the music business we're 35 years and know that game real well.

GIZZI: So you only play on the weekends as well?

WADDELL: Yeah, Friday and Saturdays.

DELEISSEGUES: Other questions? Thanks, Jeff.

WADDELL: Thank you.

EULER: Mr. Chair, just for the record, Mr. Waddell's in a little different situation, the East Fork Cellars is on property that's zoned CR-1 which is for a commercial business, so I believe he's

actually operating, he doesn't have the requirements, the zoning requirements, land use requirements that there would be on rural property or --

DELEISSEGUES: Yeah, that's what he said.

WADDELL: And I grow -- I grow (inaudible) on my property, but I do that in private on there, so I decided to go where there was more traffic (inaudible).

DELEISSEGUES: Dan Andersen.

ANDERSEN: I'm Dan Andersen with Three Brothers Vineyard and Winery, 802 NW 297th Circle, Ridgefield. Just a little bases. We are on AG-20 land and we are the one that they've been talking about has been in full compliance with every County agency for two years now. We were the first one to go through the whole process, and recently one other winery has done the same thing. But there are still a dozen other out there that haven't complied after, you know, the ordinance being done in 2010 and then us going through every agency two years ago.

Also on this winery ordinance, I was on the original committee that was started back in 2008 working with Gordy and some of his crew on coming up with the winery ordinance because there wasn't anything in place. The first letter I received from the County in 2006 said you can't have a vineyard on this agricultural land, so obviously there was a problem and an ordinance needed to be adopted so that the business model could operate.

You know, I think there's a lot of work that went into this that a lot of new people don't realize. You know, we spent two years working on this winery ordinance looking at many other regions around the country trying to make it fit Clark County. And now I'm not saying there's not things that can't be adjusted, but there was a lot more work that went into this than most new people realize.

We operate a pretty traditional vineyard winery model. We make 100 percent of the product that we sell. We do not have a restaurant model. We do have, just like the ordinance was adopted, to have prepackaged food, you know, mainly cheese, crackers, things like that for if people want it on-site. We do have a few larger events during the good weather months, July, August, into September, but if we have a large amount of people, it's all with licensed caterers. I guess that's one thing the County needs to determine, if they want in fact to go against, you know, current ordinance and current land zoning and allow restaurants in rural zones, I guess my personal opinion is not, but that's something the County needs to determine for themselves whether they want to stay with their adopted code and ordinances and zoning on where restaurants can be located.

Like I said, we do have a few, a handful of events that are larger on scale during the year, some of them, a few of them with amplified music but within the Clark County noise code. You know, there's a couple of things that shows up on here, and maybe Gordy's answered it with the striking of this, the Number 9, the drinking water and on-site septic, if that's truly been moved somewhere else, then I don't have a problem with it. You know, because I think it's been adopted some of us have had to do it and spent a lot of money complying with it, and, you know, just in fairness to business models, if you're going to make some people do it, then you got to make everybody do it.

The ancillary sales right above that, Number 8, I still think that's a good item to keep in the code, it is winery related. You know, almost every true winery that you go in to, you know, you will see, you know, a few small gift items. So those are the main things I wanted to discuss that -- and I guess on the -- somebody brought up the private road. We are on a private road and we complied with the ordinance. We had a huge majority of the landowners agree to us

being there. A couple of people didn't respond, we got no negatives, no "no's", a couple of people did not respond, but I think they are thrilled with having a maintained road where they have to pay zero, so I think they'll continue to be okay with it.

Where we had come up originally on the events section of this thing, and I think Michele alluded to this, you know, the 120 was originally thought to be the size of a normal wedding, you know, anything under that is good, anything over that, you know, would classify an event that brings a substantial number of people on the property at one time. As far as the numbers of events in that section, I don't know of anybody -- I mean, even some people have said that's restrictive, that's extremely liberal, that's a lot of events, you know, if you go beyond that, maybe you're an events company and not a winery.

With respect to the 20 percent of planted grounds on rural lands, I guarantee you there are people coming up and operating that are using that as a means to do something else on their site besides being a true winery, so I would be cautious of that. I think those were the main points I wanted to hit. If you have any questions for me.

DELEISSEGUES: Any questions for Dan?

BARCA: I am intrigued by your very last statement, somebody is going to plant 20 percent of their acreage in grapes for an ulterior motive. Would you elaborate on that just a little bit, please.

ANDERSEN: I think that says it what you just said there, Ron, they will do it or say they have planted 20 percent, you know.

DELEISSEGUES: Half of them died.

BARCA: So hearing most of your testimony the way that I interpret this, and I'd like you to correct me if I'm off base, it sounded like you were just saying the existing ordinance was fine and that there was a question about why were we making these changes. Is that a fair representation of what you were saying?

ANDERSEN: Well, the changes that have been produced here, the noise ordinance, it's a very small change. I mean, there's a County noise ordinance in place and going to it is kind of a, yeah, it's nonissue, it's in place, it's enforceable. What were the other three you guys were talking about here?

BARCA: Well, you brought up the idea of you were concerned about the ancillary sales.

ANDERSEN: I don't think anybody in this room would argue with that.

BARCA: Right. And then you also brought up the fact that you were very satisfied with the original wording on food. So I'm just trying to gather where your position is. I've been keeping track of people that are saying they're for or against the idea of events with a definition. I'm kind of chalking you up in the tally of being for having a definition of events.

ANDERSEN: Yes. And on the food, yes, I agree with the current ordinance and the way it is written, you know, having prepackaged food. If you have an event, then you have a licensed caterer on-site. People inside city boundaries, then you can do whatever you want, or on commercial land, zoning and everything permits that --

BARCA: Okay, thank you.

ANDERSEN: -- but it doesn't currently in agricultural.

DELEISSEGUES: Any other questions for Dan? Okay, thank you, Dan.

MORASCH: Yeah, I'll follow up just on what Ron was asking just to make sure I understand your position. It sounds like you're in favor basically of the current ordinance as it's currently written. And one of the proposals is to delete -- the current ordinance allows events to basically be exempt from the noise ordinances before 10:00 p.m. Would you have any problem with deleting that section from the current ordinance so that all events, regardless of how they're defined, would need to comply with noise ordinances, basically whatever the noise ordinance is, that's what the event would have to comply with, are you concerned about that change?

ANDERSEN: I'm fine with it either way. I think the exemption right now is for amplified music; other than that, it's the current, I think it's a State ordinance.

MORASCH: I'm just reading from Gordy's PowerPoint.

EULER: Roll back a slide, Marilee. Yeah.

MORASCH: Number 5 there. So that's amplified music basically --

EULER: Correct.

MORASCH: -- before 10:00 is okay, but if we --

EULER: 9.14.010(6).

MORASCH: If we delete that, then, that may have some implications for amplified music outdoors before 10:00?

EULER: Correct. But it makes -- what it does is it puts wineries on the same footing for noise as anybody else.

MORASCH: As anybody else. And are you okay with that change?

ANDERSEN: Yeah, I'm okay with it either way. You know, I don't -- I mean, we have amplified music, I think it falls within the State section right now anyway. But I don't know why we as a business should be outside of what everybody else can do, I mean, and I'm from the inside.

MORASCH: Okay.

ANDERSEN: Great.

MORASCH: Thank you.

DELEISSEGUES: Other questions?

MORASCH: No.

DELEISSEGUES: Okay, thank you, Dan. Walt Houser.

HOUSER: I'm good.

DELEISSEGUES: Are you okay? That's the last name I have on the sign-up sheet. Does anybody else want to testify?

BARCA: There's two in the back.

DELEISSEGUES: Yeah, why don't you in the back, I don't think we've heard from you. And if we have time, we'll hear again from --

SYVERSON: My name is Steve Syverson, 16819 NE 223rd Circle, Battle Ground, Washington. And I'm a neighbor that's been impacted by a winery and my main concern here is the noise. And I see they made some changes here, but what gets overlooked is that you take a deep base

or a drum pounding - you've all had that car pull up beside you at the intersection, that kid got that thing just thumping - we deal with that many nights a week throughout the Summer, all Summer, it drives us out of our home. And a decibel reader will not pick that up, will not pick that up, so...

MORASCH: Can I ask you a question, is that noise coming from an indoor source or an outdoor source?

SYVERSON: It's outside.

MORASCH: Outdoor source. Okay.

SYVERSON: When they play inside, we have no impact whatsoever, but outside it's absolutely horrible, it runs us away from our home many times. And so what I want to go away from this is - and this has been going on for about five or six years - I want to go away with protection protecting a neighbor. So when it is disturbing the peace of a neighbor, that that neighbor gets protected. That's all I have to say.

DELEISSEGUES: Any questions of Steve?

MORASCH: No, I don't have any further questions.

DELEISSEGUES: Okay. Well, thank you.

SYVERSON: Thank you.

MORASCH: Thank you.

DELEISSEGUES: That's a good point. Could you come forward and state your name and address.

SYVERSON: Julie Syverson, also at 16819 NE 223rd Circle, Battle Ground. And my points would be that this started as an agricultural business - the wine making - it's turning into a commercial business, and for us particularly we're in a rural residential neighborhood, so I feel that should fall under like the home business ordinances for the hours and the impacts.

Because even if it say the music stops at 10:00, that doesn't mean that the laughter and all of that stops at 10:00. And there's been many times that we hear it going till midnight, we hear the cars revving their motors as they leave at midnight. Movies start at 9:00 so they don't end until 11:00, I have sat in my bedroom and listened to the movie the Sound of Music at quarter to 12:00 at night, so, you know, it needs to stop sooner, and I would like to not hear it. So I'm very happy to see that that exemption from the noise, or the winery ordinance is being struck out of there because we weren't having any luck having it in forest because, boom, they can do whatever they want with the noise, they're exempt.

And then the other thing is with even the stuff that is being proposed, who will enforce it? Because if these -- if they're open after hours, the County code isn't open, so who comes out and enforces that? One other note that -- ours is not a particular, it's not a private road, but for those that are on private roads, I think it would only be fair that they get 100 percent acceptance.

DELEISSEGUES: Okay, Julie. Any questions? Okay, thank you.

SYVERSON: All right. Thank you.

DELEISSEGUES: Did you want to repeat something?

BLOOMQUIST: No. Well, I went first and then I --

DELEISSEGUES: Oh, come up to the microphone, we can't get it on the record if we can't hear you.

