

**CLARK COUNTY PLANNING COMMISSION
MINUTES OF PUBLIC HEARING
THURSDAY, DECEMBER 15, 2011**

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

CALL TO ORDER & ROLL CALL

DELEISSEGUES: Good evening everyone. I'll call the Clark County Planning Commission to order for Thursday, December the 15th. We'll have roll call, please.

BARCA: HERE
ALLEN: PRESENT
VARTANIAN: HERE
MORASCH: HERE
USKOSKI: HERE
DELEISSEGUES: HERE
WRISTON: HERE

Staff Present: Chris Cook, Prosecuting Attorney; Marty Snell, Community Development Director; Oliver Orjiako, Community Planning Director; Gordy Euler, Planner; Jan Bazala, Planner; Marlia Jenkins, Program Manager; and Sonja Wisser, Administrative Assistant.

Other: Cindy Holley, Court Reporter.

GENERAL & NEW BUSINESS

A. Approval of Agenda for December 15, 2011

DELEISSEGUES: Can we have approval of the agenda. Are there any changes to the agenda? If not, motion.

BARCA: Motion to approve the agenda as written.

ALLEN: Second.

VARTANIAN: Second.

DELEISSEGUES: All in favor.

EVERYBODY: AYE

B. Approval of Minutes for November 17, 2011

DELEISSEGUES: How about the minutes for November 17th, 2011, any changes or omissions?

VARTANIAN: Move to approve.

ALLEN: Second.

DELEISSEGUES: Moved and seconded. All in favor.

EVERYBODY: AYE

C. Communications from the Public

DELEISSEGUES: Is there any communication from the public on any issue or item that's not going to be covered tonight on the agenda? If there's none, we'll get on with the public hearing items.

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION:

Item #	Subject	Title, Chapter, Section
1	Allow reduced setbacks for cisterns in the urban residential zones	40.200.070 Exceptions to Setback Requirements
2	Allow cottage housing in all urban residential zones. Consider each cottage housing unit as ½ dwelling unit for the purposes of calculating residential density	40.260.075 A new section entitled Cottage Housing
3	Consider methods of streamlining the short plat process, including reduced geohazard review	40.430.010 Geologic Hazard Areas
4	Require management plans for 10 or more small livestock animals in the urban area	40.260.235 Urban Livestock
5	Create special use standards for kennels. Review and approve kennels in the rural area through to a Type II process instead of requiring a conditional use permit	40.260.110 A new section entitled "Kennels"

DELEISSEGUS: Item Number 1 would be allow reduced setbacks for cisterns in the urban residential zone. Marty, have you got a --

SNELL: Good evening, Chair Deleissegues. Marty Snell with Community Development. And for the agenda this evening we have five items in Retooling Our Code Batch 5. The first item is allowing the reduced setbacks for cisterns in urban residential zones.

All of these items have been presented to the Planning Commission in a work session two weeks ago. I can go through the code amendment if the Planning Commission would like me to. I also will be deferring to staff in Community Development who have worked on these particular code amendments.

VARTANIAN: Marty.

SNELL: Yes.

VARTANIAN: Push that second thing away from you.

SNELL: There you go.

VARTANIAN: Thanks.

SNELL: Stereo. So the first item is this reduced setbacks for above ground rainwater cisterns. The code amendment would allow a reduced setback for cisterns six feet in height or less, three feet from an interior property line or rear property line. Anything above the six foot would have to have an additional one foot of setback for each additional foot in height.

We would allow these above ground rainwater cisterns in the urban residential zones. They would be required to obtain building and plumbing permits. And I'll leave it at that. If you have any questions, certainly you can feel free to ask me questions.

DELEISSEGUES: Any questions so far?

BARCA: Seems very straightforward.

DELEISSEGUES: Well, I just notice that the reason for all of this is there's concern that the weight of the fully loaded cistern could affect nearby foundations or retaining walls; therefore, provisions added puts the applicant on notice that engineering may be required that the cistern will not affect other structures. I guess it's the distances --

SNELL: Correct.

DELEISSEGUES: -- have been figured out. Any other questions or discussion? Anyone in the audience wish to testify on this issue?

STRATFORD: I've got a question.

DELEISSEGUES: Well, could you come up just for the record, state your name and address, we'd appreciate it.

PUBLIC TESTIMONY

STRATFORD: My name's Sandra Stratford. I live 23703 NE Ridgefield, the 10th Avenue in Ridgefield, Washington. I was just wondering because of the rainwater what if it's high enough up for the building whenever it rains and the water is down low enough, but it's, you know, you've got enough rain where it's running off enough, but I noticed that a lot of the water not running off and you got like clay and stuff around where the water soaks into it, what about the stock for that?

DELEISSEGUES: I don't know. I'll refer to staff's judgment on that.

SNELL: Can you repeat the question? I'm sorry.

STRATFORD: The water, you know, that your building is up high enough but then you got stock where they got to walk into the mud and the water doesn't always run off everything of that.

SNELL: Are you talking about stormwater runoff? That's not addressed in this particular code amendment. This is if you want to capture rainwater with a cistern system --

STRATFORD: Oh.

SNELL: -- in a tank and then use it for your property.

STRATFORD: We got drainage here.

SNELL: Yeah, that's a different set of regulations for how you handle stormwater. It's not addressed in this specific code amendment.

STRATFORD: Oh, okay. Thank you.

WRISTON: It's addressed somewhere else, though, with cisterns?

BARCA: No, not with cisterns.

WRISTON: What's that?

VARTANIAN: Not with cisterns.

WRISTON: Well, what about --

SNELL: I think it was a general question about stormwater runoff and not capturing rainwater in a cistern system in an above ground tank.

WRISTON: But is a cistern system a closed system?

STRATFORD: No, it's like a ditch that someone has before we moved into the property where it goes like a creek bed it goes underneath the property.

WRISTON: Doesn't it fill up into a --

SNELL: This is for an above ground cistern, a tank, an above ground tank, it doesn't --

STRATFORD: No, there's no --

WRISTON: So can the tank overflow?

STRATFORD: No.

SNELL: I think they're enclosed tanks.

WRISTON: Well, that's what I was saying.

SNELL: I've seen them on commercial application and they're enclosed tanks.

STRATFORD: No, there are no tanks on the property that holds the water.

WRISTON: And that was kind of my question. I grew up in Hawaii and parts of Hawaii have water tanks that collect rainwater for their water usage and everything and they overflow. But if these are closed systems and they don't overflow, then there's not a problem.

ALLEN: But they probably have relief valves and drainage from that relief valve to (inaudible) --

SNELL: Again --

ALLEN: -- the building.

SNELL: -- there's going to be a plumbing permit required --

ALLEN: Right.

SNELL: -- because it's going to be used whether it's for irrigation or for indoor use. If a plumbing permit is required, it will handle the overflow issues.

ALLEN: Okay.

DELEISSEGUES: Is everybody clear on what we're talking about here? Okay.

SNELL: Pete DuBois can answer some of these questions, he's the man.

DELEISSEGUES: I've got a sign-up sheet here and it doesn't say which of the five items that you signed up for. So what I'm going to do is on each of these we'll ask just, what we did this time, if anybody wants to testify and then we'll kind of have to sort it out.

DELEISSEGUES: Yeah. I've got a lot of people signed up but I can't call them off in order the way you signed up because I'm not sure which person signed up for each item.

BARCA: So perhaps it's worthwhile to explain to the public that we're working off of a large group of code amendments but we're taking them one at a time. And so it's all known as Retooling the Code Batch 5, but we have broken them up. So at this moment we're dealing specifically with the issue of above ground cisterns and then we will move on to the next item within that which we will declare what it's going to be.

DELEISSEGUES: So does anyone else in the audience wish to say anything about cisterns? If not, we'll return to the Planning Commission for deliberation. Motion anybody?

RETURN TO PLANNING COMMISSION

WRISTON: I would move to approve, I think it makes sense.

BARCA: Second.

ALLEN: Second.

DELEISSEGUES: Moved and second. And I think we'll vote on each one of these independently.

BARCA: Yes.

DELEISSEGUES: So can we have roll call, please, on Item 1.

ROLL CALL VOTE

USKOSKI:	YES
BARCA:	AYE
ALLEN:	AYE
VARTANIAN:	AYE
MORASCH:	AYE
DELEISSEGUES:	AYE
WRISTON:	AYE

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION, continued

DELEISSEGUES: So we'll move on to Item Number 2 which is allow cottage housing in all urban residential zones. Consider each cottage housing unit as a half dwelling unit for the purposes of calculating residential density. It's a new section entitled Cottage Housing. So do we have a report on cottage housing.

BOGUSLAWSKI: Good evening.

SNELL: Go ahead, Alan.

BOGUSLAWSKI: Good evening, ladies and gentlemen of the Planning Commission. My name is Alan Boguslawski, I'm a planner with Community Development. In our previous work session together I introduced the concept to you of cottage housing developments through a series of photographs and I've provided you each with a copy of this reference which is a guide to cottage housing developments and suggests some model regulations.

And I think you'll find that the existing County cottage housing provisions that we do have in the code as well as the new proposed code changes that are before you are quite consistent with the recommendations therein. We don't, however, have as yet any examples of cottage housing developments in Clark County at this time although we have had some code provisions in place for them in the past few years.

Now if you'll allow me to just briefly summarize the proposed code changes that we are presenting to you. Under current County code cottage housing developments are specifically provided for in the mixed use zone using the mixed use design standards and in the Highway 99 overlay district using the Highway 99 design standards. They could also conceivably be approved in the medium density residential zones under current code, but it would require planned unit development process.

What the proposed amending ordinance does is first insert a definition for "cottage housing" into the Title 40 definition section. It adds cottage housing as a specifically allowed use in three single-family residential districts. I needed to correct the statement you made earlier about all residential districts, it's just in the R1-5, R1-6 and R1-7.5 that we're proposing to allow these developments and in the medium density residential zones R-12, R-18 and R-22.

And it goes on to add a special standard section for them in the special uses chapter.

The special uses standards are consistent with those that are already in place in the mixed use standards, in the Highway 99 standards and they include such features as up to double the density that is allowed in the underlying zone. That's in place as an incentive.

Common parking lots and common parking structures are allowed. ADUs are allowed, that's Accessory Dwelling Units, are allowed over detached garages or in conjunction with detached garages. We talked about that in the previous session. Minimum requirements for open space and private open space for both common open space and private open

space, these provisions are in there and are provided. And building design standards are provided to ensure attractive cottages and to enhance neighborhood compatibility.

The proposed code has previously been vetted with the Development and Engineering Advisory Board who voted to support the proposed language with one revision and that is to remove the word "detached" from the definition of cottage housing. In the version of the definition that is included in your packets tonight the word "detached" has been removed; however, staff recommends that the word be retained.

The definition should read: "Cottage housing means a group of small single-family detached dwellings clustered around a common area and developed with a coherent plan for the entire site." And I think that you've seen from the photographic examples that I showed you previously and the materials that we've provided that cottages are quite distinct from common wall dwellings.

Common wall dwellings include townhouses and condominiums and apartments and duplexes and these types of dwellings are already separately provided for in the multi-family residential zones. Staff is concerned that to introduce common wall design into cottage housing developments could potentially defeat much of their purpose and most certainly we think would result in incompatibility issues in the single-family zones particularly. So staff recommends that "detached" remain in the definition. And so with that I'll entertain questions.

DELEISSEGUES: Any questions? Yes.

VARTANIAN: Yeah, a quick question. The fact that it's a permitted use in certain zones, does that mean the public does not have a chance to make its feelings known?

BOGUSLAWSKI: The process that's required under the standards and requirements is a Type II site plan review is required and the Type II process we issue a public notice, it goes by mail to the owners of property located within in the urban area 300 feet of the development site, and so there is an opportunity for public input, but it would not be in a public hearing forum unless the County's decision got appealed.

VARTANIAN: Okay, thank you.

WRISTON: I don't know if Battle Ground preceded us or not in the cottage housing. Did they on the --

SNELL: I'm not sure.

BOGUSLAWSKI: I haven't seen any examples in my research.

BARCA: They have some.

WRISTON: Yeah. I know that Battle Ground had some plats, I don't know how far they

got, but they were for cottage housing and then the market crashed and then maybe they never got built. Do you know? I mean did they? They obviously never got built because you said nothing in this county as far as you know.

BOGUSLAWSKI: Not to my knowledge. In the research that I did, I looked for examples and the examples that I could find were in the Puget Sound area and there are some in the Portland metro area.

WRISTON: Portland has some, right, Cottage Housing Northwest or something like that, I can't remember their name, but they have --

BOGUSLAWSKI: The closest I could come up with was a residential planned unit development that I did a few years ago for low income housing development on 134th Street I think it was that all they wanted was to share a common parking lot and in a single-family zone which wasn't allowed at the time so we did it through a planned unit development. But that's the closest that I've seen.

WRISTON: Right. But the idea of cottage housing is not, I mean I'm actually a proponent, I can't remember the name of this company, we looked at it before the market crashed, but we looked at the idea actually after the market went down as a way of providing affordable housing. It wasn't necessarily low income, it was more aimed at single people, couples, maybe one child or something like that --

BOGUSLAWSKI: Exactly the purpose of this.

WRISTON: -- and development standards perhaps and a lot of things that are in the scope, but they're really nice communities. The ones that I know that there's a company I think in Portland, it might have been in Seattle, I think it's Portland, that specializes at least in that type of housing. I think it's a good thing for Clark County to take a look at.

DELEISSEGUES: Yeah, I think there are some just off 164th over in Fishers Landing. It's awfully close. I mean it's the same small structures built facing a common open space. It's very similar if it's not exactly the cottage development.

BOGUSLAWSKI: We have seen examples that are built into residential retirement facilities for independent living and then there will be an assisted living building on the same site. I've seen it in that context, but...

DELEISSEGUES: Yeah, The Waterford's got some of that.

BOGUSLAWSKI: -- this is in a different context really that we're talking about here.

DELEISSEGUES: Well, it's exactly. And it's not part of an assisted living either, it's independent owned cottages. It's just right off of 164th, probably in Camas or close to the line. Well, anyway, I was wondering, the question I've got is why didn't you just adopt the model regulations instead of going to all the trouble of --

BOGUSLAWSKI: We wanted to be consistent with what we already have adopted previously through the mixed use zone that was adopted by the County and the Highway 99 standards that was adopted and those standards were both consistent with each other as well as what Planning staff had found on the market and other places.

DELEISSEGUES: Well, they've got some provisions in the model here particularly on Page 13 that I was talking about in the workshop about parking, guest parking, and you said, well, they can park on the street, but this says, and I'm questioning whether our code as amended is going to allow the same thing, it says this doesn't necessarily have to front on a public road. I don't know how it wouldn't, but they have access by alley to the garage area and parking area behind the cottage.

But what I was talking about is Number 4 under a, Section 8, parking, where it says a minimum of .5 guest parking spaces per dwelling unit and I can tell you that the guest parking is something that really ought to be considered.

BOGUSLAWSKI: Yeah. The standard that they're offering they have used a progressive approach here. A unit that's up to 700-square feet one space per dwelling unit --

DELEISSEGUES: Yeah, I saw that.

BOGUSLAWSKI: -- 7 to 1,000 and one and a half. We're proposing one and a half as just the basic standard. The range of sizes that the standards allow for is 500 to 1200-square feet in a cottage, but no, we didn't choose to go with making an extra requirement for guest spaces.

In this particular instance we hadn't adopted them before and we thought we'd be stay consistent with what we already have. We haven't had a chance and opportunity to put what we have to the test because, as mentioned, about the time that we got these regulations on the board the housing boom busted and we never saw any occur.

But now we're trying to make them, expand them and make them more available to do and we may learn through that process as we get some of these developments that you're exactly right, we need to get additional parking into them, but at this point this is what we're recommending.

DELEISSEGUES: Okay, thanks. Any other questions for staff?

BARCA: George has a question.

VARTANIAN: What a surprise. In the proposed regulation we're talking about a maximum building height of 25 feet --

BARCA: Here we go.

VARTANIAN: -- is that per code as definition the slope of the roof or is that otherwise defined in the section somewhere and I didn't see it?

BOGUSLAWSKI: Let's see. I'm looking for that section.

SNELL: Page 5, Line 8 and 9.

BOGUSLAWSKI: I'm sorry, Page 5?

VARTANIAN: Page 5, Number 4 at the top.

BOGUSLAWSKI: Yeah. Yes, that's the maximum feet for cottage, 25 feet for cottages, that allows for two levels and for garages that may have ADUs built over the top, that would be the maximum height.

VARTANIAN: Yeah. But just that 25, not to pursue the matter too far, but the way County defines building height, if it's a flat roof it's to the top. If it's got a peak, it's half way up the slope.

WRISTON: It's his last hearing.

BOGUSLAWSKI: That's true. The definition of building height and that's already in the code, you're correct, it isn't the top of the peak.

VARTANIAN: Right. As long as we know that going in.

WRISTON: Are you okay with that?

VARTANIAN: Now I've identified it for a long time.

BARCA: Right. The crusade will have to go on beyond the career I think.

VARTANIAN: Absolutely.

BARCA: I do have a question now concerning the zoning choices and the minimum densities that we normally apply to zoning choices. When I look through the code as written, I didn't see anything in there that was deviating from minimum density, but we do have a maximum on the cluster of 12 units; right?

BOGUSLAWSKI: Yeah, 12 units per cluster. 4 to 12 units in a single cluster that is around a common open space.

BARCA: So are we going to be able to then put enough clusters in say like the R-22 which is permitted to be able to meet the density requirement?

BOGUSLAWSKI: We don't promise in this that you can achieve the maximum density

that's allowed, it will depend. But the density of the underlying zone where it is going they'll have an opportunity to go up to double the density by counting both the units per acre, counting both the cottages and the ADUs that are optional (inaudible).

BARCA: Right. And that was exactly my issue is exactly with the density bonuses that we give them we're using even less of the land on the minimum requirement so I was concerned about whether we could ever really achieve the usage of this code in the R-22. The way I penciled it out using the density bonus it didn't look like we could.

SNELL: That's maximum density.

BOGUSLAWSKI: If your goal was to get the --

BARCA: Isn't there a minimum?

BOGUSLAWSKI: -- maximum allowed maybe not, not in the higher density zones, but it's very often the case that you can't achieve the maximum density allowed in the zone for various other reasons.

WRISTON: Environmental constraints.

BOGUSLAWSKI: Environmental constraints. A lot of it goes into design, but the idea is to because we're allowing it across a number of zones that have varying minimum and maximum densities we're trying to add the incentive for developers to try to design something that will work there but will pay off because they'll get a bonus density, but it isn't really a promise that you could achieve the maximum density in every case.

SNELL: Especially in those higher density zones.

DELEISSEGUES: Okay?

BARCA: Okay.

DELEISSEGUES: Any other questions? Steve? Val? Milada?

MORASCH: No.

DELEISSEGUES: Okay. We'll go to the audience, I can't go to the sign-up sheet, but does anyone in the audience wish to testify on this issue? None? Okay. Return it to the Planning Commission, then, for deliberation and motion.

WRISTON: Yeah, I'll start. I've been a big proponent of cottage housing and making our cottage housing, I don't think it's worked out well, I think that's why we don't see it as much in or see it at all in Clark County, so I think this is a step forward. I think it helps encourage it.

It may need some tweaking down the road, but I think this is a good step forward so I'd move to approve unless I'm jumping through discussion.

VARTANIAN: Can I have a clarification?

WRISTON: Yeah.

VARTANIAN: The code that's before us right now that we will be voting on, does that include or not include detached housing?

BOGUSLAWSKI: You need to --

BARCA: Based on the motion.

BOGUSLAWSKI: You need to include it in the motion if you want to keep the word "detached" in the definition as we're recommending because it's not in their current copy.

WRISTON: So moved.

VARTANIAN: To include detached housing? I mean to include only detached housing?

WRISTON: Yes.

VARTANIAN: Oh, okay. Second.

ALLEN: We're still deliberating I thought.

DELEISSEGUES: Was there a second?

VARTANIAN: Yeah.

DELEISSEGUES: Okay. Moved and second we approve the staff's recommendation on cottage housing with the addition of the word or "detached" back in again. Roll call, please.

ROLL CALL VOTE

BARCA: AYE
ALLEN: AYE
USKOSKI: AYE
VARTANIAN: AYE
WRISTON: Oh, I'm sorry. AYE. Taking notes.
MORASCH: AYE
DELEISSEGUES: AYE

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION, continued

DELEISSEGUES: With that we'll move on to item Number 3, short plat streamlining in geologic hazard areas.

SNELL: The proposed code amendment in front of you would modify the provision under our geologic hazard areas chapter of the code for 40.430. This would allow someone to have a certified and registered geologist or professional engineer licensed in the state of Washington who essentially show on the face of a plat where a building envelope is and that would help in terms of streamlining some of the short plat processes that we have.

One note to make on Page 9 at Line 36 if yours is tracking with mine, it reads "A development envelope which precludes development is designated on the plat which is certified to be over one hundred (100) feet from any regulated geologic hazard area."

I'd like for the Planning Commission to entertain striking "which precludes development," it seems awkwardly constructed, so it would read "A development envelope is designated on the plat which is certified to be over one hundred (100) feet from any regulated geologic hazard area."

DELEISSEGUES: Any questions of staff? None?

BARCA: It was straightforward.

DELEISSEGUES: Does anyone in the audience wish to testify on this? Okay. We'll get back to the Planning Commission. Any discussion?

WRISTON: I'll start again.

DELEISSEGUES: Yeah, that's good.

WRISTON: I like this one because I still go back to the extent that I've been here short of my back stuff on these batch code changes to that first luncheon that we had with the County Commissioners where Steve Stuart who was the current chair at the time and the other Commissioners agreed that we're trying to make the code simpler.

I also remember them saying that where it's in the benefit of the private sector, the private sector pays. Where it's in the benefit of the public sector, the public sector pays. In this case it seems to be along those lines in streamlining the short plats in the geologic hazard areas.

I'll just say as someone involved in development there's also a private consideration whenever you look at building a development on or near a geologic hazard area, it limits your marketability, et cetera, increases your liability and coming from how we approached things.

And I know how other people approach things, if you are in a designated geologic hazard area, you are going to do everything above and beyond and probably go beyond what this code provision even provides, so I think it's a good move.

BARCA: All right.

DELEISSEGUES: -- any other discussion?

BARCA: It appears like there was a conscious effort to try and make things better.

WRISTON: Yes.

BARCA: Yeah.

WRISTON: Yep. So I'm going to move to approve unless there's more discussion.

USKOSKI: I would second that.

DELEISSEGUES: It's been moved that we recommend approval for the staff's considered methods of streamlining the short plat of geologic hazard areas code amendments to the County Commissioners with a recommendation of approval with -- did you add deleting the words that Marty wanted out of there?

WRISTON: Yes. Excuse me. Yes. I would include in my motion eliminating --

DELEISSEGUES: Whatever it was.

WRISTON: What, Section B, Paragraph f, Subsection (1), eliminating the words "which precludes development."

DELEISSEGUES: And is that okay with the second?

USKOSKI: Yes.

DELEISSEGUES: Okay. Any discussion on the motion? Roll call, please.

ROLL CALL VOTE

BARCA: AYE
USKOSKI: AYE
ALLEN: AYE
VARTANIAN: AYE
MORASCH: AYE
WRISTON: AYE
DELEISSEGUES: AYE

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION, continued

DELEISSEGUES: Then we'll move along to the next item which is number, what, 4, require management plans for 10 or more small livestock animals in the urban area, be 40.260.235, urban livestock. Can we have a report on that.

SNELL: Yes, Commissioners. New agricultural uses involving livestock in the urban area are required to submit a livestock management plan to reduce conflicts with other urban uses. Existing uses do not have to file such plans unless complaints arise. Existing language in the code has been misinterpreted to read that plans are not required for small livestock even if complaints arise.

The code amendment before the Planning Commission this evening is to clarify when a livestock plan is required. It also would add a requirement for a small livestock management plan to be submitted. And the additions in the code to clarify when livestock management plans are required are on the bottom of Page 11.

I had some different notes here. Well, there's an amendment under Development Standards 2.e at Line 33 and it reads "Plans for new agricultural livestock uses are not required for small livestock that are either caged or that spend all hours indoors unless complaints are filed pursuant to Section 40.260.235.F."

Further code amendment reads that "Agricultural uses involving livestock that existed on parcels prior to being brought into an urban growth boundary are not required to develop a plan, unless complaints are received pursuant to Section 40.260.235.F."

There's one more amendment in the livestock plans clarifies odor and noise management and this is to hopefully mitigate conflicts between uses in the urban area. We proposed an amendment to read "Noise from urban livestock shall be managed so that it does not unreasonably disturb the peace, quiet, comfort and repose of others," and that's something that we've taken from other parts of the County code relative to noise. I'll answer any questions that the Planning Commission has.

DELEISSEGUES: Questions of Marty? Go ahead, George.

VARTANIAN: Yeah, as usual. What's "unreasonable" mean?

SNELL: I don't know. You tell me.

VARTANIAN: I asked you first.

SNELL: It's going to be property and circumstantial specific and our Prosecuting Attorney will help answer the question.

VARTANIAN: I knew I was getting into trouble here. Go ahead.

DELEISSEGUES: Good evening, Chris.

COOK: You were and you are. Good evening, Commissioners. Chris Cook, Deputy Prosecuting Attorney. The standard of "reasonableness" is a very common one in the law and it is factually specific and it is a judgment that would be made by the finder of fact and law in the circumstance. So it depends.

VARTANIAN: Thank you so much.

COOK: And there really is not a numeric standard. But for example that's kind of a nuisance standard that's found in the Common Law, it's something that would interfere with a reasonable person's use and enjoyment of their property.

And as Mr. Snell said this language has been seen in other codes and other places and appears to work. It seemed to make more sense than trying to find some standard that would be ultimately pretty arbitrary and not responsive to the actual circumstances surrounding the issue.

VARTANIAN: Well, I wasn't trying to lay a number on "unreasonable," but words like unreasonable, substantial, considerable just give me pause to make sure that we're covering what we want to cover.

COOK: And I can understand that. Reasonableness, however, is a really common one in the law that is used a lot and seemed to staff and the PA's Office at any rate to make sense in this application.

VARTANIAN: Okay, thank you.

COOK: You're welcome.

DELEISSEGUES: Yes, thank you.

WRISTON: Reasonableness -- you want to jump in?

MORASCH: Me?

WRISTON: Yeah.

MORASCH: Oh, I was going to ask a question about what the process was for getting one of these livestock plans approved by the County. I mean does that go through a Type I or a Type II or what kind of --

SNELL: It's a Type I. It's not unlike our minor home business, there's a checklist, you state what it is that you're doing, there's a number of checklist items that you agree to live by the following and it's signed and submitted and it's tracked by parcel in our permitting system. And in the case, this actually came up in a conversation earlier this week, it

becomes property information tracking application.