BLOOMQUIST: I'll try to be quick. Michele Bloomquist. Do I need to restate the address? I don't. Sorry, I went first and then I think a real discussion happened after that I'd like to weigh in on a little bit. I'll try to be really quick. I think that both -- there was a really good well-rounded picture presented tonight of what the wineries are facing, what new wineries are facing, what neighbors are facing, and I think that there was a really good well-rounded discussion that needed to happen tonight.

And I agree with both sides actually. I agree that Clark County has the potential to become a world-class wine region, I absolutely believe that, I never would have opened my business if I did not believe that. And I believe that I know of at least five people who want to open wineries who aren't because of the confusion that this process and the uncertainty of it. So this is kind of hampering the growth of the industry where people don't know what the rules are going to be. And if the rules are changing every year or constantly under revision, then that's a problem.

So I agree we all, all the vintners in this room want a world-class reputation, none of us want a bad reputation for the region. And if someone does behave badly, it does affect all of our reputation and so we do need protection from somebody coloring outside the box, you know, from the ordinance, I believe, if it's clearly egregiously outside the box.

But I think there should be the freedom to choose your business decisions as a business owner. If I want to close at 6:00, if I want to just do tasting, I don't feel like I need to impose that choice on everybody else. And then I want to be able to make decisions that make sense for me and my life and my situation, and I think other people should - within the law - be allowed to do that if it's not illegal. And if we're complying with the law, then I think that's fair. But we also need to be good neighbors, and I think we're here because there's problems and that can't -- I mean, those problems do need to be addressed so that we're not here again and again and again as more wineries open and more neighbors are upset and we have to come up with a way that it works for everybody, and then it continues to work for everybody.

And I wanted to raise one point about why so few people are compliant, so few of the wineries are compliant. The costs of the people that have completed the permitting process have been, I mean, they could tell you, but extremely high, and so that has -- I think that has kept other people from being able to comply. We want to comply, but I cannot go out and get a \$150,000 loan and sink that into my business when that delays my business's profitability - I don't know even know how long that would be - you know, so it has to make sense in the real world.

Like when this is applied to existing people, new people, people five years from now, it needs to be realistic and possible, I guess, is what I'm trying to say. So if there's that room for the mom-and-pop model, the person who wants to build a world class million dollar facility, you know, room for everybody in there -- and, again, that it -- it would be really nice to see this ordinance address all these issues and become a permanent and kind of -- I know it will always be a moving target, but somewhat fixed and so that -- I mean, I'm holding back on investing in my business, I know I have been because I don't know where this is going. I don't know. I mean I don't know if I can schedule music this summer or not. I don't know what the rules are going to be.

So, you know, I think everyone wants to be in compliance, everybody wants to be operating a good facility, everybody wants to be good neighbors. And so it's a challenge before you and staff and everyone to try to come up with something that addresses all of these different sides

and is at the same time not so restrictive that no more wineries open. So that's --

DELEISSEGUES: Okay, we'll try.

QUTUB: I have a question, Mr. Chair. I just, I want to ask, these changes that are happening here, do you agree with them or not agree with them as a whole, I mean, generally and --

BLOOMQUIST: As a whole, you know, I would have liked to see this ordinance actually never be adopted, I think. We have a lot of regulation already on the Federal and State level and this has been another layer of regulation, I think, that -- I don't know. I'm willing to live with what is adopted. I want to comply with what's adopted, I do my best, but I just don't want it to be so expensive that my business is no longer viable or possible. And that whatever is adopted makes sense and is going to make sense now and in the future, I guess.

QUTUB: So you think that these things in here are actually making it more expensive than it has been?

BLOOMQUIST: I don't know if it makes it more expensive. I think -- I don't know if it addresses the -- and I don't know if it's possible for the code to address the implementation part of this, the cost part of it has been a real problem for the wineries, I think. I don't know if this is going to solve all the problems that have been brought up tonight, or all the issues that have been brought up tonight. Actually, I think we'd probably be back if this was adopted.

GIZZI: So I'm guessing that the costs that -- I see folks shaking their heads - and the costs that you're having problems with are compliance with development standards for public buildings and that sort of thing, food handling, the serving of liquor, glassware, prep and cleaning, those are the types of issues that are causing you cost concerns; is that correct?

BLOOMQUIST: I don't even know how to say this without, like -- I don't know. So when I first came to want to open my winery, this ordinance did not exist, but the talk was already underway that now there are eight wineries, we need to come up with some kind of rules. And initially I was told that for \$16,000 I could get a conditional use permit and that I could have a tasting room, and I didn't understand how that 16,000, paying \$16,000 made what I was doing any safer or any - I don't know how to put it.

And then in another part of the process the building that we're operating out of used to be a milk parlor. I live in a historic, national State historic site. The building was an agricultural building, it was built in part of it in 1950 and part of it maybe at the turn of the century, and it definitely doesn't comply to commercial building codes today. It was a commercial building as a farm building, I mean, it was a business building or operation. But this process came up that suddenly you practically need to build a brand-new facility in order to, I mean, to retrofit my existing building was -- anyway -- but anyway, so...

But the - how can I put this. So then I was told, well, the solution was if I paid a \$2,000 permit, my unsafe agricultural building would become a commercial storage building for \$2,000 with no changes. How does that \$2,000 piece of paper and expense make that same exact building any safer, because it's not an Ag building now, it's a commercial storage building, the same exact building with no changes? So...

GIZZI: So I'm with you. We don't have any of that in here, I mean, that's outside of the scope of this ordinance.

BLOOMQUIST: Yeah. And that's, I think, where the rubber hits the road for the compliance part, if it is -- if you can't get through the process, how can you comply? Or if it's so, I mean --

GIZZI: Yeah, I gotcha.

BLOOMQUIST: -- you know.

GIZZI: Yep.

BLOOMQUIST: We have portable bathrooms at our location because we don't have commercial septic. I would love to that a commercial septic, someday I hope to have a commercial septic and regular bathrooms, but that was the workaround to be a legal, you know, solution, either no bathrooms at all or portable bathrooms.

And so there are, I mean, I guess that was something I requested all along, can there be sort of the ultimate model full-commercial septic system just like a restaurant would have in town. And then can there be kind of phased in where at first you start with portables, and then you get to that point where you can install the bigger system or, you know, the workarounds. Start with plastic glasses, then when you can afford to install the -- I mean, really it seems kind of like overkill to wash glasses, the expense that -- I don't know. Anyway, but it's -- that is a problem and I don't -- that is the problem this ordinance has created is it has created this huge additional expense to start up this business and -- I don't know.

BARCA: Does that answer your question?

QUTUB: Yeah, I guess so. Thank you.

DELEISSEGUES: Did that answer your question, Jim?

GIZZI: Uh-huh.

DELEISSEGUES: Any other questions? Okay, thank you.

BLOOMQUIST: Thank you.

DELEISSEGUES: Okay. I have no more sign-ups and I didn't see any more hands. Now unless this is new information, we've got to move this along.

SYVERSON: I just wanted to add to mine that I liked what John had to say. And the lady earlier said that if somebody has already said something that you like, you can just connect to that, and when John spoke, I liked what he had to say, I followed that really well. And I also wanted to say that my issue with the noise and here's other neighbors here that came to the meeting tonight with the same situation, the noise issue. That's all I wanted to say.

DELEISSEGUES: Okay. We'll return it to the Planning Commission, then, for deliberation. Who would like to weigh in to begin with? Ron, do you want to start? You're keeping track there with your vote.

BARCA: Well, so it appears to me that we really have this ordinance not facilitating the growth pattern that we're seeing from this organic development of the wine industry in the county starting out with an agricultural use and a small tasting room and then moving into additional revenue streams.

The model was events for the most part, and seeing that that is generating impacts to the neighbors, there is a discussion about trying to augment the revenue stream with food and perhaps scaling back on events. I think for us to try and restrict any of these revenue streams is to more or less be capping the potential of the industry prematurely. It's certainly important for it to be compatible with the neighbors and the neighborhood. And from what I heard from one of the testimony of a business who says they recognize that and they're moving out of events, it does show that with another potential of revenue generation it's an easier transition for a business to make that choice.

Marketing their product when the wineries are spread out throughout the county, you're not going to see wine tasting outside of weekend days as being a major component of when they'll have an opportunity for sales. But if we allow them the ability to gather from their own region or neighborhood or have comfortable venues for people to come, enjoy some food, pair some wine with it, we're not going to constrict their ability to grow, and I think that's an important part of this so early in the industry.

It seems like most of the testimony was - other than the food component - pretty well satisfied with what the original ordinance that was before us earlier was in place.

DELEISSEGUES: Before it was changed.

BARCA: Yeah. It seems like we had more compatibility issues with the industry representatives now that we've made the change other than the noise component, which based on testimony appears like was something that have enough of an impact that it brought both sides forward to talk about the idea of some type of change.

It appears to me we have to have a definition of events just because where we're at on Page 3, if we go E.5, we're talking about the Sheriff's Office will be notified by the permit holder of any event that has more than 500 persons. If we left just that component in there, we have to have a definition of what an event is.

So I'm really wondering, how much of this do we want to scrap?

I'm at the point right now of just saying I would prefer to allow the levels of food preparation take place within the licensing of the Public Health and just let that work itself out without a restriction to food preparation. They already have to go through quite a bit of compliance to get there --

DELEISSEGUES: And cost.

BARCA: -- and cost. And the earlier discussion from somebody's representative about wineries just being labeled as such but they're really going to be masked restaurants, I think the cost of the licensing and the production capital really turns it into a moot point. Nobody's going to go to the trouble of pretending to be a winery just to get themselves a location in the middle of the rural area.

So where I'm at on this right now is I could almost accept the original ordinance as written with the only change would be to add Level 1, 2 and 3 food production in there based on compliance with Public Health requirements.

QUTUB: And not addressing noise?

BARCA: No, pardon me. The change for noise would be as staff has recommended.

DELEISSEGUES: Karl, do you want to add anything to that?

JOHNSON: Well, I'm kind of with Ron. I think we have great growth pains here, but at the same time we have, you know, I'm very sensitive to the neighbor issue. And it seems to me that both sides - Rusty Grape kind of came up and then, you know - that there's something here that we're trying to work out, so... I won't underline the fact that we, you know, we addressed the noise, the change of the noise. And, you know, I know that -- I'm also sensitive to the fact that we don't talk about, you know, hopefully the Sheriff gets there if there's a problem because I want you to know that you guys are heard because there was a lot of winery people here.