So, yes, someone has applied for this and we have a record of it on our file and it's on XYZ property, then if there are three complaints registered by three different people, then you need to get a livestock, small management, large livestock, whatever it might be. So it's a very simple --

MORASCH: And it's a Type I, then, to get that livestock plan approved?

SNELL: Yes.

MORASCH: I guess I'm just wondering --

SNELL: Well, it's really over-the-counter.

MORASCH: Over-the-counter. So I'm just wondering if there's a dispute between the property owner and the County over whether their plan complies, whether it's good enough, how does that dispute get resolved?

SNELL: Well, the one thing that we've referenced in here is any of the materials through the Conservation District and we've contacted the Conservation District staff and they will be developing a small livestock management plan. It's essentially a list of best management practices that they would adhere to. And again actually it's an over-the-counter. We don't even charge for an urban livestock.

ALLEN: And the Clark Conservation District does not charge for developing those BMPs.

SNELL: Correct. Well, two points I wanted to make regarding this particular item. There are two other code amendments that are necessary for consistency sake that we would add under Title 8 under our animal code, and then under Title 9, our public disturbance noises, we would add that livestock on properties inside of urban growth boundaries may be subject to the provisions of this section.

And then lastly I want to emphasize and stress that this is an issue of urban livestock within urban growth boundaries, it's not livestock in the rural areas on ag lands, on forest lands outside of the urban growth boundary.

DELEISSEGUES: Any other questions of Marty?

WRISTON: No. I mean I was just going to say on the reasonableness word as an under-the-radar attorney I agree with Chris that this is a word that sometimes bothers me in code because it cuts both ways.

But it's a word actually that I was in a negotiation this morning that we ended up having to default to because it's a word that a lot of times if you can't define or come up with exact criteria and developers or whoever, you know, in this case it's not developers, but in this

case people are looking for some certainty but the certainty they may be looking for may not be what they want. In other words we may give them a whole bunch of things that they may not want.

So "reasonableness" in this case I think works in the favor in that at least if staff says it's what you presented is unreasonable, they think it's reasonable, the hearing's examiner, the court, whatever, that's who will determine what's reasonable or not. Does that make sense.

DELEISSEGUES: Hu-huh.

MORASCH: I think what Jeff's trying to say is that unless you can pick a purely objective standard like no more than eight dBA measured at the property line or something like that, I think "reasonable" is about the best word you can use if you're going to use a fuzzy word that's going to allow for some consideration of the specific facts and circumstances in each individual case.

WRISTON: And then the parties will negotiate, yeah. I'm sorry.

DELEISSEGUES: Is that what you were trying to say, Jeff?

WRISTON: Well, that is when he put it, I'm not quite sure how much we differed, but he put it in shorter terms than I did. But just so that, and I'm sure you guys know, if staff, you know, then it leads to negotiations and if staff and the applicant can't agree to what's reasonable, then the hearing's examiner or the court or whoever will determine what's reasonable or unreasonable.

DELEISSEGUES: Yeah. I'd just hate to be the person in the middle trying to decide what was reasonable and what was not reasonable.

WRISTON: Well, that's your job.

DELEISSEGUES: It's not mine, thank goodness. Any other questions while we have Marty's full attention? No other questions? We'll go to the sign-up sheet and here's what we're going to do. We've got this thing narrowed down now to two items so I'm going to go down the sign-up sheet and if you wish to testify on this issue come to the microphone, state your name and address and go ahead. If you wish not to but you're here for the kennels -- wait a minute now. Wait a minute, wait a minute.

GELENTERE: Oh, I thought you were ready to go.

DELEISSEGUES: -- if you want to testify on the kennels just so note and I'll put a little k by your name and then we'll come back and get the rest of you later. So Lloyd Gelentere, we're ready for you.

ALLEN: He knew he was first.

PUBLIC TESTIMONY

GELENERE: The name is Lloyd Gelentere. I live at 9905 NE 156th Avenue in Vancouver. And I have a couple of livestock, two horses. I've lived on my premises for about 40 years and I'm against doing away with the grandfather clause.

First of all, I'll give you a little background with the livestock industry, we have about 29,000 head of horses in Clark County and most of them have been there for a period of years. We represent about \$58 million of gross revenue and about 4.7 million in tax dollars and employ about 2,000 people in Clark County, stables, horseshoers, veterinarians, tack stores.

And most of the people that have been grandfathered in have lived on their property for 20 to 40 years. They're good stewards of the land or they wouldn't be there, you'd have lots of complaints. And I guess where I'm coming from, unless there's a lot of complaints, why are we reinventing the wheel here? And they get along well with their neighbors because they're in urban growth areas because most of Clark County is an urban growth area, there's very few farming and livestock people left in Clark County.

And if you rezone or say let's go a step further, you take away their rights to have livestock on their property and you say you can't have it, you're going to decrease their property value, they've had investments of 20 to \$40,000 to put in barns and facilities. So if you decrease their property value that means a decrease in revenue for the county.

So I don't see where it's a win/win anyplace. And I personally from an emotional standpoint think it stopped -- people like to see livestock in urban growth areas. They buy houses because they like that feeling to go see horses, cattle, sheep in the area. The City about a year and a half ago voted to keep livestock in the city limits for that one reason, it increased property values.

Well, I thank you for listening to me and considering this matter which I think is very important and I think it would be a wrong move to do away with this grandfather clause. I'm not against the good steward of the land or having permits or whatever, but to do away with this grandfather clause would just leave the livestock industry and a huge investment just put on the side of the road and it would also decrease the tax revenue for the county.

And besides that, you have very few people to enforce things, they're at their max right now, why would you want to come up with some needless law unless there's a very good reason. And sometimes I'll put the cart before the horse and not know all the answers, but I don't understand what the reason for change is. Thank you for listening to me.

DELEISSEGUES: Are there any questions of Lloyd before he leaves?

BARCA: Before you go, Mr. Gelentere, I do have a question for you. You used the terminology doing away with the grandfather clause --

GELENERE: Correct.

BARCA: -- we've received a lot of correspondence that has used that terminology. So for my clarification are you saying because people who are grandfathered in if at some point in time there's complaints, they would be forced to create a management plan, that is what you're saying is the doing away of the grandfathering?

GELENERE: Well, the grandfather clause is basically a permit you can have livestock on your property. In other words, if you have five houses built around you, you're still allowed to have livestock there.

BARCA: And do you believe that that's what the wording says in here?

GELENERE: That's what I believe it says.

BARCA: Okay. Because that I believe is not how it's written here. I would like staff to read specifically what we are proposing just so everybody's clear on it as you come up. I certainly want to hear everybody's testimony, but I do want to be clear on the terminology and what is being proposed. So, Marty, would you, please. Or, Chris.

COOK: Marty asked me to, I'm not suffering from a cold much. Okay. The amendments that have been proposed read as follows: It would delete a provision saying "Agricultural uses involving livestock on parcels brought into an urban growth boundary are exempt from the provisions of this section," so it does away with that.

This section is the section that requires a plan, it doesn't say you can keep your horses. It says if you're going to newly put livestock, you have to have a plan. So it also says "New agricultural uses involving livestock on a parcel in an urban growth area shall meet the standards in this section." So nothing yet has said that you can't keep livestock in the urban growth area.

An amendment then concerning noise management says, and I think I have the wording correct here, "Noise from urban livestock shall be managed so as to not unreasonably disturb the peace, quiet, comfort and repose of others." So that's an addition to the livestock plan section. And that was what we were talking about before that just says the noise has to be reasonable given the circumstances.

Small Livestock Management it says "Plans for new agricultural livestock uses are not required for small livestock that are either caged or that spend all hours indoors unless complaints are filed pursuant to Section 40.260.235.F."

Here's another addition, "Agricultural uses involving livestock that existed on parcels prior to being brought into an urban growth boundary are not required to develop a plan, unless complaints are received."

So assuming, sir, that your property was outside the urban growth boundary and was

brought into it and you had livestock on the property when it was brought in, you don't have to develop a plan unless there are all these substantiated complaints filed.

And here's the complaint section, Section F, "Enforceability. Substantiated complaints from three (3) separate households regarding livestock will require the development and approval of a livestock plan regardless of when the agricultural use began. Failure to provide and comply with a livestock plan constitutes a nuisance violation and shall be enforced in accordance with the civil provisions of Title 32."

So for those of you who have been concerned by the untrue statement that this will take away your rights to have livestock in the urban area that's not the case, it is just not in here.

DELEISSEGUES: Well, I think the confusion comes up when we took out where it says, you know, we took it out --

COOK: Yeah. I had a --

DELEISSEGUES: -- and we didn't put it back in anywhere.

COOK: No. Well, that's because --

DELEISSEGUES: But we're just talking about the plan.

COOK: It's an exemption from having a plan.

DELEISSEGUES: A plan.

COOK: I had a law professor who told me that if you want to understand a law read the law, and if you really want to understand it keep reading, and so you have to read this whole thing to know that this is just about a plan.

DELEISSEGUES: I'm not talking about how you learn the law, I'm talking about the --

COOK: Well, that's what this is.

DELEISSEGUES: -- issue of confusion is where we crossed out the livestock parcels brought into an urban growth boundary, it doesn't say the plan there, it just says livestock uses.

COOK: Are exempt from this section.

DELEISSEGUES: And that's crossed out.

COOK: And what this section does --

DELEISSEGUES: That's crossed out.

COOK: -- is it requires a plan, that's all.

GELENTERE: It's kind of ambiguity. You say you're exempt from the plan and then you say it requires a plan. So I agree with Mr. Dick, it's very ambiguous. You didn't write it so it's crystal clear.

DELEISSEGUES: I think it could be a lot clearer.

COOK: I think if you read it, it gets clear. If you have had livestock before it came into the UGA or if you have small livestock, no plan unless you have three separate households that complain about your livestock and those complaints are substantiated. It's so it can't just be the neighbor who doesn't like you.

GELENTERE: So what's the purpose?

WRISTON: Can I stop you there just real quick. So small livestock aside, if you are brought inside the urban growth boundary with livestock and you have three substantiated complaints --

COOK: Yeah.

WRISTON: -- you would have to do a livestock plan?

COOK: You do a plan. Nobody takes your livestock.

WRISTON: I think that's the concern, and I would have to agree, that's the concern that does away with grandfathering. I mean whether a livestock plan is a big deal or a little deal, I think that's what he's saying.

He's brought into the urban growth boundary, all of a sudden he's got 100 neighbors around him, three are going to complain and they're substantiated and now he has to do a livestock plan and he was brought into the urban growth boundary and all of a sudden homes were built around him to no fault of his own.

To me that does away with the grandfather, you know, exempting people that have been brought in there, we could purely exempt people that are brought into the urban growth boundary.

And just like we do with a lot of, you know, I mean we try to develop and we've done it with wineries, with agriculture, and I think we're also doing it with livestock.

I mean I'm kind of looking at the rest of the Planning Commission, but anything having to do with, quote, unquote, agriculture of which I know livestock may not fall under that, but to me it kind of does, anything having to do with that we, "we" seem to want to bend over

backwards, and I agree, to try to accommodate them to the extent we can, I think that's the concern. And then, I don't know, you --

GELENTERE: That was my concern too. And if there's been no formal complaints, why are we doing all this? Like I say, you're short on staff, you're doing laws that are going to be very difficult to enforce, and if there's no complaint what's the matter with the grandfather clause. How many complaints have you had?

COOK: Am I correct that there have been complaints?

SNELL: Yes.

GELENTERE: How many?

SNELL: All it takes is one.

VARTANIAN: If I might.

SNELL: All it takes is one.

VARTANIAN: If I might.

SNELL: I'll back up here and give the Planning Commission and especially the folks who are testifying the context.

This ordinance was developed a couple of years ago because somebody had an acre or two acres in the Covington area. This person had a neighbor who had a horse and he complained and complained and complained about the horse and the manure and so the Planning Commission, the Board of County Commissioners at the time said we need to deal with livestock in the urban area, it was one person complaining about this one neighbor.

And so the Board said one complaint isn't enough to do something, so we need three different households with substantiated complaints for us to think about, gee, you ought to have some kind of livestock plan in the urban area. That's where this came from.

Recently the Board of County Commissioners has received a complaint about a rabbit hutch next to a property line and that rabbit hutch has 50 some odd rabbits and the odor is beginning to annoy this neighbor who has complained and said the code dealing with urban livestock doesn't deal with small livestock and the odor management issues that are attendant with them.

WRISTON: Were those, I'm losing my voice, were those grandfathered?

SNELL: Yes.

BARCA: Yes.

WRISTON: So all these uses came in --

SNELL: Well, the one in Covington was well before any GMA plan.

WRISTON: Right. Well, I mean I know you said go back to -- well, I'll save it for deliberation.

COOK: Commissioner, can I respond a little bit?

WRISTON: Yeah.

COOK: If the only thing that's a concern is that people don't want to do a plan, I understand that. That's not what we're seeing in the letters and the comments we've received.

What we're seeing in the letters and the comments we've received is you want to take away our right to have livestock and that is just not so. Nothing in these amendments would permit that.

WRISTON: So let me go back to what I guess may --

DELEISSEGUES: Jeff, just a minute. Do you want to take your seat? Yeah, there's no sense keeping you up here while we discuss this issue --

BARCA: He's got a good seat there. Battle Royal going on.

DELEISSEGUES: -- for the next month.

WRISTON: Yeah, we don't need to, we'll save it for deliberations. Let's hear the rest, sorry about that.

DELEISSEGUES: Well, Chris, all I can say if there's nothing in there that prevents them from the right to maintain livestock, it isn't clearly written that way. And I don't care, maybe if you're a lawyer and you went to law school for six years, you could interpret it that way, but I don't read it that way at all.

COOK: Well, the section says you have to have a plan. Previously it said you're exempt from a plan. Now it doesn't say you're exempt from a plan.

DELEISSEGUES: Let me tell you what it is.

COOK: How does that say you can't have livestock?

DELEISSEGUES: I'll be glad to tell you. The part that's stricken from it sounds like

grandfathering is out, then it goes back to talking about the plan and that part that's stricken should not be stricken. It's not dealing with the plan, it's dealing with grandfathering. And then we talk about the plan for the rest of it.

ALLEN: And then of course --

DELEISSEGUES: And that's where the confusion comes from, believe me.

ALLEN: And of course the right to farm and new development would put the pressure on the right to farm to change, but that would be preexisting use prior to new development, so I do have a problem with that change also.

DELEISSEGUES: Well, have we --

BARCA: That was fun.

DELEISSEGUES: -- have we answered all your questions, Lloyd? We'll go on to the next person if we've --

GELENTERE: (Inaudible.)

DELEISSEGUES: Right. Well, we'll go to see what Rick Johnson can shed some light on this issue. Rick, you don't want to --

JOHNSON: I think you've already answered what you said.

DELEISSEGUES: Okay, fine.

JOHNSON: I'm president of the (inaudible.)

HOLLEY: Of the what? I can't hear you.

ALLEN: Come on up to the mic.

DELEISSEGUES: Yeah, we need to get it on the record if you've got something to say.

JOHNSON: Okay. Rick Johnson. 37212 NE Wiehl Road, La Center. I'm president of the Back Country Horsemen Local Chapter. And like Lloyd's already stated we have 30 some thousand horses in this county and I agree with what you're saying that the wording was ambiguous, it was hard to understand, taking this out, putting that in, we just didn't want to get left out. And that's all. I think you clarified it. I think your wording is wrong.

DELEISSEGUES: If I did, it was by luck.

MORASCH: I have a question before you go. Are you involved with this Conservation District that they're talking about here, the one that's developing these best management

practices?

JOHNSON: (Witness nods head affirmatively.)

MORASCH: So do you have any idea what might go into one of these plans if one of your members was required to submit one because they had three complaints and they were in the urban growth area?

JOHNSON: (No response.)

MORASCH: Well, I'd recommend you get in contact with them if this gets passed because you're probably going to want to have some input about how these plans get put together because to my mind that's kind of the unknown is we don't know sitting here today what these plans are going to require and how easy or hard they're going to be to comply with and so I would get involved with that aspect of it if this does get adopted. That would be my recommendation.

COOK: Commissioner, also there's a reference to WSU Extension as being another agency where people can go to get information on management plans. As I recall when this ordinance was adopted a couple of years ago, there were people here from those agencies and they actually had planning verbiage, but for the life of me I can't tell you what was in them.

MORASCH: Yeah. Because I would agree, I don't see anything in here that says people that previously had agricultural uses must stop. I mean it doesn't say that. But if there are three complaints it says you got to get a plan and you got to comply with it and I don't know how easy or difficult it will be to comply with one of these plans and you should probably talk to some of these agencies to figure that out.

JOHNSON: Yeah.

DELEISSEGUES: Well, thank you.

ALLEN: And of course, again, that particular service, the Clark Conservation Service, is free. They have technicians to assist and if there's a specific complaint, they have enough technical advice, not just here from Clark County but also statewide.

JOHNSON: Thank you.

DELEISSEGUES: And next on the sign-up sheet is Darene Bowyer. Do you wish to testify?

BOWYER: You've already taken care of it.

DELEISSEGUES: Thank you. Brad Sisson.

SISSON: Brad Sisson, 6009 289th Street, Ridgefield, Washington. I guess the first thing I would ask is that the Commissioners completely strike even entertaining voting on this measure.

For starters, when staff introduced it to them, they say right here under "Small Livestock Management (Editor's note: the title of this may change pending work being done by the conservation district)" and yet the premise of this meeting tonight is we're retooling our code to clarify things, to streamline the code and to take out any provisions or measures that are still under question or that have ambiguous language in them.

Obviously this code isn't ready to be voted on because it's not complete and whole. So I don't see that it should have been brought forward anyway with, you know, you have a Conservation District report that you're waiting on. When is that coming? Five years from now? Do we spend five, ten years?

As a landowner with a small livestock unable to comply to the code or unable to know what it is and the Commissioners have under the premise of streamlining left in this ginormous hole, if ginormous is a word, ginormous hole that doesn't have an answer, there isn't a report, there isn't anywhere that anybody can go.

The second item, and I think I agree with both of the gentlemen before me, that I think that you clarified that it isn't the intent of the County to take away grandfathered rights, but you're striking an important section that clearly states and said this grandfathered or properties brought into the urban growth boundary.

Well, this is just one rewrite that you're looking at. The code in Clark County affects, you know, there's thousands and thousands and thousands of code issues and a lot of them apply to farms or can be applied to farms. And as my wife and I are going to be buying my mother-in-law's farm soon that's been a racetrack farm for generations, and for since the 1930s, it's a big deal that we all show up and everybody's here and you've got a good turnout and you understand, okay, and then maybe we've got some ambiguous wording.

But this is Batch 5 of how many more batches are you going to be looking at. I mean is it 100. Am I going to be back here when I'm 60 or these gentlemen's ages and we're on Batch 105 and we're looking at retooling the urban growth boundary.

We didn't ask to get moved inside the urban growth boundary, we didn't have a choice. We have a farm, we make a living working with horses and, as my mother-in-law is dying to get up here and will tell you, the Conservation District, and we have a management plan and it is unbelievably arduous.

It is a manure shed with three stalls, with a roof, with a concrete pad and how we treat the manure and the temperatures that it has to get to and it has been an extremely, I mean and the rest of the planning and the stormwater planning, it's not a cheap, for a 26-acre farm with 20 sport horses it is not an easy thing to have to tackle by any means.

And it's not the gentleman with \$20,000 worth of barns, we have \$150,000 indoor riding arena, we have an outdoor riding arena next to it that we've just completed, and immediately across the ravine you can see all of the 250 to \$500,000 Ridgefield houses and eventually they're going to decide that they're tired of looking at an old barn that can't put up enough good siding and keep enough paint on it and whatnot and they're going to start filing complaints.

And we have a plan in place, but there's other articles and there's other references in here that move you to items in the code that will eventually make it possible for the team of staff here to start to force farmers out and to start to force ranchers and horse people out of these areas and that's why we're here today.

It's not just because the one section was striking out, it's because this is a code rewrite and everything going forward from here is being rewritten and we want you to know and I guess we'll have to be here every time to help you. Thank you very much.

DELEISSEGUES: Wait, wait. Does anybody have a question before he leaves? Questions?

SISSON: You get to talk to my mother-in-law soon, so...

DELEISSEGUES: Oh, okay, thanks.

VARTANIAN: Wait, I have a question.

DELEISSEGUES: Thanks, Brad. Dick Streissguth. And if I don't pronounce it it's only because I've grown up and nobody pronouncing my name right. It's payback.

VARTANIAN: Payback. Payback.

BARCA: One victim after another.

VARTANIAN: Absolutely.

STREISSGUTH: I'm Dick Streissguth. I live at 9216 NE Hazel Dell Avenue, but it used to be around Salmon Box 143-C years ago. This is an 80-acre tract that has been in the family since 1945 and we've had horses continuously on the land. And I misread this thing, I thought it said grandfather clause is in danger and that's why I'm here.

Our barn and stable was built in 1945, we had horses continuously since that time. I've lived on the land for 57 years and we've had horses and we've had cattle, although I haven't had any cows for the last 15 years, but I do have a couple of Shetland ponies on the land.

In about the mid '60s a subdivision did come next to us and we've lived compatibly in that period of time. In fact it's kind of surprising, but the people that had the kids that lived

there in the '60s now are bringing their grandchildren back to see what a neat neighborhood it was to live in. And my interest is that we be able to continue to do as we have done and that maybe instead of a grandfather clause, after a new addition in our family we would install a great grandfather clause.

DELEISSEGUES: Any questions of Dick? Okay, thank you very much. Steve.

STREISSGUTH: I'm good.

DELEISSEGUES: Do you want to testify?

STREISSGUTH: No.

DELEISSEGUES: Eddie something.

BARNHART: I'm good.

DELEISSEGUES: Eddie?

BARCA: He's good.

BARNHART: I'm good.

DELEISSEGUES: You're good. We'll move on, then, to Bonnie Moore.

MOORE: Hi. I live at 10312 NE 72nd Avenue.

DELEISSEGUES: Could you just state your name for the record.

MOORE: Bonnie Moore.

DELEISSEGUES: Thank you.

MOORE: We have a boarding stable, we've had it for 20 years. If you know 72nd Avenue, it's grown up around us. We have homes, apartments and condos, we have a mobile home in back of us. We have put in plants. We've worked with the County on water and so forth. My question, I get nervous, is three complaints, we have 300 homes to the north of us now, if we are not grandfathered in where we're agriculture, what happens?

COOK: Ma'am, you're still grandfathered in in terms of being able to do agriculture on your urban lot. It is the plan that is the difference, the complaints need to be substantiated. Now if this kind of code is too difficult and confusing, the court system of suing people for nuisances is an alternative.

I think this was an attempt to try to help neighbors who in good faith bought urban land and reside there to get along with people who have had their agricultural uses there for a long

time. That is my notion of where this came from. As I said, there are other ways to do it and this is just one of the choices.

MOORE: Well, I understand what you're saying, but what I'm confused about is we work very hard on mud, we worked with the County Extension Office on gutters on the barn and the runoff for clean water and so forth.

COOK: Oh, that's great.

MOORE: We haul off our manure so it doesn't accumulate there. We try to keep the pastures green and we do because we live there and I don't want a bunch of manure, I don't, but if you get three complaints what my question is even though we're doing everything we can to do everything right but you get three complaints, then we have to go to the expense of doing a plan when we are doing all we can do now.

COOK: They would have to be substantiated.

MOORE: Who determines what's substantiated?

COOK: That would be the County Enforcement --

MOORE: Okay.

COOK: -- or the County Development Director who is sitting next to me.

MOORE: Well, in 20 years we've had complaints, okay, we've had over the years the clean water people, we've had EPA, we've had you name them, they've been there and they've all agreed, they've all said there's no foundation for these complaints because you're doing everything you can do. So what you're saying is the way this stands if three different families complain, then we have to propose something substantiated?

COOK: Substantiated. And you're saying that all these agencies, and I don't frankly know any of them that are as picky as the clean water people, but that's my own bias, if all these agencies are saying that there is no problem with what you are doing, then my guess would be that there would not be three substantiated complaints against you.

MOORE: Well, that was before there were 300 homes over there that have changed the flow of the land.

COOK: Yeah. Clark County has changed a lot in the last 20 years, it's grown.

MOORE: I mean you really have to look to find us in between all the houses.

COOK: Yeah, concrete canyons.

WRISTON: I have a question. Chris, you've mentioned the nuisance laws, wouldn't the

nuisance laws apply even if this was in place?

COOK: Nuisance laws do apply even if this is in place, but my guess is that if you have a plan or if you have a decision from the planning director that the complaints are not substantiated, you're going to have a really hard time winning a nuisance complaint.

WRISTON: Right. I mean it's good evidence for it though. I mean it helps you.

COOK: Yeah, it certainly does.

WRISTON: But the lawsuit that you're talking about and all this money, the nuisance laws are still going to apply, we can't override the nuisance laws?

COOK: In this great land anybody can sue anybody about anything --

WRISTON: For anything, yeah, I agree.

COOK: -- and you're right, we can't stop that.

DELEISSEGUES: Does anybody have any questions of Bonnie?

VARTANIAN: Yeah. When you had the EPA and the XYZ and the PHD come out and visit you, assuming there's a complaint, well, three complaints, and maybe this is for staff, how does that work, who engages the expert to come out and does it cost them anything --

MOORE: No --

VARTANIAN: -- to do that?

MOORE: -- it didn't in this case.

VARTANIAN: Well, they were coming out to inspect you.

MOORE: Right.

VARTANIAN: But if you're defending against complaints, how does one go about defending against the complaint?

SNELL: I don't know if I follow you.

COOK: He's saying somebody complains, what happens next.

SNELL: So if somebody complains, then it's up to the code enforcement staff to look into the case and if in this case the property owner is employing best management practices and is working with other agencies and the agencies are saying everything is okay with us, then we would defer to those agencies with expertise in that area.

If a neighbor brought I suppose some expert to say, well, they're not managing the manure consistent with this best management practice, then I think the County would be under some obligation to review that. We would probably be consulting with the Conservation District and look at the evidence and say, well, it's substantiated or not. But the County staff would have to do that work.

VARTANIAN: And so far the property owner doesn't have to pay anything at this point?

COOK: Right.

VARTANIAN: However, how does one defend themselves against, you know, suppose the County comes up and says it smells out here and that's a violation?

SNELL: Well, the County's not going to do it, it would be based on a complaint.

VARTANIAN: Okay. You get three complaints, it stinks out here, okay, yeah, it does stink out here, somebody is going to have to either fix that problem or defend against the finding. Now we're talking about lawsuits or engaging counsel or whatever involved.