With that said, I really, you know, everybody, we need jobs, we need business, and any time we can encourage that - especially out in the rural areas - I think it's good. And so in this case

I'm -- event, that's your business, I'm fine with striking that, I'm not interested in saying how many events you can have.

And also I think that food, I can't see anybody - Ron, I agree with you - going and spending, I mean we heard how much money you got to spend just to get out there, I'll go sink \$150,000 out in the middle of nowhere where I can do a better job in town, so... For me I'm in line with everything that, you know, you guys have come up with, basically striking events and really paying attention to the putting no exceptions on noise limits. And then finally, I don't want, you know, if you're going through the Health Department and you want to serve steak and eggs, just make sure you cook them, so...

DELEISSEGUES: Eileen.

QUTUB: Well, it sounds to me, too, like there's some disagreement about some of the changes. I think the noise issue has to be addressed. I heard from other people that ancillary retail sales should remain in there and that's being taken out, and I think that that is an opportunity for, you know, revenue and profits and that sort of thing that we need to do. I guess I'm a little surprised that these are not -- what I understood that they would be doing was helping the industry and it doesn't seem like it's actually doing that so much. We do need to address the noise though.

So I would say I agree pretty much with Ron, sort of his boiling it down to what I think we heard this evening, where we should address the noise, maybe leave the -- well, I think that the food, that we should leave the food at the Health Department levels, I think that was a clear thing we heard. And the events thing, I think it's dangerous if we don't have some sort of a definition, because it will be litigated and then we have to take somebody else's definition of it or the courts dictionary definition of it. So I don't know how the wineries feel about the definition of the events now, most said they were okay with it that I heard, but I wasn't keeping track.

DELEISSEGUES: Me either.

QUTUB: I wasn't marking who wanted it and not. Were you? I think you said you were, Ron.

BARCA: Yes.

DELEISSEGUES: Okay. Eileen, are you done?

QUTUB: I'm finished. Thank you.

DELEISSEGUES: Jim.

GIZZI: Well, unlike others, in some respects, I think I have concerns about there not being a little more of a definition around wineries if we're going to use a winery to allow for food service establishments. I mean, yes, there are costs associated with putting in a food service establishment, but do we really want to use this winery ordinance to open up all rural properties to the introduction of restaurants? And basically, you know, from what I heard here the cost associated with the winery portion or compliance with the winery portion are equipment to produce five-gallons worth of wine - which I can buy at Beta Brewing for under \$100 - and 20 percent of my property planted to grapes.

Well, I mean, there's no definition of how planted and how big they have to be and how mature they have to be and whether or not they have to stay alive. So I can go out and buy, let's see, for me, I don't know, you know, a half an acre's worth of -- it doesn't even say how close they have to be. So for all intents and purposes, I can buy five grape plants and put them in my yard, go down to Beta Brewing and buy a kit to make five-gallons worth of wine and open a

restaurant.

BARCA: You forgot about the State and Federal licensing.

GIZZI: State and Federal licensing in order to become a winery from what I heard is relatively straightforward. So we had talked about putting a definition maybe around what a winery is to us, so I don't understand Federal and State licensing for wineries. But I know that when I started my business it was \$35 for the application and a couple of forms to fill out with some ancillary fees, the rest of the costs were associated with upgrading my property to comply with development standards, and I don't think that's what we're talking about here when we're talking about getting to be a winery.

So we're not putting in here anything that defines what we expect a winery to be other than 20 percent of the acreage in grapes to open a restaurant, and that concerns me. And then I certainly do share the neighbors concern about around noise. So I, you know, that's my thoughts. I think we're opening the doors to restaurants in rural Clark County without defining what a winery is and that's my concern.

DELEISSEGUES: Steve.

MORASCH: Thank you. Well, I've got one technical comment and then I've got some more policy comments. I guess I'll start with the technical comment and just get that out of the way. If we are going to eliminate the definition of events, then I think we should treat events and tasting rooms basically the same under the code. And it looks like the proposed code does that with the exception of this Section 2 on Page 3 that says that events must have an event management plan, but then it refers back to Section (D)1 for what has to be in the event management plan and those are the same requirements that apply to tasting rooms.

So I'm not sure why we're trying to distinguish between events and tasting rooms in Section 2 if we're going to get rid of the definition of events. I would just treat them all the same and say they all have to - well, they do all have to require -- they do all have to comply with Section (D)1. So I think we could probably get away with just eliminating that Section 2 and not drawing the distinction between events and tasting rooms and saying they all have to comply with those provisions and have some kind of plan for how they're going to do that.

On the more policy matters, I would tend to agree with Jim on both of his points. With respect to the cost of opening a winery, what I heard was the biggest cost was a septic system and a bunch of sinks, and those are the same exact costs that you'd have to pay if you were opening a restaurant, because a restaurant would need a septic system and a bunch of sinks. And in addition to that you'd have to plant 20 percent and buy equipment to produce five gallons of wine, which would be a relatively small portion in relation to the cost of the septic system, the building and the sinks. So I do have some concern about kind of opening it up to restaurants, but it's not really restaurants that concern me as much as it is brew pubs.

I think it's probably not likely that a sit-down restaurant is going to go open up out in the middle of nowhere, but brew pubs, you know, they tend to do pretty well out in the middle of nowhere. There's several in Oregon that have been there, you know, since the dawn of time - which is the only reason that they're there because they wouldn't be allowed under current code in Oregon - but there's Skyline Pub, there's Wichita Pub, there's Rock Creek Tavern, I mean, you know those places are all kind of out in the middle of nowhere and they do pretty well. So, you know, we could be opening it up for somebody to come in with a brew pub style if we allow too much.

On the other hand, I think a brew pub might make it under the current code because they're

really more into serving beer, you know, and if they serve pizza by the slice, you know, that's not made to order. And so a brew pub could serve pizza by the slice and beer and they might be able to make it in even under our current code. So I don't really have a strong position on how the code should be changed to fix that, but I do see it as an issue.

And then my last issue is noise. I definitely think we should delete this Section 5 on Page 3 of the PowerPoint, but I'm not sure if that goes, you know, far enough to protect the neighbors. And I really liked what I heard from the gentleman from Rusty Grape about how they eliminated the outdoor amplified music, and I think we might want to consider putting something in code that codifies that as a requirement at least after certain hours at night. And that's all my comments.

DELEISSEGUES: Okay, good. I don't have much to add to that. I think we ought to strike the exemption on the noise and I agree with that. I question this building square footage, I keep going back to that. And it says "the cumulative building area for tasting rooms and events," now I'm not sure if that includes everything else that has to be in the building, too, like refrigeration, a bar, you know, pretty quick you start limiting the size of the area that's actually available for the public below that, or can they have two buildings or three. What does "cumulative" mean?

EULER: Total.

DELEISSEGUES: Then it should be areas with an s, I think.

EULER: Yeah. Cumulative implies plural.

DELEISSEGUES: Well, I hope that's understood because to me it's not clear. And the size of that building will certainly be something in the winter when it's raining and so forth; it will have an effect on the capacity of the number of people that can be at the non -- we can't call it an event anymore, but...

EULER: There are two reasons for the limitations there, one is there's a requirement in GMA for preservation of rural character, let's not forget that that's one of our guiding principles.

DELEISSEGUES: Right.

EULER: The other is below 12,000 feet, below 12,000-square feet SEPA is not required, a SEPA checklist.

DELEISSEGUES: Well, that's 100 feet by 120 and that's not a real big building, I'm just making a comment, I don't need a defense of it. I think ADA has to be added to 1.c along with everything else, but I guess there's a lot of other things in the code if you're going to comply with the code for a public building.

EULER: It's included in meeting the building requirements under Title 14, Buildings and Structures.

DELEISSEGUES: The other question I had was I wonder if they could require something like the majority of the revenue stream has to be derived from the winery, the wine, sale of wine, and that would stop the restaurant business. I mean, Jim's four grape plants out there that's going to produce five gallons of wine on 20 acres is not going to be the majority of his revenue stream, so maybe that's something we could consider to prevent restaurants in the rural area. But other than that, I agree pretty much with what's been said. And if somebody wants to make a motion or continue the discussion, go ahead.

BARCA: Well, from what I heard I didn't think that there was really a lot with the original

ordinance that we needed to do away with. We certainly understand that the new wording on Page 2 - which will be considered 1.h - about the new WAC requirement for noise and public disturbance was to be added to it, but otherwise it seemed like most of the discussion was about trying to bring pieces of this back.

So I'd be willing to make a motion to restore the original ordinance with the exception to the WAC noise ordinance change, and in food service which would have a definition of being in compliance with the Public Health levels of service.

DELEISSEGUES: Well, it would be anyway.

BARCA: But not trying to restrict or define at what levels each business owner should make their own decision about their investment and whether they can or cannot make that investment. So I'd be willing to put that out as a motion.

MORASCH: I'd be supportive of that. The only thing I would want to see in addition would be some limitation on outdoor live music because I don't think the WAC really goes far enough to protect people because of the way it's written and it's based on dBA at the property line. And as the gentleman testified, you know, you have some bass, you know, that's really pounding - and low frequencies travel a long ways - and I don't think that the WAC adequately addresses that because, you know, he said that it was, you know, below the threshold under the WAC and yet it was still causing problems. And I've experienced similar problems before, you know, in my life with neighbors and things so I can definitely appreciate that type of a comment.

QUTUB: How would you word that?

GIZZI: And then we'd also have to make the inclusion of a definition of event here.

MORASCH: Ron is proposing to keep the existing ordinance. So we'd have the existing definition and all those restrictions, we would just allow food to be unlimited basically. I would take the limits off on what kind of food they can prepare other than Public Health limits and then deal with the noise issue. But other than that, I heard we were going to just keep the existing ordinance intact; is that correct?

BARCA: That was the direction I was trying to go. But in discussion about the live music, many of the businesses I think successfully have live music. And if we just make an outright prohibition, aren't we penalizing ones that have already been able to strike a deal or been in an agreeable situation with their neighbors?