I guess my biggest hang, and I was going to leave this for discussion later, but I guess what I'm just trying to get at, when they were outside the urban growth boundary, there was practically no restrictions or no encumbrances, encumbrances on, I need to see a speech therapist, there was no encumbrances on what they could or couldn't do with their property.

Now they're inside and there may be some encumbrances or restrictions on what they can do or can't do with their property. I know they can keep their critters, but if three people complain they have to come --

COOK: Three households actually.

VARTANIAN: Yeah.

COOK: Three different households.

VARTANIAN: Yeah. No, I'm not talking about mom, pop and the kid. It boils down to now there is a potential restriction, something that they did enjoy before and now they have to either defend against it or comply which is a change from what it used to be.

I mean I understand people thought that they were having to get rid of their animals, not the case, but to some degree that is in fact a retirement of a grandfathering because now there is a potential restriction.

COOK: Oh, yeah, there's a change.

VARTANIAN: And that's my point.

COOK: I mean we wouldn't be here if there weren't a change proposed.

VARTANIAN: I understand that.

ALLEN: Exactly.

VARTANIAN: And I guess that's what I'm getting at when people say the grandfathering has gone away, yes and no.

WRISTON: It has.

VARTANIAN: Oh, it has, but I mean it's a matter of what does the grandfathering involve.

COOK: Yeah, what was being grandfathered.

VARTANIAN: Right. But the other again --

DELEISSEGUES: We can deliberate this --

VARTANIAN: Okay.

DELEISSEGUES: -- when it comes back --

VARTANIAN: Okay.

DELEISSEGUES: -- to the Commission.

VARTANIAN: All right.

DELEISSEGUES: Any other questions of our person testifying, Bonnie? Jeff, do you got any questions of Bonnie?

WRISTON: No, I don't. Thank you, Dick.

DELEISSEGUES: Any other questions? Okay, thank you very much. We're going to --

MOORE: I will just say one thing --

DELEISSEGUES: Fine.

MOORE: -- and I'm speaking not for all the people that own horses, I think all of us that do that love them, we take care of them, and we're as concerned as anyone else about our own property, we don't want it to be a mud pit and so forth and so on, and we do our best to do what we can. Thank you.

DELEISSEGUES: Thank you. What we're going to do now is take a break. We got a lot of people signed up here and we need our transcriptionist as I say to take a break as well as us and you probably. So we'll come back at about 10 minutes after 8:00.

(Pause in proceedings.)

DELEISSEGUES: We'll resume our Planning Commission discussion on the livestock issue. Before I go to the rest of the sign-up sheet there's two things I'd like to say. One of them is I'll go down the sign-up sheet if anybody still wishes to talk, but first, if you feel that anybody that preceded you pretty much said what you were going to say, I'd appreciate it just to say you agreed with the previous testimony.

But the second thing is we're of the opinion at the break of just terminating this part of the code and not sending it forward with any recommendation for approval. So if anyone would still like to testify after hearing that, come forward and state your name and address and we'll hear you out.

HARRELL: I actually do for future questions because I know you guys are going to be presenting this again in the future. My name is Debbie Harrell.

DELEISSEGUES: Well, maybe, maybe not.

HARRELL: Debbie Harrell --

BARCA: Have a seat.

HARRELL: -- I live at 20517 NE --

DELEISSEGUES: Okay. Sit down and start over.

HOLLEY: I didn't get what you said.

HARRELL: I'm Hispanic and I speak fast. Debbie Harrell, 20517 NE 22nd Avenue, Ridgefield, Washington. I've heard from the horse people today, but I am poultry, I have about 150 chickens and 13 turkeys, and I love my turkey Bumper.

But anyway, the grandfathering I got my questions answered on that. But with the complaints, my concern on the complaints is how long of a time period if you do get complaints? Is it 6 months? Is it 20 years on this thing if you guys ever would rewrite this code again? How long would it be in the complaint time period?

SNELL: There's no defined term, no defined period.

VARTANIAN: That may be something to include in a subsequent write if there is a subsequent write.

HARRELL: And then after the complaints are not sustainable, does that allow for more people to come in with three more complaints or is it a never ending process to where it's almost like feeling like harassment?

WRISTON: Good point.

COOK: Anybody who wants to file a complaint about whether the sky is blue can do so and they can do so now as well.

HARRELL: I understand that, but the sky is up there natural. When you have chickens and goats and horses, that's a different fact. So that's another concern with something like that for future if you guys would think about that. What are the limits that you guys are saying if we do have to comply?

I'm not commercial but I sell my eggs and they pay for themselves. And I do clean the barn and everything, but I have a neighbor that they have the five acres out there, they don't like livestock, period, and when I'm surrounded with goats, horses, cattle I don't like the mules that go off at 3:00 in the morning.

But I live in country, there's things you have to accept with noises and things like that. Yes, it does wake me up, but that's part of country life. Roosters --

COOK: Are you in the country or are you within the urban growth boundary?

HARRELL: I'm five acres, I'm in Ridgefield right by the fairgrounds.

COOK: So are you in the UGA?

HARRELL: I'm not quite sure. It says Clark County so it's part of Clark County.

COOK: If you're not in the UGA, none of this applies to you.

HARRELL: So far.

COOK: Yeah.

HARRELL: So far. And then another question for these people with the horses also if they can't comply what happens to the animals? Do they have to get rid of them, they're sold, Animal Control comes and gets them, what happens?

COOK: There's nothing in here that says that anyone takes your animals, nothing, nothing authorizes that. No one has proposed that. It's not in here.

HARRELL: Then why are we even writing in this then? Because those are facts of what can happen and the bases all have not been covered as far as I'm reading the statutes,

the code that you're trying to do. If people don't have to comply, then what are the consequences to even do this.

COOK: Let's see. In Section F this is code that already exists and has been on the books now for a couple of years, "failure to provide and comply with the livestock plan constitutes a nuisance violation and shall be enforced in accordance with the civil provisions of Title 32."

So Clark County Code Title 32 has a procedure of the County suggesting that someone has violated a code and that they need to bring themselves into compliance.

HARRELL: And when they don't comply, then what happens to the animals?

COOK: There is nothing --

HARRELL: It doesn't say anything about --

COOK: -- nothing that happens to the animals.

HARRELL: Sorry, I rambled enough, I'm done.

DELEISSEGUES: Well, thank you.

HARRELL: Thank you.

DELEISSEGUES: Anyone else wish to testify? Yeah, go ahead, come forward.

FURLONG: I'm the mother-in-law, I have to say something.

DELEISSEGUES: Of course.

VARTANIAN: Can I take another break.

FURLONG: I'm Norma Furlong and I reside at and own 6009 NW 289th Street in Ridgefield and it's a 26-acre and we're in the urban reserve. And I have a farm management plan and I have worked with all of these people, Clark Conservation, WSU and the USDA.

And you're absolutely right, the plan was absolutely free, they had wonderful consultants, I liked all the people I worked with, and implementing the plan I actually got a partial grant and the total cost for my farm because we are on an unnamed tributary of Gee Creek was close to \$80,000.

The manure shed itself that we constructed was probably about 40,000 completed because the concrete pad had to meet the Federal requirement for which there's only one standard of concrete which is the same as what you would see at the airport, so it's like six

inches with rebar that was much stronger than anything I had ever seen and I grew up in a construction family.

So we have 3700 feet of underground drainage that go into catchments, we have swales, we have everything, we have a five-acre boundary strip that prevents contamination of the creek from our animals, we have double fencing so that we are good neighbors and can service our fences from the inside without crossing over onto the property lines, and I'm lucky I was able to afford it and had a lot of family and friends that helped me construct it.

And in spite of these measures I had one complaint which was signed by my illustrious neighbors at the Heron Ridge Subdivision anonymously. The homeowner's association left a letter in my mailbox complaining about barking dogs which could have been a substantial complaint because I own dogs.

But unfortunately my dogs are lazy and they like to be in bed at 9:00 and so they weren't the ones barking at 10:00, another neighbor's dogs were barking and they couldn't tell whose were barking.

We also have had incidents when we hay and spread fertilizer. This is not a glorious weather 24/7 all Summer long and if we start haying we may start at 5:30, 6:00 in the morning with the tractors and the rigs and start cutting and mowing and baling.

And we've got lights out there in the pasture and we have neighbors and they can see it and so lights can also be a nuisance. Some other land that I own has covenants that say that you must keep your lights from deflecting in the night sky, which I think is lovely, but when you're farming that's not always practical, so that too can be an annoyance as well as the sound of tractors.

So although your statutes or proposals do not directly impact my ability to farm, it certainly is an indication to me of a trend towards urbanization which does not point to supporting livestock and the existence of agriculture in Clark County. And I hope that my son-in-law and daughter are able to farm for the next generation.

We've only been there 15 years, but three generations are on our farm and it's a wonderful feeling, it's a wonderful life, and if you look at my neighbors who have little playgrounds to play in, even though they look over at a rural area and the kids that I work with in my medical practice with adolescents who are totally attached to their cell phones and other video devices, I think that some of these trends will impact us for the next hundred years.

And Clark County is a wonderful place to live, the best I've ever had, I hope we're able to continue our lifestyle. And although some of these measures are not ill-intended, I've lived through two urbanizations, one in California when I was younger, one in Clark County, or excuse me, in King County in Seattle.

I grew up on a poultry farm, my dad was taken to court three times, he won three times. The third time he sold the chickens. He said I want you to see my pay stubs and I want

you to see my legal fees and the chickens are gone and we butchered and that was it.

And I remember that because we won. Did we? My mother's still sitting there, she's 91 years old on the acre and a half, the poultry buildings are still there and they've now been empty for 30 years and that's what you're looking at in Clark County as this if there is not a proactive argument to maintain our ag, some semblance of co-existence with our agricultural way of life. So that's all I have to say. Thank you.

DELEISSEGUES: Well, thank you. Does someone else wish to testify? Okay. Come forward.

MARTIN: I'm Pat Martin. I live at 11625 NE 244th Street in Battle Ground. And I agree with what everyone else has said, but I guess two things.

One is, so you've had two like minor complaints, one horse and one rabbit hutch and because of that you're going to change the ordinance, that seems to me to be ludicrous. It's going to affect so many people on such a wide basis.

I mean you're saying you're not going to take away our livestock, but if we can't afford to comply or are unable to comply with your compliances, we're going to have to get rid of our livestock so in essence we are going to be forced out.

And I've put in a big arena and a big 14-stall boarding facility and I wouldn't be able to sell it, I'm going to lose all that, I wouldn't be able to board horses. I mean I don't know. I just think government regulations it's only the beginning. You guys keep adding to it and adding to it and adding to it so I don't want to see the government get too involved.

DELEISSEGUES: Thank you.

SLAYDON: Hi. My name is Cheryl Slaydon and you probably all know me from all the other times I've been here about the urban growth boundary. All I would like to say is I would like to propose to eliminate the ordinance altogether. That's all I'd like to say.

DELEISSEGUES: Okay, Cheryl, thank you. Anyone else?

STRATFORD: Hi. My name is Sandra Stratford and I have horses and if a lot of these laws go in for a lot of us that have stock, I cannot afford to border my horses. I do have two places that I move them in between. I love my animals very much and I really don't want to get rid of them. They mean a lot to me.

I love riding. I go to a lot of different places to ride. And I have had a few complaints, I've taken care of that very much. The gal over there knows me with Animal Control, she knows that I have done everything that I have done.

I do a lot of my veterinarian, I take care of my animals very well. I have done everything that I can. I've worked with quite a few people around in the areas that have had

problems, I've even helped a few people that needed help. That's what I got to say. Thank you.

WRISTON: Thank you.

DELEISSEGUES: Thanks.

ZIMMERMAN: My name is Bill Zimmerman. My family owns Bi-Zi Farms. We're on 9504 NE 119th Street. We are just on the edge of the urban boundary. I wanted to make a couple of points if I could.

And one is is I do want to say is I'm the past chairman of the Conservation District here in Clark County and as far as the plans go I have to admit from where I was the frustration the woman expressed about the concrete and one thing and another is very real.

And I love the statement that we're here for the government, we're here to help. And don't believe that these plans are real easy to comply with, they are expensive and one thing and another, so it isn't easy to match that.

I have a few problems with this whole ordinance if I could real quick and I apologize. Line Number 30 on Page 12 it says "agricultural uses involving livestock that existed on parcels prior to being brought into the urban growth boundary," I have a question about that. Can that be construed to say that, gee whiz, if you had a cow and that cow died and you brought different cattle on that, now all of a sudden somebody can complain about that cow, that new critter that's on the property? That's number one.

Number two is, if you convert that acreage, say you have an 80-acre parcel, you've been running cattle on it, you've been running horses on it, you've switched to cattle and at that time you go to wean calves and the calves sit there and bawler and the cows bawler for three or four days straight, what does that do to your neighbors and are they allowed to complain?

And I guess the question is is what do you have for a noise mitigation plan for that? So it's kind of questionable to me. I used to raise hogs when I was a boy in FFA and I'll tell you quite frankly that if you really want to have a smell concern, hog manure is the top of the list and what if you converted that operation to hogs, what would that do?

Most of these people didn't ask to be brought into the urban growth boundary and just like what we're facing now is we are not asking to be brought in in the future, but I know that that's probably not the case that's going to happen.

I do have one question about it, and Chris and I were talking about it a little bit at the break, what happens if you institute your plan and the complaints still continue? You can't take away anybody's right to sue.