I mean, even Dan from Three Brothers said that, you know, he gets along with his neighbors and there isn't a problem when he chooses to have an event, when Michele chooses to have an event, she doesn't appear to have a problem. I'm not sure that we should just go ahead and create a full-blown prohibition.

MORASCH: I'd be okay with a limit on the hours, maybe 9:00 or 10:00. So no outdoor live amplified music after 9:00 or 10:00, but it would be okay before that, and then indoors of course would be fine.

BARCA: Yeah, and I think we could probably work with something like that then, we would put that out. Doesn't the WAC change at 10:00 now? Yeah.

MORASCH: I would prefer 9:00, but if, you know, the group votes for 10:00, I'll go along with 10:00, it does follow the WAC.

BARCA: Yeah. So just, I guess, my recommendation here is to try and restore the ordinance with the change to follow the WAC which would include the 10:00 prohibition then.

MORASCH: Well, the WAC doesn't prohibit outdoor music after 10:00, the WAC changes the dBA standard at the property line after 10:00. So my proposal would be to go one step further and prohibit outdoor amplified music after 10:00.

BARCA: And I would be agreeable to that change.

DELEISSEGUES: I think we ought to encourage a good neighbor policy too, you know, that would go further than any of your rules because then who is going to enforce it, and then you call the Sheriff out, or as they pointed out, you know, code enforcement quits at 5:00. And so you really do need to work with the neighbors I think, that's the best way to handle it.

MORASCH: Yeah. I'm not opposed to that, I think how you draft that, I mean.

JOHNSON: The wording is difficult.

MORASCH: Yeah. I've experienced some over in Portland where if you want to open a convenient store, you've got to have a public meeting with the neighbors and you've got to put together a good neighbor plan and it's got to have all these seven elements, and, so, and it works pretty well. But you do need a pretty comprehensive set of regulations if you want to, you know, really make your good neighbor plan, you know, have any teeth and I don't think we can craft that tonight.

BARCA: So I did put a motion out, I don't believe it's been seconded.

MORASCH: I'll second it as it was amended.

PUBLIC: Can I add anything at all?

DELEISSEGUES: No. We're far along now, I think we're --

BARCA: The Commissioners will hear you.

DELEISSEGUES: Yeah, we're happy.

PUBLIC: Thank you.

DELEISSEGUES: Yeah, that's one thing we want to certainly recommend that anybody interested in following through on this attend the hearing of the County Commissioners.

MORASCH: Gordy, has that been scheduled yet?

EULER: No.

ROLL CALL VOTE

DELEISSEGUES: We have a motion and a second. Does anybody want to add anything? Ask any questions? If not, roll call.

MCCALL: Okay. Can you hear me? Okay. What I have as the motion is to restore the original ordinance.

Food, definition of compliance with Public Health.

And to prohibit outdoor amplified music after 10:00 p.m. And for the roll call, that was moved by Commissioner Barca, seconded by Commissioner Morasch.

JOHNSON: AYE

DELEISSEGUES: AYE

QUTUB: AYE

GIZZI: **NO**

BARCA: **AYE**

MORASCH: **AYE**

MCCALL: *I have a count of 1, 2, 3, 5 yes votes, 1 no vote.*

DELEISSEGUES: Again, I'd like to let Jim have an opportunity to explain the no.

GIZZI: Oh, I think everybody understands. I just think we should have a revenue component in there or some way of defining a business as a winery if we're going to open up food service in rural Clark County, that's the only concern I have.

MORASCH: You're okay with the noise provisions that we added?

GIZZI: Yes.

DELEISSEGUES: I agree with you, Jim.

EULER: But, Mr. Chair, point of clarification, so what you've done is allowed, by your motion you're allowing restaurants in any rural zone?

BARCA: We're allowing restaurants associated with wineries.

EULER: So if I'm Ron Barca and I want to open a restaurant, I can call it the Barca Winery Company and --

BARCA: If I am licensed by the Federal government, the State government, get a business license and produce --

EULER: Five gallons of wine.

GIZZI: Now wait a minute. We don't have any of that in here.

MORASCH: No, that's required by the State.

BARCA: Yeah. Yeah, we don't have to.

EULER: What I'm saying is we're going to have to amend every section of the -- you're going to see another ordinance come through there that amends every section of the County code to include this land use because we don't have this land use now.

So that's why my next step after we take this to the Board is you're going to see another ordinance where we have to go through and amend every section of County code to allow this use, so that's why I'm asking the question.

MORASCH: Why is that? As I understand Ron's motion he's basically adopting your c -- or which slide was it that had the three alternatives for the food service?

EULER: It's the next one down, Marilee. Next one.

MORASCH: That one, yeah. It looks like we're adopting the third alternative there for food service, so I'm not sure why we're causing you to have to go do all that additional work.

EULER: Because it will need to show up in each -- we have wineries, we've added wineries in every code. Now we'll have to have restaurants in conjunction with wineries will also be a permitted use under this.

BARCA: I think you're taking it beyond the scope of what we're saying. We're still saying they're wineries. We're saying that they are able to have the service of food based on the level of service that the Public Health Department allows much in the same way that if they have

other services --

EULER: Excuse me, but this was a land use ordinance. We don't care what the Public Health Service allows. What we're saying is a land use -- you're allowing a restaurant now in a commercial use in an agricultural area, that's going to be the result of this, with a winery, and that's not -- has nothing to do with Public Health. I just want you to be clear that -- I want to make sure I'm understanding what you're recommending because that's the affect of your motion.

BARCA: So, Gordy, you gave us Option c.

EULER: Correct.

BARCA: We chose c.

EULER: Okay. So the next thing I need to do, then, is make sure that the County code reflects -- or once the Board, if the Board agrees with you, the County code reflects that.

DELEISSEGUES: How is it that Alderbrook operates out there with a cafe?

EULER: They have, I believe, Alderbrook was put together on a master plan, with a master plan agreement some years ago. I didn't work on that; Oliver worked on that.

DELEISSEGUES: Are those still possible?

EULER: I think there's sections in our code that allow for master planning.

DELEISSEGUES: Well, maybe the wineries ought to do that.

EULER: Well, maybe so. That's not part of your motion, so...

DELEISSEGUES: Well, I don't know. I'm just saying it can be done because it's out there, so there must be a way. If there's a will, there must be a way.

EULER: This is the recommendation we'll take to the Board. But just in terms of how we implement this, how it shows up in County code, this was a significant change, so... Okay.

MORASCH: And my question is, as I read the proposal that's before us "Food service establishment" means an operation that stores, prepares, serves, vends, or otherwise provides food for human consumption," and then it cites the WAC, so how is what we adopted any different than the staff proposal here in our packet with respect to this issue that you've just identified?

EULER: Food service establishment also includes Fred Meyer's, WinCo, Costco, anybody that sells food, so by definition.

MORASCH: So what you're saying is if we had adopted verbatim what appears in front of us, you'd have the same issue of having to go back and amend all these other provisions of the code?

GIZZI: The answer has to be yes.

MORASCH: It has to be yes, because we adopted something that's not quite as broad as what you put in front of us.

EULER: But what you want to do is allow food service establishment in conjunction with wine tasting rooms. So food service establishments includes more than just a restaurant.

MORASCH: Right. But as I'm reading the code what we were presented with also allowed food service establishments in connection with wine tasting rooms.

EULER: But that was one option.

DELEISSEGUES: One point of order is we haven't decided on anything. We've recommended a course of action to the County Commissioners and what they do with it is out of our control.

MORASCH: Well, we decided on a motion, that was --

QUTUB: We did, yes.

MORASCH: -- that was us saying. We decided on a motion and our motion was a recommendation.

DELEISSEGUES: Correct.

MORASCH: And then I'm trying to understand how our recommendation is any different than the --

GIZZI: Staff recommendation.

MORASCH: -- staff recommendation that we were presented with. So if our motion was adopt this recommendation that we were given here verbatim, how would that have changed your follow-up? It sounds like your follow-up would be the same in either case.

EULER: We need to now show that food service establishments are allowed anywhere in a rural area with wineries, that's the change.

MORASCH: Right. Okay. And that would have needed to have been done if we would have just adopted the proposal verbatim that is in our packet?

EULER: Well, there were three choices in your packet and you picked one of them. This slide you're looking at up here had three options, and you picked out --

MORASCH: Right. But I'm talking about the actual text of what is in our packet, because the text appears to include Option 3 in the text --

EULER: Actually, I think --

MORASCH: -- at least in my packet that's what it shows.

EULER: The text that you got is Option 2.

DELEISSEGUES: Well, we've got the motion passed, and maybe you and Steve can work this thing out later and we can go on to Yacolt.

MORASCH: It doesn't look like Option 2, it looks like Option 3.

QUTUB: No, we can't.

DELEISSEGUES: Why not? We're beyond that point.

MORASCH: Yeah, I guess we can move on. I was just trying to understand what Gordy was saying.

DELEISSEGUES: Is everybody okay?

BARCA: I'm great.

DELEISSEGUES: Is anybody happy? Well, thank you for your participation in the wineries. And we'll move on, Jeff, you'll be happy to know to Yacolt, CPZ 2013-00008, Town of Yacolt Comprehensive Growth Management Plan update and Urban Growth Area expansion.

B. CPZ2013-00008 TOWN OF YACOLT COMPREHENSIVE GROWTH MANAGEMENT PLAN

NITEN: Good evening, Commissioners. Jeff Niten with Clark County Community Planning. And the map you have up on your screen there is current boundary of the Town of Yacolt with several areas. Marilee, could we scroll down just a little bit. There we go. Several areas that the Town of Yacolt has adopted as a proposal to the County for expansion of their urban growth area.

The urban growth area that we're, or that the Town is requesting to expand is 74.25 acres. 54.25 of those acres are in proposed for light industrial zoning designation with the remaining 17 being proposed for future residential development.

There were several questions that were brought up by Planning Commissioners and Board members in regards to service provision for the Town. The first of those was for traffic level-of-service standards - which we've assessed or analyzed to remain, even at full build-out in 2029 - as still remaining at level-of-service A.

Additionally, the water connection or water availability was also a concern that we've addressed. The current connections allowed for the Town of Yacolt is 1,000. And even at in 2029 at full build-out with the expected population increases, there would be approximately 873 connections, so even at full build-out they won't completely run out of their current allotment. And we're looking at a two-percent growth rate here. Population is expected to increase to 2,280 persons into the planning horizon.

The impetus for this expansion was in 2007 when the Board of County Commissioners adopted the comprehensive plan for the County, they instituted a policy which said - to paraphrase - when the Town assures that public sewer will be available, the County will reconsider expansion of the urban growth area, and the Town has done that culminating last August with the adoption of a general sewer plan that was approved by the Department of Ecology. One of the reasons for this expansion area is down to the south - in the triangle piece to the south of the town - is the area where the Department of Ecology had approved the sanitary sewer facility.

And basically that hits the highlights of my presentation. Pete Roberts, the Director of Public Works is here, and Councilmember Gerhardt is here to answer any questions that you may have, or I'll answer any questions that you may have of me.

DELEISSEGUES: Which one wants to start?

GERHARDT: Lewis Gerhardt, Yacolt Town Council. Our council approved this plan approximately six weeks ago, sent it to you guys. If you have any questions, we're welcome to answer. This is Pete Roberts our Director of Public Works for the Town of Yacolt.

ROBERTS: Good evening.

QUTUB: Good evening.

ROBERTS: And this is Eric Beck, he's from Clark Public Utilities, the water purveyor.

BARCA: Nobody from Public Health --

NITEN: No.

BARCA: -- the people who approved the plan? Sewer, right, we're talking sewer?

NITEN: Department of Ecology approved the plan.

BARCA: Department of Ecology, sorry.

NITEN: No.

BARCA: Nobody from Department of Ecology?

NITEN: No, we didn't -- yeah.

BARCA: Because I don't think we got a problem with the public water, do we?

BECK: No. Go get some wine.

NITEN: I didn't realize that you wanted to see a copy of the approved plan, the approved general sewer plan. I have that downstairs if you want me to go grab it.

BARCA: No, I'll take your word for it that it's approved. I did probably have a couple of questions for them, but that's okay, yeah.

DELEISSEGUES: Well, why don't you ask these people questions.

BARCA: Oh, I will.

DELEISSEGUES: Go ahead.

BARCA: Are we ready?

DELEISSEGUES: If you don't have any further testimony, we'll return it to the -- see if there's anybody in the audience that wants to testify? Okay. Can you come up and --

UNRUH: I can make it expediently if I'm allowed to sit next to Mr. Niten, I think we can make it --

DELEISSEGUES: Well, you're going to have to come up to a microphone so we can -- sit next to Jeff. State your name and address for the record, please.

UNRUH: My name is Steve Unruh, U-n-r-u-h. I reside at 511 and 513 East Yacolt Road. Let me give my clear statement of interest, I represent the Grooms-Unruh family estates. Between my wife, her brothers and I within the Town of Yacolt and adjacent to it in the current urban boundary area, we control 41 acres. So we have the ability to smack 120 houses on that if we're on court (sic).

Again, full disclosure, within my family in the last 28 years within the current old town limits we've released from agricultural usage 28 acres, we just had 53 houses built on it. So it's popular in the Town of Yacolt to spare me as being an antigrowth person, it's kind of impossible. We're one of four perimeter families that have this ability to build this many houses if we're on court (sic). We have the longest history so we know what the cause and effects are.

So I was the one that brought up to the County Commissioners that my perception - the perception of my family - is the two largest growth constraints for the growth of the Town of Yacolt - for growth within the valley of Yacolt - as defined by Yacolt Creek is water quantity and transportation issues on the feeder roads in and out of town. As was pointed out we are licensed currently for 1,000 residential units; is that correct?

BECK: Yes.

UNRUH: The public wells are within the town limits but the service area to the south extends, if you look at your map, that's approximately one mile north and south, east and west, the service area extends an additional three miles to the south of that. There are water supplied to rural residences outside the town three miles to the south, two miles to the east, one mile to the north. So the amount of service areas that was quoted, does that include the services outside the city limits?

BECK: It includes all the water mains that are out there, so the system can expand. It's

basically what the water right has capable of supplying. And so the water right -- let's see the water right up there, let me just grab that. What we have currently is a water right of 301-acre feet and the existing consumption is 147-acre feet, so the town could actually double in size with the water right that's currently available. And so if there are customers outside that service area, they could be part of that.

UNRUH: If there are customers?

BECK: Yes.

UNRUH: How many customers are outside the Yacolt city limits?

BECK: I would have to guess at that, but I'd probably say 30.

UNRUH: I counted 50 just on Railroad Avenue when I was doing the trash cleanup. In 2008 --

BECK: Are those actually CPU customers, or are they just houses that may have wells out there?

UNRUH: All I saw was service (inaudible). When your own meter readers are coming by a week ago I asked, well, how many meters do you guys check outside the city limits? Well, of course they are guys hired and they're going to be very vague, they said a couple hundred.

In 2007 asking Clark Public Utilities on the water report, how many services were done by Yacolt? And out of the Yacolt public wells I got the number of 728. The 2011 water report when I asked a Clark official, how many water services are supplied by the wells out of Yacolt? I got the residential equivalent units of 758, a slight increase because, you know, the economy was down during that time frame.

DELEISSEGUES: Well, what we'd like you to do is testify to the --

UNRUH: To you.

DELEISSEGUES: Yes, please.

UNRUH: I'm saying, again, the two constraints for growth of the Town of Yacolt -- I apologize -- the two constraints for the growth in the Town of Yacolt are water quantity, we're in a very small aquifer, road access service in and out. So what I would like to see in all of these reports -- here's a stormwater management plan, it doesn't address either issue other than a couple of paragraphs to say there is no problem. Here is - if you'd like to borrow mine - Yacolt final sewer plan. Other than a few paragraphs it doesn't issue water quantity problems if growth continues at the rate growth has continued, we will run out of water.

So what I would like to see that until these various studies and reports that accumulate to over \$100,000 in the last ten years, until they actually have an addressed plan for expanding the water quantity availability - where are you going to get the water from? What's it going to cost us? Who's going to pay for the service upgrades? - very well detailed in what is presented to you is Clark Utilities supply upgrades within the Town of Yacolt, but there's nothing addressing where are you going to get more water when you need to get more water.

Transportation issue. I'm sorry, there's no page numbers on this, but it says our access roads, Amboy Avenue, East Yacolt Road, North and South Railroad Avenue, West Yacolt Road, current LOS is graded at A. Adopted LOS standards should be no lower than C and B. Projected LOS will be A. Page before that is giving the definition of A, B, C, D and E. Most of the definition is related to how long you're going to be hung up at stop signs or traffic signals, it doesn't apply.

On all these roads I talked about going in and out of Yacolt, they're windy, twisty roads, along a

river, up and over hill and dale. Any one of you would have certainly traveled 503 through Fargher Lake, that is one of the access roads that feeds into feeder roads, County feeder roads into Yacolt. So in the definition of B - last thing - "generally drivers are not subjected to appreciable tensions." "C, motorists experience appreciable tension."

The current mayor had a head-on collision, total loss of his vehicle with his whole family in there north of town on one of these access roads. His wife has - by his admission - hit four deer since they moved up there. Every family, long-term family up there longer than 15 years has had a fatality head-on on these roads. So it isn't a matter of the traffic, it's a matter of the types of roads and the fact that it will take me 45 minutes, 48 minutes to get home tonight. So people who commute in and out of there for school, for work, for business, they punch it hard. At any given week you have to avoid a head-on collision where you're coming around a corner and somebody is illegally passing.

So I recommend that no further uncorking of the growth be allowed until substantially the issues of where is the water capital expense expansion going to come from, water supply, it is not adequately addressed. Adequately addressed the safety concerns of the feeder roads going in and out. This is available on all the police reports, the accident reports. These study after study glosses over these two factors, I live with it, anybody living there lives with it. Look at the discrepancy in our numbers on services. I mean --

DELEISSEGUES: Okay.

UNRUH: -- verify the facts, do a lot of fact-checking, that's what I would ask. Thank you.

DELEISSEGUES: Any questions?

MORASCH: Yeah. Do you have any solution for the traffic issue, I mean other than, you know, straightening out a windy road from Battle Ground all the way to Yacolt?

UNRUH: The County has done tremendous amounts of advancements for road widening taking the asphalt out as far as they can, fog lines, did a lot of overlay improvements to smooth out the bumpity bumps. I cannot see where there's a feasible solution. We will have to live with the existing traffic and any increase in traffic.

Every household added adds three cars driving twice a day up and down some of those roads. Industry added will add jobs and trucks, and actually I have no objection to the trucks. Weyerhaeuser uncorked their logging operation at 100 trucks a day going by my house, they're quiet, it's the private citizens with their jacked-up diesels with equipment on them, but that's not the issue here. I don't have a solution. I do not believe there is a solution. Yacolt Town in Yacolt Valley is not at all like Battle Ground on the crux of two State highways where the State's going to come in and save them - us rather - it's all going to be on the County, 100 percent on the County.

MORASCH: Okay, thank you.

DELEISSEGUES: So my interpretation of your testimony would be until those two situations are dealt with, there should be no further expansion --

UNRUH: No.

DELEISSEGUES: -- is that close?

UNRUH: No, that's not correct. This plan has to be updated. Everybody knows we're on a mandate to update this plan, but any plan that takes place has got to address those issues in a realistic way.

DELEISSEGUES: So what's the difference?

BARCA: I think that's a yes.

QUTUB: Yeah.

MORASCH: Yeah. I think you just told us that you couldn't address at least one of those issues.

UNRUH: Couldn't address the --

MORASCH: The transportation --

UNRUH: -- the transportation.

MORASCH: -- because there's no feasible solution to the transportation issue.

UNRUH: There's no physical solution.

MORASCH: So how do you update if there's no feasible solution to your issue? It sounds like you're saying they shouldn't expand anymore because you've got an issue you've got to address and there's no way to do it.

UNRUH: Pick the water issue. Pick your water issue.

HOLLEY: I didn't hear you, I'm sorry.

UNRUH: Thank you.

HOLLEY: Pick your water issue?

UNRUH: Pick the water issue. Why in all three of these, Yacolt's stormwater management plan, Yacolt final sewer plan, this was a previous Yacolt sewer plan, you see how they grow over the years, but we're all familiar with that. None of these address water quantity other than just to give you a few basic numbers.

DELEISSEGUES: Yeah, I understand that, but what's the --

QUTUB: What can be done?