And one other note, I wanted to stay and speak about the kennels, it's getting late and I

think I'm going to head on home, but I guess I look at what you talked about in the previous chapter where you're trying to make it easier for the short plats and here, then, we come up with the agricultural farm markets ordinance and one thing and another and I look at it and I go are you making it easier to stay farming or tougher.

A couple of weeks back we traveled to Snohomish County to set up the Pacific Northwest Farm Direct Marketing Conference and when we were there we talked to the growers there and they said they have a director of agriculture for the County and he has a mantra that he goes by and he says the tougher we make it for these farmers to farm and the easier we make it for the developers, the sooner we see this land convert. So anyhow, thank you.

DELEISSEGUES: Thank you. Does anyone else wish to speak?

GRAY: Hello. My name is Lynn Gray. I live at 21006 NE 182nd which is out in Battle Ground. I appreciate Mr. Zimmerman's comments, I share his concern that urban growth boundaries are just going to keep expanding and we're going to lose our rural way of life. In fact, you're already taking the word "rural" out. Urban livestock, to me that's an oxymoron, although I realize people can raise chickens in the city and that type of thing.

The next thing is that in these tough economic times there are more people in my family who are out of work now than ever I have experienced in my life and I think it's so important for us to be able to provide our own food. Yes, I have a rooster who crows at 4:00 in the morning and I hate him, I have to go to work at 5:00, but I've got eggs. If I needed to get by I've got eggs and this county needs that, so I don't think we should make it tougher for farmers.

And my one question would be my livestock, my rabbit, my miniature horse, my chickens, I don't understand what an agricultural purpose or use is because we do eat the chickens' eggs but they're really our pets too, so I'm not sure where that fits into the whole thing.

And the last thing I'm going to say is that I would not want to see the grandfathering clause taken out. I feel that that would be disrespect to people who have lived on their land, taken care of their land and paid their taxes. Thank you so much for giving me a chance to speak.

DELEISSEGUES: Thank you. Is there anyone else? If not, we'll return it to the Planning Commission. George, we're going to come back to the Planning Commission for deliberations and hopefully some sort of a motion.

WRISTON: Just one thing, a clarification, I mean whatever we do, whether we decide not to go with this or not, it's still going to be going to the County Commissioners. So there have been some people that have left tonight and I hope we mail them or whatever and let them know.

SNELL: Yeah, February 7 is the date that's scheduled with the Board of County

Commissioners to review whatever is forwarded to them from the Planning Commission this evening.

WRISTON: So we're not the last word so please tell your friends, neighbors, whoever, what we make tonight is a recommendation to the County Commissioners, but they will be hearing it and they do have the last say. Hopefully we have some pull but they've certainly disagreed with us in the past and could definitely disagree with us on this.

With that being said, if you don't mind I'll just start where I'm coming from. I'm going to go back and hold then Chairman Stuart to his words at that luncheon of which I still have the notebook because I couldn't believe what I was hearing, but that we were going to be making this code easier and if we were putting demands on the private side that benefited the public, then the public would pay.

And in this case it seems like we're putting demands on the private side and asking the private side to pay. This whole ordinance wreaks of making the private side pay. I spent over 15 years in the gravel industry, we had the same problem, our gravel pits, asphalt plants, et cetera, would be outside the urban growth area, they would be moved inside the urban growth area.

We clearly had a grandfather clause that allowed us to continue as long as we didn't expand our operation or we fell under the County's grandfather clause. We had complaints, we dealt with them. We never had a nuisance lawsuit brought against us. And you always run the risk of having a nuisance lawsuit brought against you.

But we were unwillingly brought within the urban growth boundary and also brought within the city limits and gravel pits one might argue and asphalt plants might be even more intrusive than livestock, so I definitely feel what you're all feeling.

You're being brought in against your will and then you're having a hundred neighbors or five neighbors or whatever brought along your border and then you get three complaints, which isn't very hard to get, and then you have to bear the expense and the time, and your time is worth money, to come up with a management plan.

So I would say that the best thing to do would be to clearly send this to the County Commissioners with a recommendation to, what's the word I'm looking for, kill it.

DELEISSEGUES: Quash.

SNELL: To delete the entire section.

WRISTON: To what?

SNELL: Are you looking at the code amendments or the entire section?

WRISTON: I'm looking at the entire section. To remove the entire section. We've heard

no complaints tonight, no one has showed up tonight complaining about livestock. Everyone here tonight has been advocates or have been advocates of livestock.

I think once again, and we've done this time and time again, we're being reactionary to a few complaints and then we are turning around and affecting a lot of people because we've had a few complaints and that's one of my big problems with government is that we are awfully reactionary sometimes.

So I would like to, this would be my opinion, I would like to completely remove this section, make sure that livestock is specifically grandfathered where it's previously existing, show support for livestock, and by doing that that will help just as much in my opinion if the County shows support with a grandfather clause.

That will do as much in my opinion with a nuisance lawsuit that may be brought against you than the fact that if three complaints or whatever were found to be invalid and someone brings a nuisance law against you anyway which they can do whether or not this is in the books.

So I guess what I'm recommending is that we remove this, we specifically grandfather the uses in. And it's a highly regulated industry anyway, very highly regulated. So that's about all I have to say.

DELEISSEGUES: George.

VARTANIAN: I would advocate that position as far as the current code is as it exists and I think this will go away if we pull the whole code. I don't believe in having existing agricultural uses inside an urban growth boundary having to file anything because there are complaints, that just goes against the grain.

To me whether it's urban growth boundary or not, it's like people who buy houses next to the airport or people who buy houses next to the railroad tracks, I'm sorry, but I mean if you're not going to understand where you're moving, don't come to the rest of the county to put up with your lack of research.

DELEISSEGUES: Due diligence.

VARTANIAN: Well, that too. So it's just a matter of philosophy. It's a matter of you weren't there before, they were. The fact that the urban growth boundary came and surrounded them and have gone past them at this point, it's got nothing to do with what you do for a living or what you had going on.

If you want to bring in a subdivision of 500 houses be my guest, but probably 300 of them are going to be smelling your cattle and that's also a personal problem. So I mean I stand absolutely with Commissioner Wriston.

DELEISSEGUES: Ron.

BARCA: Well, I just need a moment of clarification. We talk about throughout the comp plan for encouragement of agriculture, we talk about in the rural areas creating rural character and lifestyle and then when we change the boundaries the comp plan doesn't say discourage rural character or get rid of that lifestyle.

So I think we need to continue to look at this on principle of how we want to have the identity of the county presented and we are not representing what we say with the comp plan in the words by going ahead and changing the philosophy because we've moved the boundary.

But when we talk about this as Commissioner Wriston said, if we do away with the entire ordinance there won't be a grandfathering any longer, there will be nothing. If we do away with the ordinance completely, there is no words as to say what controls inside the urban growth boundary, right, because new uses could occur.

We won't control that if we do away and there won't be a grandfathering because there won't be any control specifically around it. So if we make that choice, I think it's just the Planning Commission needs to be clear on what it is that we're choosing.

We're not choosing to uphold the old wording that says grandfathered without exception is okay, we're saying we're going to allow agricultural activity in the urban growth boundary for both existing uses and for people that want to do it in the future.

DELEISSEGUES: So if there's a motion made that ought to be clear of what we're recommending.

BARCA: I guess exactly. I just want everybody to be very clear on the two choices here. We can go back to the old wording but we're going to have to discuss what that wording is in the ordinance. Or as I heard Commissioner Wriston suggest and Commissioner Vartanian agree to was the elimination of the ordinance.

WRISTON: Well, but specifically grandfathering the use. I mean I think we're saying the same.

ALLEN: No.

WRISTON: No, we're not?

BARCA: We're not so that's --

WRISTON: You're saying go beyond grandfathering?

BARCA: I'm saying when you said eliminate the ordinance is eliminate the ordinance.

WRISTON: Right. And then I said but specifically keep the grandfather clause or add a

grandfather clause --

SNELL: In what?

WRISTON: -- allowing --

BARCA: Yeah.

SNELL: In what?

WRISTON: Well, I don't know. I don't know. That may be two motions or what you're saying --

AUDIENCE: Do you have an ordinance in there now the way it sits? So what's wrong with keeping the way it is now already and not voting on whatever it is you're bringing up?

BARCA: Okay. So this is our deliberation and these are the choices that we're going to present and this is what we have to choose. Me bringing this up is to discuss as I heard the words.

So before we make a decision and vote on it and this is what our recommendation will be passed to the County Commissioners who have the final say, I just wanted to have everybody on the Planning Commission clear on what the potential choices are.

WRISTON: But I want to make sure that if we eliminate the ordinance, and this is where it's confusing because it's a rewrite of the code, but whatever we do somewhere in there I had mentioned that we specifically grandfather these uses. I mentioned that.

And what I hear you saying, though, is actually maybe even going further and saying not just grandfathering them but allowing them to --

COOK: But, Commissioner, can I ask for staff clarification here. When you say grandfather these uses --

SNELL: Which uses?

COOK: -- what uses? Because there's nothing in the code now that says you can't keep livestock on your urban property. You specifically can have an agricultural use --

SNELL: On your property.

COOK: -- in the UGA. That's already --

VARTANIAN: How about --

WRISTON: There's nothing so then we may not have to do it. That's why we have you

there. But go ahead, Ron.

BARCA: It is the explicit statement of the Section B.2 that's being struck --

COOK: Well, if you're --

BARCA: -- that is the point of contention that is being discussed as grandfathering in because it says "uses involving livestock on parcels brought into the urban growth boundary are exempt from the provisions of this section."

COOK: But if you eliminate the section, there is nothing to exempt them from.

BARCA: Yes, Counselor, and that's exactly my point is we need to make a choice on whether we're going to continue to hold a law with an exemption or whether we're going to choose as a group to say if we want to simplify it, maybe the real simple choice is to completely eliminate the ordinance and then that allows the use of land in the urban growth boundary to anybody's discretion concerning livestock and let it be handled amongst neighbors without the County being the arbitrator of those choices.

DELEISSEGUES: Well, those aren't the only two options. The other option would be to eliminate all of that ordinance except that statement.

BARCA: Well, but that is indeed keeping the ordinance though.

DELEISSEGUES: That part of it, that one line or two lines.

BARCA: So I wanted to make the clarification. I'm going to yield the floor here so other people can talk, but...

WRISTON: That's a good point though, thank you.

AUDIENCE: Very good.

DELEISSEGUES: Val.

USKOSKI: Well, in general I'd have to agree with what's been spoken already that I do feel that those preexisting uses prior to being annexed into the urban growth area should be grandfathered in and allowed to continue their use and not have to worry about going through these issues of developing livestock management plans and the expenses associated with them because of a few complaints and I think that pretty much sums it up for me.

MORASCH: Great. Yeah, I agree with Jeff and I'm okay with just deleting the entire ordinance and if people need to fight with their neighbors over the chicken coop, then let them handle that as a private matter.

That's what the courts are for and the County staff I think can spend their time doing more productive things and given the budgets and everything probably don't need to be in the middle of chicken coop battles.

DELEISSEGUES: Milada.

ALLEN: I have an issue of lumping together the existing and the new agricultural uses by striking out some of the portions of the code. Eliminating the code itself to me is not an option because you have to leave some sort of a guideline for both sides of the equation because both sides have the bundle of rights and the bundle of liabilities and the right to enjoy their property and their investments and so the ordinance would sort of have some sort of a disclosure as to what the expectations are.

But when we're looking at the existing agricultural uses versus the new uses and then you look at Page 12, Item F where it talks about enforceability and in it there's an added language that says "regardless of when the agricultural use began," so that is where I have a problem differentiating between an existing use and a new use.

Because when an existing use is there and you have a developer or somebody else trying to build a house right next to the agricultural property where you have an expectation of noises and the other associated impacts of agriculture on the residential uses, this is an existing use that any reasonable and prudent person that does some due diligence trying to figure out where they're going to locate should know that there's agricultural production there, ergo there's an expectation of some of the nuisances that go along with the agricultural production.

So therefore when you're saying that regardless of when the agricultural use began, you open up a new option for somebody who's coming in buying next door to the agriculture and saying I don't like that particular use because I'm here now and even though they were there before me, before I built my house here, now I don't like that use. So I do have a problem with that particular page or that particular amendment on that page.

And three complaints are easy to get if you have 300 houses out there, it's easy to get if you have a homeowner's association out there that is advocating for it, and it is easy to get if there's no time limit on how many complaints you get per certain time.

And I had seen in some other jurisdictions where they had developed, quote, unquote, a right to farm code, but they also require that there would be some sort of a document signed by -- the realtor was required to do a full disclosure that, hey, listen, just in case you didn't notice you're building right next door to ag.

I want you to sign a piece of paper that says that you know that there is ag production there and you know that there will be associated impacts, and it's okay with me, I'm going to go ahead and buy that home, and so there's that full disclosure that is required. And I don't know if that is something that is going to be considered, but, again, striking out the ordinance is not an option.

And unfortunately I do have a problem also with that urban growth boundary exemption being stricken out because as people said, they may be there for a long time, they had put a lot of money and effort into their properties and they should have the right to continue to enjoy those pieces of property regardless of whether they're in the urban boundary or not or urban growth boundary. It is a two-way street and so I think that due diligence here is what is the key and three complaints is easy to get.

DELEISSEGUES: George, do you have something to add?

VARTANIAN: Well, I mean I understand what Councilman Barca's point about doing away with it as opposed to just limiting the filing requirements with new ones, but the County's stated objective is to promote agriculture and in our comprehensive plans and all of our zoning ag is permitted in any zone and any ordinance to the contrary is contrary to the stated objectives I think in our zoning code, so which is to me the overriding issue why I'd like to pull the code altogether. But that's where I am.