UNRUH: What I believe our town council in working with the Planning Commission needs to do is go with Clark Public Utilities, get in the proposed plans presented to you and the Clark County Commissioners. Get in writing a proposed plan when we need to expand the water service in writing, and a signed commitment from the Clark PUD Commissioners, the three Clark Commissioners to do this, that when Yacolt town service runs out of water capacity, when it's foreseeable to run out of water capacity, that this is the plan.

We're going to take it down from Kelly Hill - that's what I've been told - they have a water service in Kelly Hill. Years past we were told in public meetings and Yacolt Town Council by Clark representatives we'll just go to Chelatchie Prairie, we'll develop their well field and we will pipe it into the Town of Yacolt.

GIZZI: So I don't know --

UNRUH: Why aren't these in writing?

GIZZI: Well, actually that detail is not included in this document, but they reference water and they've broken it out into two categories. I'm on Page 3 and 4. So there's Existing Facilities and Service, but then there is a second paragraph called Needs and Planned Actions and they reference a Clark Public Utilities Water System Plan Amendment for the Yacolt Water System, and it calls for improvements to the general plant, source of water supply - as you say - meters --

DELEISSEGUES: Page numbers.

GIZZI: It's Page 3 and 4, but that's --

BARCA: Of what section?

GIZZI: Yeah, see that's the problem, I don't know.

NITEN: Capital Facilities.

GIZZI: Capital Facilities. And they talk about where they're going to get the money and it's actually "Water facility improvements listed in the water system plan are also identified in the six-year capital facilities program." So it does seem that the concern you have over water is at least addressed and referenced in a document --

UNRUH: May I respond?

GIZZI: -- And they actually give a cost of \$670,000. Of course.

UNRUH: In the past 20 years I have been quoted \$4 million to bring the water, additional water to Yacolt out of Chelatchie Prairie, and this was a public meeting quote by someone from Clark Public Utilities. Then I've been given - and again at a public meeting - since then, no, no, we're not going to bring it out of Chelatchie Prairie, if there's a problem, we'll just bring it down from Kelly Hill. But then the man also cringed and said, you know, it's still going to cost us millions of dollars to, you know, get all their approval to get a pipeline down.

So I as a citizen, a taxpayer, with enough property to really be impacted heavily tax-wise on a we must do this now, I am actually requesting that until the language, until a plan, equivalent plan to any of these plans we have here called an equivalent plan, I don't believe this should be adopted, it does not have detail of that plan. And we, as the public in the Town of Yacolt, have been given quasi figures over the course of the years here, here, here and here, but it's like hearing don't worry, the check's in the mail.

DELEISSEGUES: Well, that was my interpretation to begin with that you didn't want the plan adopted until those issues were addressed.

UNRUH: That's correct, sir.

DELEISSEGUES: Now I'm correct. Okay, thank you. I think we've got the --

MORASCH: One of those two issues can't be addressed.

BECK: Can I address the water issue?

DELEISSEGUES: Certainly.

BECK: That is the water system plan update that he was talking about. We submitted this to the Department of Health in February, we have to do this every six years for every water system that we have. Basically it covers the growth for the six years with also a 20-year component. The water rights right now are twice what is actually being pumped out of the ground, so we could actually double the size of the town with the water rights that we currently have.

We have looked at other options by coming in from Amboy so that we can combine those two water systems together, but then we started looking after we brought a line up Kelly Hill Road and put a reservoir up there we looked at the other option of coming in from that way. So we're always looking at the future needs of the community, and that's what we try to do is make sure that we don't run out of water.

And so the Department of Health looks at this, reviews it, they're reviewing it now.

Department of Ecology also looks at it and they do the same review on this document every six years. So this is in the works. If there's any issues, the State would be letting us know that they have concerns also. But just with the water right that we have now it's over and above what they need for their 20-year growth projections at two-percent growth.

QUTUB: I guess my question would be --

NITEN: Yeah. Just --

QUTUB: Oh, do you want to comment.

NITEN: Oh, I just wanted to say that a doubling of the town would be a little over 3100 residents. And even at the current population growth projection we're only looking at 2,000, a little under 2300, so we have almost 1,000 more to go.

QUTUB: So my question would be about expanding or using the rights that exist, what would that amount to as a cost to those landowners and taxpayers that are --

BECK: Normally when growth comes in, growth pays for those improvements, the mainline extensions. The reservoirs that are up there now - there's two reservoirs that can handle the growth for the next 20 years - they've oversized their storage facilities. And as long as we can pump water continuously into those facilities, it will take the peaks that come on in the first few hours when people wake up and take their showers, and then the evening when they have their meals, so... As long as we can pump continuously into those tanks and the facilities are built with development there shouldn't be any issues. We just have to pay for replacement of facilities that have been in the ground for 40, 50 years and make sure that they're not leaking.

QUTUB: Okay, thank you.

DELEISSEGUES: Does anybody have anything to add that we haven't heard?

ROBERTS: You know, one thing I'd like to add is one of the reasons that we're trying to bring in the light industrial property is to try to (inaudible) some developers, some industry in the Town of Yacolt to keep people inside the town. As Mr. Unruh said there's a lot of traffic coming in and out, but if we can keep people from traveling every single day to Portland and to Beaverton, they go all over the place.

So one of the keys was, hey, let's try to do something here to keep people inside Yacolt. Because it used to be Yacolt used to be the cheapest place to live in the county, but now with the price of gas, and as Mr. Unruh said, you've got three trips going out. I know my family goes to Battle Ground at least once a day, twice a day with three or four cars. And if we could stay inside the town, then we could save a lot of money because now everybody's having to spend maybe 800 to \$1,000 a month extra to travel to their jobs and travel to activities. So if we can keep it inside the town, that saves a lot of money and keeps people inside the town and not move away.

DELEISSEGUES: Anything else?

MORASCH: I have a question before they are done. Are we asking questions here?

DELEISSEGUES: I just want to get their testimony out.

BARCA: Yeah, they're going to be here.

DELEISSEGUES: Go ahead.

MORASCH: Well, I have a question for the City, and it's not about water or traffic, but about the sewer and the septic, and part of the proposal is to include additional residential property in

the kind of the north part of the city in the urban growth area. Is the City going to annex that for development before sewer gets to that property?

ROBERTS: What we've talked with with the Department of Ecology and the County Commissioners is, you know, one of the -- I don't know if it's in what you've seen, but there's a nitrate level issue inside the town, the aquifer sits right underneath the town. So the Department of Ecology has come up with standards that the treatment level needs to be a certain level. So new growth, the new septic systems that would go in would need to meet those treatment standards. So these would be very high-tech, high-nitrate reduction systems, so that's part of the equation of it.

And if we have any large development, the thought was that we would have a decentralized septic system, basically a mini-sewage treatment plant for any new development that came in. And part of this annexation or the expansion is we have a piece of property the Department of Ecology has approved for the drain field for our community sewer system or septic system.

So if we had a large development come in, 50, 70 houses, they'd put in their decentralized sewage treatment plant, that would pump to the community drain field which would be the start of the sewer system. And then from there on if we had any problems, if the older parts of town started to have failures, they could then hook up to that existing system, but it wouldn't burden the existing residents, it would just be assessed to the new development.

MORASCH: So I guess what I'm hearing is if there is a new 50-lot subdivision, they're not going to have 50 individual septic systems, they're going to have some type of a community septic system?

ROBERTS: That is correct. That's what the Department of Ecology wants.

MORASCH: And would they ever hook into the City's -- I mean, the City's got a sewer plan to eventually put sewer up there --

ROBERTS: No, they don't.

MORASCH: So they would never hook into the City's sewer system since they have --

GIZZI: There is no sewer.

ROBERTS: Well, essentially what the plan is --

MORASCH: But the plan is to put one in eventually is there not?

GERHARDT: Essentially it's this new technology septic systems that allow you to serve multiple homes up to a neighborhood of 50 or 60 homes all at one time. Another neighborhood being built after that could be tied into the existing system, or a later built sewer system could also be tied into that system taking that system onto the new sewer system instead of the septic, so it's adaptable any way you grow.

DELEISSEGUES: The benefit would be to have that sewer pipeage into a central point --

GERHARDT: Right.

DELEISSEGUES: -- so you could take that to the sewer plant later on.

GERHARDT: Right. So you're laying all the sewer lines and then running it to a septic tank, but you can tie those lines into a sewer system later when that's needed.

GIZZI: So where is the community leach field?

ROBERTS: If you look -- did you want to address it, Jeff?

NITEN: I don't have a laser pointer. It is right down here.

ROBERTS: You have to come up a little higher, Jeff. Keep coming up, up, up, up, next to MCI.

BECK: Right below the green.

ROBERTS: Right there, that's where the drain field area is.

GIZZI: Okay. And the proposed future sewer plant is down in the tip of the triangle?

ROBERTS: Correct. Because we have a lot of -- that's the way that the topography flows.

BARCA: So the commercial property that is proposed is to tie into this community drain field septic system?

ROBERTS: That is correct.

NITEN: It's industrial. No commercial.

BARCA: Industrial going into the community drain field septic system. And you have the funding mechanism for the community drain field based on the residential development helping to pay for it, the industrial land helping to pay for it? How much of that infrastructure do you have to have in place before you have the development there, and do you have a funding mechanism for it?

ROBERTS: For the purchase of it we have community development block grant money that funded the purchase of the land, and that's -- the comp plan approval is one step so that we can go ahead and do a short plat so we can purchase the property, the money is there. To purchase the property there was money there.

BARCA: To purchase the property. But what about the infrastructure for the septic system and drain field, how are you funding that construction?

ROBERTS: Again, the way that it would start off would be that you'd have that 50 to 70 house subdivision come in and that would be the key to it.

BARCA: So you would need basically full build-out and the impact fees from that to then construct the drain field?

ROBERTS: No. Part of the process for them to get approval would be they'd have to put in part of the drain field because they would go ahead -- it would probably be like a step system. Everybody would have a tank, a pump, you'd pump to the treatment unit, then the treatment unit would pump up to the drain field and that would be part of the developer cost to put in a portion that they're going to be needing to use.

BARCA: So the development would be putting in the infrastructure based on their capacity requirements?

ROBERTS: Correct.

BARCA: And then the industrial lands, they would have to pay for their portion of the capacity; is that correct?

ROBERTS: That's correct.

BARCA: So now we've got the new development and they've paid for their portion of the capacity but they haven't paid for excess capacity; right?

ROBERTS: Correct.

BARCA: So you're still at the point that says anybody then whose septic system fails and needs

to tie into it, then they need to buy into that capacity as well; right?

ROBERTS: That's correct. That's correct. The Department of Ecology has kind of charged us with our general sewer plan went from having all septic to all sewer overnight. And we went back and said that's not feasible, we're going to have to have a way to have an interim policy so that as the older sections of town start having problems there's a way to go ahead and to hook them up to the sewer.

So the thought with the sewer treatment plant, if you get the big development to kick this thing off, is we will collect monthly fees from them and that money will go towards starting to build the infrastructure for the rest of the town.

BARCA: You'll collect monthly fees from whom? I'm sorry, I missed that.

ROBERTS: From the people that are attached to the decentralized treatment unit in the subdivision.

BARCA: Okay. So you're going to get monthly fees on top of them building the infrastructure?

ROBERTS: Correct, because we have to maintain the sewer system.

BARCA: Right. So it would be like a regular sewer charge --

ROBERTS: Right.

BARCA: -- but only the people that have tied into it are going to be assessed those fees. So people that have private septic systems today are not going to be charged any fees?

GERHARDT: Unless they tie into it, yes.

BARCA: Unless they tie into it.

ROBERTS: But we're trying to go through CDBG, too, because we have kind of a minority status or lower income status so we're eligible for more CDBG money. So as we go through every year we would apply for more money from CDBG to extend our sewer.

BARCA: And my questioning is coming from the standpoint of just trying to understand how fluid the additional capacity could be. If you have only one or two houses failing at a moment, you'll have enough excess capacity to bring them on board. If you have a dozen of them, will you have enough capacity to bring them on board, or will you have to then go ahead and expand the infrastructure to accommodate their waste treatment as well?

ROBERTS: You would have to expand the drain field area, correct, and you'd also have to expand the infrastructure.

BARCA: Okay. And so your drain field capacity is big enough to handle how much of the existing private septic system?

ROBERTS: The way that it's designed in the general sewer plan it's designed for the build-out for 200,000 gallons or 229,000 gallons per day, and right now the town uses about 129,000 gallons per day, so they figured for the 20-year build-out.

BARCA: So you could go from everybody having private septic systems to one massive city owned septic system?

ROBERTS: Or a sewage treatment plant. That's exactly what the general sewer plan and the facility plan --

BARCA: But sewer treatment plant is a whole other level of infrastructure and facilities

financed above this drain field septic system; right?

ROBERTS: Well, the drain field septic system, the drain field is part of the overall municipal sewage treatment plan, that's what Department of Ecology has approved, and these are trenches that are 800-feet long, 8-feet wide, 6-feet deep and there's three or four of them, so...

NITEN: Yeah, the discharge isn't going to go all the way down to the river, that would be a lot more expensive than anybody would envision paying for. There's the sewer treatment plant will just have -- it's basically a public sanitary sewer system that discharges to a massive drain field, a massive leach field.

DELEISSEGUES: I think all we need to know is if you've got the system that will handle the expansion. We don't need to know how to build a watch, we just need to know what time it is. You can stay here all night, you know.

NITEN: 10:15.

DELEISSEGUES: My engineering career I could probably -- you and I could talk for a couple of hours about all the different package treatment plants and block grants and capacities and build-out and we'd have a heck of a good time, but do we want to spend, you know, another hour or get on with it.

GERHARDT: We have a long drive home.

BARCA: On a very windy road.

DELEISSEGUES: So do we.

QUTUB: And I would like to apologize for seconding the motion that we put Yacolt off.

DELEISSEGUES: Did you do that?

QUTUB: I did.

DELEISSEGUES: Oh, my goodness.

QUTUB: Shame on you, Ron.

UNRUH: We're accustomed to being the redheaded stepchild.

DELEISSEGUES: I have to take the blame --

QUTUB: I apologize, I really do.

DELEISSEGUES: -- for listening to Ron, it was his idea to put it off.

BARCA: You would have just had angry winery people behind you instead of nobody.

QUTUB: No, I think we would have been done a little bit faster, but anyway.

DELEISSEGUES: At any rate, thank you. Is there any other questions or interrogations?

BARCA: Well, I appreciate you tolerating me asking questions. It was important for me to understand the difference between the sewer system as described in the plan and the septic system drain field as part of the plan.

DELEISSEGUES: Yeah. I can't understand why it makes a difference, but...

BARCA: Well, it makes a difference because you also have the determination here of the nitrates, you also have the determination here about the Southwest Washington Health District making Yacolt an area of special concern which is the reason why they had to move away from that.

DELEISSEGUES: But the Public Health people that do this all the time have approved it.

GERHARDT: As well as the Department of Ecology.

DELEISSEGUES: So why should we second guess them and spend our time doing that, is my question. Okay. Is there any other discussion on this? Does anybody want to make a motion?

MORASCH: I'll move to adopt.

QUTUB: I second it.

DELEISSEGUES: Any discussion on the motion? None? Roll call.

ROLL CALL VOTE

MORASCH: AYE

BARCA: NO

GIZZI: AYE

QUTUB: AYE

DELEISSEGUES: AYE

JOHNSON: AYE

MCCALL: I have 5 in favor, 1 against.

DELEISSEGUES: Ron, do you want to elaborate on the no?

BARCA: Yeah. I look at the funding mechanism that the whole thing rolls when the entire build-out happens for that particular residential development, and it's all predicated on the private party coming forward and doing the whole thing and it doesn't seem like a sure mechanism to me to move forward for those that may be failing, they're still going to be waiting until we get full build-out.

C. SEPA CATEGORICAL EXEMPTIONS AMENDMENTS

DELEISSEGUES: Okay. Good. We'll move on, then, to the last hopefully -- is it?

GIZZI: It is.

DELEISSEGUES: -- the last, it's SEPA, State Environmental Protection, categorical exemptions.

BARCA: Move to adopt.

QUTUB: I second.

BARCA: I just moved to adopt.

DELEISSEGUES: Yeah, I second it.

BARCA: She did.

QUTUB: I already did.

DELEISSEGUES: Jan, we just saved you a lot of trouble.

BAZALA: Did you? Okay. Well --

QUTUB: We did.

BAZALA: Good evening. Jan Bazala, Community Development. I'm here to present the

proposed changes to the County State Environmental Policy Act or SEPA. SEPA's a State mandated review of the potential environmental impacts of development and they also review development regulations as we'll find out a little bit later.

SEPA began in the '70s back at a time when there weren't a whole lot of development regulations. So some of this -- there's an argument that some SEPA review is unnecessary as existing regulations already cover impacts, but still today there are sometimes that SEPA is called upon to fill in the gaps in existing development codes.

Not all projects are subject to SEPA. There are certain minor new construction activities that are categorically exempt under Washington Administrative Code 197-11-800. The State has raised their allowable categorical exemption levels and the Board is interested in taking advantage of these higher limits. Note that we don't have to go full throttle, we can raise the exemption limits without going all the way to the maximum that the State allows.

As part of the process of adopting higher exemption levels, the WAC requires that we document how the impacts of exempt projects will still be adequately addressed by existing regulations. As I've noted before, while existing County ordinances cover most environmental impacts, later I'll explain that there are some limited gaps that would result from raising the thresholds. So we'll go to the actual changes themselves, they're in the Attachment A, so basically a summary of these.

Single-family residential dwellings in the urban areas will go from, you know, if these are adopted, would go from 20 exempt single-family residential dwellings up to 30. There's also exempt levels in the rural area, but those really are not applicable because we only allow one dwelling per unit. And so even if we go -- even at four, the existing level of four exempt dwellings, you'd never get there because each lot is treated separately, so... But, you know, it's proposed that we leave that in there in the event that codes would eventually change and some day we allow more than, you know, one dwelling per unit or per legal lot.

As for multi-family dwellings, the existing level is 20 and that would be proposed to go up to 60. And we only allow multi-family in the urban area, so it's really a moot point to raise the exemption level for multi-family dwellings in the rural area because we don't, we just don't allow them.

The existing level for barns, loafing sheds, farm equipment storage, produce storage or packing structure, the existing SEPA exemption is now 10,000-square feet and the proposal is to go up to 40,000-square feet. And we could do that in the urban area and also the rural area, so there, you know, the proposal is for 40,000, but that is a large building. So it's conceivable, it's unlikely, but it's conceivable that one could build a large Ag building in the urban area, and 40,000-square feet would be one big building, so... And it would be exempt from SEPA if this gets adopted.

The exemption for office, school, commercial, recreational, service, storage buildings or parking facilities, in the urban area currently the level is 12,000-square feet and 40 parking spaces, and the higher exemption level could go up to 30,000-square feet and 90 parking spaces. In the rural area the existing exemption level is 4,000-square feet and 20 parking spaces, and that is proposed to go up to 12,000-square feet and up to 40 parking spaces.

And, finally, exempt level for landfills or excavation is currently 500-cubic yards across the board in the rural and urban area, and it's proposed to go up to 1,000-cubic yards. Now the State WAC clarifies that these landfills or excavations are really standalone projects. So if there is an exempt activity, say a 30,000-square foot commercial building and 90 parking spaces, that that development would be exempt even if it exceeded the 1,000-cubic yards of grading, and the

WAC actually specifies that. Now the DEAB suggested that we clarify the existing ordinance or the existing text that's proposed to elaborate on that point, and that is you should have the addendum to the staff report and that clarifies that. So I think it's a good idea to adopt that, it clarifies it.

So we'll move on to the next page of the Attachment A. And there's one additional change and this is to critical areas for shoreline management areas. About a year ago we did a code amendment that tried to explain that projects that are under shorelines jurisdictions but are exempt from needing a shoreline substantial development permit should be exempt from SEPA. And when we explained it, everybody agreed that was a good idea, but apparently the way it was worded didn't hold up to legal scrutiny, so we're trying to laboriously explain what we mean in that Section D.1.a. So basically it would exempt SEPA from shoreline exemptions, so it can be convoluted. If you want me to go into it, I will, but if you get it, then I won't bother going in through that great detail.