ALLEN: Well, but then also you have a brand-new agricultural production that wants to go next door to residential and again we have a flip side of the coin here. So it is good to have some sort of a guideline and some sort of an expectation pursuant to that guideline as to what and how to go about protecting the bundle of rights on both sides of the equation.

VARTANIAN: But again the ordinance --

DELEISSEGUES: Let's do this.

VARTANIAN: I'm sorry, okay. Enough whatever, I've said it.

DELEISSEGUES: There's two or three ways we could go and I think what we need to do is somebody that's brave wants to start with a motion, we'll vote on it "yes" or "no" after some deliberation on that motion. If that fails somebody else can be brave and make another motion.

But I think what we need to do when we're finished with this is send some clear direction as to what we think needs to be accomplished to the County Commissioners and I'm sure if they prefer to do that, they'll send it back to their staff and see whether or not some of these concerns we've got are legitimate and how to fix them.

But I think what we need to do is kind of send our recommendation to the County Commissioners how we'd like to see it end up and I'm sure they'll take care of doing what they want to do.

BARCA: Okay.

DELEISSEGUES: But that's all we can do is give them our best shot at this guidance.

BARCA: So in the effort to try and do that and running a trial balloon up let's start with the most radical proposal of retooling our code by doing away with the urban livestock ordinance 40.260.235 in its entirety.

VARTANIAN: Second.

DELEISSEGUES: Moved and second to eliminate that section of the code. Any discussion on that that we haven't already heard?

MORASCH: Does that motion also include not making any changes to 8.11.060 and 9.14.010, just leaving those as is?

VARTANIAN: Where is that?

MORASCH: I assume that's implied in your motion but just for the record I wanted to --

BARCA: The amendment Title 8 --

MORASCH: Yeah, the Title 8 stuff.

BARCA: -- yeah, and then the public disturbance.

MORASCH: So you would leave those as is?

DELEISSEGUES: Is that okay?

COOK: You would not amend those sections because they refer to this code that you're taking out, it's the noise section.

BARCA: Right. But if 40.260.235 is eliminated from it those components that reference it would be --

COOK: They're not automatic, they don't automatically disappear. You need to move to get rid of them.

BARCA: Okay. So I need to amend my motion to have the components of 8.11.060 and 9.14.010 amended to also remove any reference to the ordinance 40.260.235, the urban livestock ordinance.

DELEISSEGUES: Is that okay with the second?

VARTANIAN: Second's agreeable.

DELEISSEGUES: Okay. Any other discussion on this? Well, I can't restate the motion in its entirety, but if everybody's clear on it, can we have roll call, please.

ROLL CALL VOTE

BARCA: AYE
ALLEN: NO
VARTANIAN: AYE
USKOSKI: AYE
MORASCH: AYE
WRISTON: AYE
DELEISSEGUES: AYE

BARCA: Okay, there's the balloon.

WISER: 6/1.

ALLEN: Did you want the reason for a "no"?

VARTANIAN: No, Milada, I'm not the chair, ask the chair.

ALLEN: I am asking the chair but you were answering.

DELEISSEGUES: What's that?

ALLEN: Did you want the reason for my "no" vote?

DELEISSEGUES: Well, George was going to take over for me there.

ALLEN: I heard that.

DELEISSEGUES: Yeah, go ahead, Milada, yes.

ALLEN: Because I really firmly believe that there should be some sort of a guideline and eliminating the ordinance does not really protect either side.

DELEISSEGUES: Okay.

WRISTON: I want to reiterate that the County Commissioners will be hearing this so it's not over yet.

AUDIENCE: And when did you say that meeting is?

SNELL: February 7th.

AUDIENCE: February what?

COOK: 7th.

SNELL: It's February 7th. It's a Tuesday evening.

WRISTON: So a lot of people left, so...

COOK: Tuesday at 10:00 a.m.?

SNELL: No, it's an evening hearing.

COOK: Oh, an evening hearing, okay.

VARTANIAN: Oh, that's right, it's their first one.

SNELL: Another evening hearing.

AUDIENCE: What time?

COOK: 6:00.

SNELL: 6:00 p.m.

AUDIENCE: And that will be where, here?

SNELL: Here. The same place.

WRISTON: Make sure you tell people, make sure they know.

BARCA: The ag and horse community should really represent if they want to be heard.

WRISTON: They will make the final decision.

AUDIENCE: So will they have an article again in the Reflector or the Columbian?

BARCA: Ask him.

COOK: We don't write the paper.

WRISTON: Don't know. But they were the ones that put this on the docket I believe; right?

BARCA: What, the Reflector?

WRISTON: No, the Commissioners.

SNELL: Yes.

VARTANIAN: Oh, yeah, the Commissioners always put things on the hearing.

WRISTON: So you want to be at that hearing. I guess I just lost my staff.

DELEISSEGUES: With that we'll move on to the last item on the agenda for tonight which is a new section entitled Kennels which would create special use standards for kennels. Do we have a staff report?

SNELL: In the interest of time with the Planning Commission, the proposed code amendment would add a new special use section to our special use Chapter 40.260, would add kennels to that special use chapter.

Effectively the change as proposed would make commercial kennels on properties under five acres a Type II instead of a conditional use permit. That there would be standards applied to all kennels private and commercial in the rural areas. That's under Section B, Number 1. That there are other standards for commercial kennels in the rural area under Section 2.

Under 2.b on Page 14 we deal with the code amendment essentially grants a grace period for kennels that are under five acres, which is the standard in the current code and in the proposed code, that they would have 18 months to submit a fully complete application.

I would propose that we remove Subsection 2.d on Page 14, it's a duplicate, the compliance with Titles 8, 14, 15 and 24, so that would be removed because it's already in --

VARTANIAN: 1.f.

SNELL: It's already in 1.f, yes, thank you. And there are certain setback requirements and buffering standards that are proposed that are different from the current code today. And I will entertain any questions from the Planning Commission.

DELEISSEGUES: So this applies to any kennel anywhere in the county, not just an urban growth boundary?

SNELL: No, these are in rural areas in the county on rural property.

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

SNELL: Rural residential.

DELEISSEGUES: Are there any other questions of staff? Well, hearing none, anyone in the audience wish to testify on kennels? Well, one of you come on up.

AUDIENCE: You can break the ice, how's that.

DELEISSEGUES: You're appointed as number one apparently.

GOEDERTIER: Good evening. My name is Joeri. I live in Battle Ground and most of you or most of the Commissioners probably have seen me here. For the last three years we have tried to get the County to make a permit for the breeders to work. Until now it hasn't worked yet so that's why they are doing again the new proposal for those the codes.

But the problem from the whole thing is kind of about who is commercial and who is not commercial. Someone who has more than nine dogs becomes commercial, now we are supposed to do a whole bunch of thing and I was the only one who had to do a conditional use permit and then the last day they said, okay, don't file it, we're going to redo the whole writing. So that's kind of the thing.

Now in this new updated code here when I just got tonight actually it says provide a less expensive, less complicated mean of permitting commercial kennels, and the problem is we always have talked about the home base permit like a regular someone, like my other neighbor he has three house on the road, my neighbor has a home based trailer repair store, horse trailer repair store, he just need to come in here get a home base permit, writes a \$1500 check and walks out.

I have more than nine dogs, I was (inaudible) world champion training dogs, now by the old code I have to pay \$30,000 on paperwork and then widen the private road this and that. There's no people coming to my house, I train my personal dogs, I go compete, I sell my personal dogs to rich people, that's what I do for a living.

Before this I was the head instructor from the U.S. military base in charge of the breeding program. And so I mean now they said it's less expensive, but what's less expensive. Is that \$29,999 in place of 30,000. Or you know what I mean. Or is it going to be something like a home based business permit.

That's actually what we tried to get into and of course you need to do the odor and the smell, and they look at it, I understand all that part, but there's a bunch of these things. Actually like for example it says here that your exercise run should be ten feet away from the neighbor thing. Well, does it also mean that my neighbor can't come within ten feet from my property line.

No, I built a wooden fence around my property, I paid for \$8500 to make my neighbor happy, right. I mean I planted 250 \$80 Leyland Cypress to make my neighbor happy. We have done everything and then some.

I got complaints about, oh, he has a poop pile there, Animal Control comes out, videotapes, oh, it's horse poop, because the waste company takes the dog poop that's double bagged following the thing. Oh, they spray this water.

I mean we get all these kind of complaints and there's never been any ordinance that says, okay, this or that, the same thing now. It's like I have these kennels, I have this exercise runs, and now they're like, oh, you need to stay ten feet away from community fence.

Well, I build a wooden fence one foot on the side of my property. So it's kind of like why can't I use my property.

The horse guys came out here, we had the same thing, the horse boarding stables and the dog guys, the horse guys showed up with a couple hundred people, let's band together, five acres or more, no permit, have a great day.

The dog people are afraid to come here. There's only two dog people here today. There are 1600 licensed breeders by the American Kennel Club Association. That, a, means people who are commercial because they have breed more than two litters a year, or, b, have more than nine registered dogs in their name, 1600 people.

WRISTON: In this county?

GOEDERTIER: In this county that we can prove by the American Kennel Club. Advise director from the American Kennel Club is (inaudible) for me, no, problem, they'll fax complaints till everyone dies.

The problem is these people don't want to come because they think like, wow, people from the kennel they are there, Animal Control is sitting there making notes who is sitting here and who is, quote, saying, whoa, oh, I admit to have more than nine dogs or I admit to have more than two litters a year and it's a complaint base permit.

I have a whack job neighbor, that's why I'm sitting here for the last five years, no one else want to come because no complaints so no one has to do anything. So just like a lot of these things like it doesn't make no sense.

Like now in this proposed thing it says road use. I live on a private road, three houses on the road. The first guy has like a bunch of pop-up tents and spray paints used horse trailers in the wetland property, no problem. Second lady has a normal living, normal house. The third guy on the road is me.

Now I have to go ask my neighbors who can come and visit me, that's totally crazy, I mean, that I have to go ask my neighbor, hey, do you think my buddy can come over tomorrow because he could potentially buy a dog from me or potentially hold a dog. I mean where are we going with this.

I understand that I don't want to have people come and visit me because I'm a private facility, I have more than nine dogs, I train them and I sell them, I don't have visitors coming to see dogs or this or that. And most of these people don't, most of these people who, quote, commercial have more than nine dogs or breed more than two litters a year. You can have one puppy a litter.

Most people who are competitive and train or show dogs have that amount of things so that's kind of the issue and then they come up with all these rules that really I mean limit our thing. I understand that the dogs have to be quiet and so on and so on.

So that's why I wanted to come up here and speak in name of the dog people and I'm the chosen one because I got elected for that by my neighbor. But it's a big problem this dog thing. Like with the horses, the guy says 30,000 horses, well, I'm sure there's a hundred thousands of dogs in this county easily.

If 1600 people are, quote, commercial in small Clark County, that's a lot of people. These people alone have minimum 15,000 dogs if they only have nine, I have 40. So that's why I just wanted to come and say something because no one wanted to come forward for this thing. So that's why I wanted to thank you for your --

DELEISSEGUES: Wait just a minute. Does anybody have any questions?

BARCA: I have a question for you, Joeri. So this is your business?

GOEDERTIER: For sure.

BARCA: And you recognize the idea that potentially a business of this size could have an impact; right? You already mentioned potential smell, dogs barking, poop?

GOEDERTIER: For sure.

BARCA: And so if a neighbor felt like they had a complaint, you're saying that, and I'm paraphrasing what you said just to try and clearly understand --

GOEDERTIER: For sure.

BARCA: -- you feel like you should be able to come to terms with the neighbor about a resolution of that complaint rather than put it into a code --

GOEDERTIER: No, no.

BARCA: -- writing a bunch of rules?

GOEDERTIER: No, no, no.

BARCA: No.

GOEDERTIER: No, I think the County should make rules for sure, that makes it easy, that gets away with the County permit. Now we are spending a lot of money or the County is spending a lot of money, time and effort for nothing. The neighbor calls in, oh, yes, this pile of dog poop on his property.

People from the County, Animal Control comes out, videotapes having nothing. The Health Department comes out, oh, there's no dog poop here. No, every week it get hauled away by the waste company. So they must make rules, but like I say I built a wooden wall

around my property, I did landscaping, I've done everything possible, I have the right to have more than nine dogs.

I mean now people are like, well, he can't have a home based license, they make it difficult, they want us to spend \$30,000 on paperwork and on top of it widen the road, stormwater, this, that. The horse guy next door on the other side of my house has a horse facility five acres, 50 horses, no permit needed.

Every day there's 20, 30 people come ride a horse, go out, horse poop for 50 horses. Don't those horses don't pee in that five-acre field, so does my dog, my dog pees in that field, so what. I mean I pee in my own field. Up here speaking I mean it's just one of those things like, okay, it's wrong for my dog to pee in my grass fields, but it's okay for the horse to pee and poop on the grass fields just next door to me without permit.

I mean you can build a huge horse facility, no permit needed, quotes, agriculture, while me I have a dog, the same thing, indoor riding arena, but it's not called indoor riding arena, it's called indoor dog arena so I need to be building permit, it needs to fire sprinkler systems, this, that. You're like what, I'm the only guy training in here, only me and my kids. What's the difference between the horse, the cow and the dog. That's my question, sometimes you're like well.

BARCA: So...