So let's see. I got you the DEAB letter. The DEAB recommended approval of all these changes to the maximum levels. So these SEPA code changes are themselves subject to SEPA review. So there was a problem with the SEPA checklist that we sent out, it was only copied on one side and we just discovered that recently. So we had to extend the comment period for the SEPA and so that comment period won't get over until May 2nd.

Today I got two comments from SEPA agencies, and the first one should be in your packet, and that was from the Yakima Nation. They are requesting an environmental impact study to make these changes or amendments to the code to require more archeological protections than we currently do, and to utilize the State DNR Natural Heritage program to protect endangered plants. The second letter that I got just late this afternoon is from the State Department of Archeology and Historic Preservation. They're requesting that culture resource surveys for SEPA exempt projects when a site is within 500 feet of a known archeological site, or when a project is located in a very high-risk area as determined by the statewide predictive model.

Now we currently do require archeological surveys per our SEPA code, but if we don't do SEPA, then that requirement goes away, so... And that is one of the ramifications of raising the exemption levels, there will be fewer SEPA's done and the County's archeological provisions are triggered by the SEPA code. So if there's no SEPA, then the archeological code provisions don't get kicked in.

So with that, there could be an increased chance that development could disturb archeological resources because under SEPA if an area is located on a high probability area, they need to get an archeological survey done before they get their approvals. Still doesn't mean that applicants can disturb archeological resources if they're known. So there is a layer and there is a State law that says you can't disturb them. If you go ahead and disturb a site and you know it, then you have to stop. So the survey actually is an investigation as to whether there is, you know, likelihood of resources on the site so, without SEPA you don't do that.

Another thing that SEPA's been called on in the past on occasion is to protect endangered plant species, the State and the Feds don't protect them. So SEPA has been used as a last ditch effort or to plug the gap between because the County's ordinances don't address endangered plants, and, again, nor do the State or the Feds protect them. Unless it's a project that has Federal funding or something like that, then the Feds, you know, can require endangered plants to be protected, so... So that's, you know, an item that wouldn't be protected except for SEPA.

And then something to consider is that the County doesn't have commercial design standards any longer except for in the Highway 99 area. So that means that if you're going to build a

building up to 30,000-square feet, there wouldn't be any ability to influence design, not that we've ever done that to my knowledge, but it's just something to be aware of. And before I've noted that the 40,000-square foot exemption level for Ag buildings, that can be pretty large. And currently as it's proposed it could be 40,000-square feet in the urban and rural area, so it's unlikely, but it's conceivable the way it's written.

Somebody could build an Ag building that's 200-by-200 and under the existing code it could be as close as 5 feet to the property line in an urban area if it's zoned that way. So that's something to consider because the County, the County codes has no allowances for aesthetics or views or odors from such large structures. You know, there's an urban livestock ordinance that says if you have a building housing urban livestock, you got to be 20 feet away. But if it's not, if it's not housing animals, you can be up to 5 feet. So we would be unable to do anything about it, SEPA would be something that says, hey, wait a minute, this is an issue, this is a problem. So things to consider. So that basically wraps up my presentation. So if you have any questions.

DELEISSEGUES: So what's the staff recommendation?

BAZALA: Well, I personally have some concerns about the really high 40,000-square foot level for Ag buildings in the urban area, but as staff I presented what the Board has suggested we go with at the work session. Well, we didn't get into the exact numbers, but their intent seemed to be, you know, go as far as we could.

DELEISSEGUES: Are we supposed to recommend their decision?

BAZALA: It's up to you to recommend what you think, I mean, you're the advisory body.

BARCA: Go for it.

MORASCH: I have one question. You said that there's no Federal protection for endangered plants, does the Endangered Species Act not apply to plants?

BAZALA: I guess it can, there's some confusion. I think if you know you have an endangered plant, you can't take it, you can't wreck it, but as from a regulatory authority as to review an application, my understanding is that it wouldn't, there's no mechanism to get there.

MORASCH: So a more accurate way to say it might be that they don't have a regulatory mechanism for monitoring county development?

BAZALA: I think that's --

MORASCH: Because as I understand it if you go harm, harass or take an endangered plant, you could be subject to citizen suits. If the agency finds out about it, they can come after you for enforcement and penalties and things like that. So I'm not sure it's accurate to say there's no protection.

BAZALA: That may be true. That may be true. It's just that it's sort of voluntary, the applicant has to say, oh, I won't build my shopping center here because I know I have this plant.

MORASCH: Right. Or a neighbor group or environmental group that knows about the plant could jump in the middle and raise Endangered Species Act, file citizen suits, alert the Federal agencies.

BAZALA: Possibly. I honestly don't know how that would work exactly.

QUTUB: The question I had or clarification, as I understood during our work session about this whole archeological thing that you said, I understood you to indicate there were some other

ways that this could be caught, I mean, besides the SEPA?

BAZALA: Well, it's possible that if we had, you know, that we could send copies of applications to the State, and in my conversation with a woman there she said she would be happy to review those. In the past the State had trouble keeping up with applications that were sent to them that were just subject to archeological studies. I don't know that's a guarantee that they would be able to catch everything, and at this point I haven't received a policy directive from anybody for me to say, yeah, let's do that, but it might be a way to get the State involved.

I guess my understanding is that if there's a suspected site, that the State couldn't require them to do anything. They could recommend, they could write a letter to the applicant and recommend that they do some studies, but they probably on their own can't require mitigation, so...

QUTUB: I thought that you said something about these known sites would, somehow they would make themselves known because it is a known site and some -- whether it's SEPA or some other area --

BAZALA: Well, I did get some clarification today. There is a website that shows historic sites, you know, historic buildings and that's access to everybody. But as for archeological sites that are meant to be kept secret, you know, I'm trying to find out if we could get access to that site and somehow say, even though we're, you know, you're not subject to SEPA, we're going to do this anyway. I think we'd have to have that in the code because right now all our archeological stuff is tied to SEPA, so it would have to be. If we want to make sure we cover all the bases in regard to the archeological stuff, we might have to amend the code outside of the SEPA. I don't know exactly how that would be done yet, but if you recommended that direction, we could look into that and come up with some possible ways we could try to reduce the impacts.

BARCA: So, Jan, it appears that the third bullet in the recommendations from the Department of Archeology and Historic Preservation speaks to the idea of data sharing in their predictive model. So I guess that's the secret component of where they know that there's potentially historic sites?

BAZALA: Well, I think, you know, the predictive model, the County has one already, you know. If you go on our GIS system, we've got our own predictive model. I'm not an expert on this, I've heard that it's somewhat outdated, but we currently do use our own predictive model when an application is subject to SEPA. And so if they are in a high-risk area, if it's subject to SEPA, we will invoke the County's SEPA code that says you have to do an archeological survey and get that signed off from DAP before you can proceed.

BARCA: And I think what I'm reading here is they're suggesting that if we adopt the new less stringent SEPA or recommendations, that they're asking us to codify these three bullets.

BAZALA: That's my, you know, I don't know that we would have to codify it, but, you know, we could do it as a process possibly. I don't know, you know.

BARCA: It looks like it's the only way if you're wanting to try and get some sort of archeological and historical protection after SEPA lifts the lid.

BAZALA: Right. And, again, just, I mean just to remind ourselves that there's already categorical exemptions in place, you know. A lot of projects are not subject to SEPA, we're just having more projects be exempt from SEPA, so...

DELEISSEGUES: I think that addresses the issue of the Native Americans that they're worried about, you lift this thing up to the point where nobody's out looking for these historical sites or

not as often as maybe they should, they would have a lot to lose.

BAZALA: Yeah, I think that's their concern. So I, you know, from the get-go that was something that was I think we were aware of, that this, you know, that our archeological provisions are tied to SEPA and we would have fewer of them, so...

MCCALL: Excuse me, was that letter received today?

DELEISSEGUES: Any other discussion or --

BAZALA: Yeah, it was like at 6:45 today.

DELEISSEGUES: -- questions of staff or a motion?

BARCA: *What if we go forward with the staff recommendation and accept the Department of Ecology and Historic Preservation's recommendation of the three bullets outlined in the letter that came April 18th from them - and I won't try and read each of the bullets into the record - but that would, I think, allow us to go forward with the vast majority of the raising of the bar on SEPA and still address the concern of the tribes and local historical preservation. So that I would make that a motion.*

DELEISSEGUES: *Is there a second? I'll second it.* Any discussion? Anybody? Hello?
No discussion? Roll call.

ROLL CALL VOTE

MCCALL: *Okay. Moved by Barca, seconded by Dick for staff recommendation with the three bullets that are in the archeological letter.*

BARCA: YES

GIZZI: NO

QUTUB: NO

DELEISSEGUES: YES

JOHNSON: YES

MORASCH: YES

MCCALL: *I have 4 in favor, two against. Motion passes.*

DELEISSEGUES: So does that conclude the --

BAZALA: That concludes things. Thank you very much for your long evening.

DELEISSEGUES: Any old business?

QUTUB: Actually, you know what, I do want to state why I voted no. Because I clearly want to eliminate the SEPA requirements, I want them eliminated, that is not why I voted no. I voted no because I don't want to add these bullets. So I just want to state that for the record.

DELEISSEGUES: Jim.

GIZZI: I'm good.

DELEISSEGUES: Is that why you voted no?

GIZZI: I didn't say that and I'm fine.

DELEISSEGUES: I just want to make sure everybody is clear on the record why they did what they did when they did it.

VI. OLD BUSINESS

DELEISSEGUES: So is there any old business? It's getting late.

VII. NEW BUSINESS

A. Election of Chair and Vice Chair for 2013-2014

DELEISSEGUES: New business, it says we have to elect a chair and a vice chair.

BARCA: Not tonight.

QUTUB: Next time.

DELEISSEGUES: Everybody want to put it off until next time?

GIZZI: Yes.

QUTUB: Yes, absolutely.

VIII. COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

DELEISSEGUES: Good. Good. Comments from members of the Planning Commission?

GIZZI: Let's leave Dick for the chair next time.

IX. ADJOURNMENT

DELEISSEGUES: Adjournment then. We're adjourned.

The record of tonight's hearing, as well as the supporting documents and presentations can be viewed on the Clark County Web Page at: <http://www.clark.wa.gov/planning/PCmeetings.html>.

Proceedings can be viewed on CVTV on the following web page link:
<http://old.cityofvancouver.us/cvtv/cvtvindex.asp?section=25437&catID=13>

Chair

Date

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