GOEDERTIER: They must make rules but it shouldn't cost me \$30,000 to be have a little home based thing.

BARCA: Right. So the application of the home based business ordinance as you see it is still far too restrictive for the style and type of business that you have, is that what you're saying?

GOEDERTIER: No.

BARCA: No.

GOEDERTIER: No, it's just the opposite. I mean they want too much codes for us. I mean the horse guy who has five acres and does a commercial selling, training this, that of these horses, right, but they came here and said, sir, we don't make no money. Well, you're the businessman, not me.

I make money on what I do because I'm good and I'm the one who comes up front here and says, hey, I do make money, I make a lot of money on these dogs, but why do I have to have a \$30,000 permit on my five-acre lot while the horse guy one house next to me needs nothing.

This guy is selling \$50,000 horses, that's livestock. I don't see no farmer with a horse anymore. I see John Deere. It's one thing if that horse would be a farm horse, but we talk

about reining trainers, cutting trainers, we talk jumping horses, these horses cost millions of dollars, this guy doesn't need to pay taxes and he's selling these horses for livestock, every dog I sell 8.8 percent sales tax.

DELEISSEGUES: So what you're saying is we ought to call dogs animals just like we talked about the horses, not include them in the livestock which we threw out so you wouldn't have anything to worry about.

GOEDERTIER: I mean if the guy next door to me can sell \$50,000 horse and don't need no permit, why do I who has more than nine dogs, why do I need all these codes.

DELEISSEGUES: That's a good point.

GOEDERTIER: It's an excellent point.

WRISTON: It is.

HOLLEY: How do you spell your name?

GOEDERTIER: My name is J-o-e-r-i. My last name is G-o-e-d-e-r-t-i-e-r.

DELEISSEGUES: Any other questions?

BARCA: Nope, I think I got it clear.

DELEISSEGUES: Well, thank you very much.

GOEDERTIER: Thank you, guys.

DELEISSEGUES: I think that's a good point you made. Anybody else wish to testify? Yes, come up and state your name and address, please.

BECK: My name is Aleta Beck. I live at 223 NE 223rd Circle, Battle Ground, Washington. And just to pick up on a theme that was discussed earlier, I did not move in next door to an established kennel and start complaining. The kennel moved in next door to me.

Until that time, 11 years, residential property, kennels were not permitted. Kennel moved in, codes got suspended, we had no recourse, no process, no choice, no nothing, we get to live with it.

According to information requests about nuisance complaints on quite a few of the nonpermitted kennels in Clark County, I found some of the kennels are good neighbors, others are not. Some have good relationship with their neighbors, others do not.

You have one dog next door to you and it barks occasionally, not too much, it's not too bad. Two dogs it gets a little noisier, three dogs it gets noisier, 31 adult dogs and 12

puppies you got a problem.

Last documented time that a code enforcement was out to the property they noted 18 dogs along the fence line. It's a cedar fence line, I cannot work that fence line, I cannot go out there without being barked at by 18 adult Rottweilers. Rottweilers that are trained to bark at noise and disturbance that they see, trained in Schutzhund, they bark phonetically, they bark an alarm bark and it is loud.

So at any time of the day these dogs can start in, you never know, and there's been many times I have to go inside because after a while it gets a little annoying. So noise is a problem. And did he call me his whack neighbor, is that what -- anyway, I guess I'm the whack neighbor.

But Mr. Goedertier made a statement that the neighbor has a business, well, the neighbor does not have a business. The County came down and shut him down for the same reasons of not having a conditional use permit to have a business on his property, so there is no business there. There are some left over trailers that do belong to them but that's about it.

There's a lot of things I really like in this your proposed general conditions and stuff for kennels because I really think you have worked very hard at trying to mitigate the nuisance by having setbacks, by requiring all the different things, and I think you need to be commended because it's much better than the last proposed code.

But what getting this finally into place is giving everyone a process, something that we have been denied for four, even five years for us because we started complaining before the codes were suspended and before the Rural Lands Task Force took up the problem and before. So it's time, let's get this done.

I know it's up to the Commissioners next and they can water it down however they want to, they can change it, I realize that, but the first step this is good, we need a solution. Thank you.

DELEISSEGUES: Thank you. Any questions?

VARTANIAN: Oh, yeah, I have maybe it's an uncomfortable question.

BECK: Oh, I will.

VARTANIAN: Have you and this neighbor of yours that has dogs ever had discussions about the issue?

BECK: Oh, many, many across the fence.

VARTANIAN: And no resolution?

BECK: And no resolution, no.

VARTANIAN: Thank you.

MORASCH: I have a question before you leave. I just want to understand, your position on the proposed code is you support it or you would prefer to keep it as it is and requiring a conditional use permit?

BECK: Well, I would really like to see the conditional use permit because I really believe that a commercial kennel, especially the size of the one next door to me, has absolutely no business on five-acre residential property, it just is not an appropriate use. But I don't think that I'm going to get that. That's what I would like, but...

MORASCH: I just wanted to understand what your recommendation was or what you were requesting. Thank you.

BECK: Right. You're welcome.

DELEISSEGUES: Thank you. Anyone else wish to testify? Come forward and state your name and address for the record.

SHIPMAN: My name is John Shipman and I'm at 20104 NE 240th Circle in Battle Ground. And I live up in the rural area of Battle Ground and as the lady here just before me said five-acre parcel she feels is not adequate in a residential area, well, five acres is five acres and if everybody in that area has got five acres, it's no different than up in the rural area where I live really, you still have neighbors that are going to be some distance away from you and you have the setbacks or whatever you'd have in place at this time, and I just wanted to comment on that.

And I would like to get a little bit of a clarification on the setback areas. I have two and a half acres which we've had a kennel on for over ten years now and we've lived in the house for about 23 years and on the setback it says L3 landscape, I don't know what that is. What does that mean?

SNELL: It's a fully screened landscape area so a fence or a hedge, a vegetative hedge so you're screening the property.

SHIPMAN: Well, what I've got is I've got a chain link fence and then it has the privacy netting on it. It's the type that you see at like construction sites that's like a full netting. And then I also have a row of trees which are Douglas Fir trees, but the animals can go up to the fence line. So are you saying that they still would have to stay at least ten feet back from that fence line even though I have the privacy screen there and the trees?

SNELL: I don't know where it comes from.

COOK: It comes from here, B.1.b.

BARCA: Yeah, B.1.

SNELL: That's if you have outdoor runs. Not activity areas but outdoor runs.

SHIPMAN: Oh, okay. So like when you're saying a run, you're talking about if the dog is housed in that area?

SNELL: Yes. Usually they're fenced runs, not an activity area.

SHIPMAN: Well, okay, we have our --

SNELL: Oh, exercise areas, okay.

SHIPMAN: We have the property kind of fenced into five different yards. And they're large yards, like 85 feet by 100 feet or something along those lines or bigger.

COOK: Sir, can I respond partly?

SNELL: Yeah, I was looking at the wrong one.

COOK: If your lot size is two and a half acres --

SHIPMAN: Yes.

COOK: So you don't meet this five-acre thing and there's a special provision for existing commercial kennels that don't meet the five acres --

SHIPMAN: Right.

COOK: -- and the setbacks as they are in most of the ordinance, I wouldn't swear to this, but I think in general they're designed for a five-acre property.

SNELL: Five-acre property.

COOK: So for you maybe it would be the line at the end, it's on Page 14 in my packet, it's B.2.b, it's the line at the end of B.2.b and it says "If setback requirements cannot be met, the responsible official may impose additional conditions to mitigate impacts."

So it contemplates that you might not be able to meet that ten foot requirement on your two and a half acre property and this gives you a way to work with the responsible official and figure out some kind of screening or something that will work on your property, something that you can do but that will also help protect your neighbors.

SHIPMAN: Okay.

SNELL: Yeah.

COOK: That's what that's for.

SHIPMAN: Is it for sites that we're talking about or is it for noise?

COOK: Both.

SNELL: Both.

SHIPMAN: It is for both.

SNELL: Yeah.

SHIPMAN: Because I -- all right.

COOK: And it's not that a ten-foot setback is going to negate the noise, the notion is that if there's some distance and perhaps a visual barrier between the neighbors and the animals that will probably inspire less barking. I think that's where that comes from.

SNELL: Yes.

COOK: But in any event, because you have one of these kennel businesses that's on a smaller property that's preexisting, this gives you the ability to talk to Development Review and work something out.

SHIPMAN: Okay. The other question in the same line of that is I have on my property two sides are just forest land and on one other side is we have a neighbor that has five acres and her barn and arena and pasture borders our property so would we still have to do those same requirements in those events?

COOK: Work it out.

SNELL: Yeah, that's the provision would allow you to work with the responsible official, the staff on how to mitigate. If the house were up to the property line, it might be a different matter altogether, but if it's the riding arena and a barn, you may propose something different.

SHIPMAN: Okay.

SNELL: Yeah.

DELEISSEGUES: So with that clarification do you have testimony on this issue? Do you support it or don't support it or --

SHIPMAN: I think that I support the new amendments that you're coming up with to a

certain extent. I'm kind of worried about the fees and everything and the planning that's going to go into it and what is going to have to be done to the property in addition to the amount of time and money we've already put into it just to have our kennel the way it is.

DELEISSEGUES: What's the requirement for someone that's already in business if this were to pass? Do they have to comply with the new requirements or would they be grandfathered?

COOK: Well, right now they're unpermitted generally so, yes, they need to come into compliance and get a permit. The section that I mentioned to this gentleman, Section 2.b, is about the commercial kennels that are unpermitted and preexisting --

SNELL: And under five acres.

COOK: -- and under five acres, so they wouldn't be able to come into compliance with the rest of the ordinance. But right now there's a conditional use permit --

ALLEN: Conditional use, yes.

COOK: -- requirement that's been suspended for a while as the County has wrestled with this issue to try to figure out what reasonable permitting and regulation should be.

DELEISSEGUES: Thank you.

ALLEN: So just for clarification, right now they have to go through a conditional use permit, you're proposing to make it less, to take it to a lower review level in order to also make it easier for a kennel to qualify, but also to have some restrictions that would go along with that opportunity to go to a lower level in lieu of the conditional use permit which is at a higher level and may require more and more money and higher review and more agencies involved so it would be very expensive.

So you're trying to make it less expensive with this particular proposal, but also make it easier for people to get the permit versus what's going on now in order to be able to get the, quote, unquote, illegal uses under conformance?

SNELL: This proposed code amendment would treat a commercial kennel on less than 20 acres similar to a major home business application. It's a Type II review, it doesn't cost tens of thousands of dollars to apply, it's a couple thousand dollars.

Because there's no conditional use permit and a hearing's examiner imposing the conditions and a decision there are standards then of mitigating noise and other impacts. So there is a trade-off in terms of what you're getting.

It more clearly spells out those development standards. And unlike the previous code that was adopted, it does provide a grace period for people who are under five acres and we knew that then in March of this year and the code that was adopted failed to address that,

and I'm glad Mr. Shipman came in to talk about his situation because we knew of some of these owner/operators on less than five acres.

ALLEN: Thank you.

DELEISSEGUES: Thank you.

SHIPMAN: Thank you.

DELEISSEGUES: We're going to bring it back to the Commission for deliberation and if anyone has questions of any testimony that's been previously given, we'll ask. But does anybody have any --

BARCA: Did we get through the audience?

DELEISSEGUES: I think so. I think everybody that wanted to testify has had a chance; correct?

BARCA: Okay.

DELEISSEGUES: Well, he already did.

VARTANIAN: No, she.

ALLEN: That lady, she has not.

BARCA: If you'd like to talk, please, you have to come up.

DELEISSEGUES: Well, that's what I asked.

SHIPMAN: My name is Kelly Shipman, I'm John's wife. We reside at the same residence in Battle Ground. The question that I have, the restrictions, back to the animal issues, now these dogs have to be enclosed in a soundproof structure.

Somebody can have four dogs, they can run out all night long and never run on their property and have a dog on their property, alerting them to any noise that can happen. With these codes we are restricted, dogs have to be inside for nine hours, a long time, they can't be out on your property.

I still want the right to have a dog running my property if I want to. The dogs still have to go out, they may have to go out at night, that's very restrictive having that enclosed. I think it should all be based on the noise ordinances. We want to be good neighbors.

Unlike the lady who spoke before us, we were operating before my neighbor moved in. He's complained three times, Animal Control has come out. He knew the dogs were there, he saw them there, and he was quiet for the first year and a half because he himself was

making noise but now he's not so now he is complaining.

He wants the dogs inside. They're pretty quiet. We know about the noise, we always end it. We've been good neighbors, wanted to work with him, he has decided not to work with us and now he has the right to be a royal pain with these complaints.

And Animal Control seems to work for him and they come out all the time despite the efforts that we've put in to be good neighbors, which is what we want to do. We have two and a half acres and we manage our dogs in such a way that really they're not up against his property line.

There are two, there are exercise yards there, but the bulk of our dogs are way, way out away from everybody. So we can manage them even though we're on two and a half acres and still have a sizable number of dogs.

But having things in place for these complaints and Animal Control coming out based on this guy already, you know, he moved into this situation, he knew it was there, not willing to work with us, we are willing to work with him, we always have been, but he has a right to pull the plug on us at any time and then we're subject to whatever he wants to do and the Animal Control people coming out constantly reminding us what the noise ordinance is which we are aware of and work very diligently to adhere to.

But when you have dogs on your property, they are going to bark if someone pulls into your property, if there's various things going on, there is going to be barking, dogs bark. And if a neighbor decides that he's annoyed he's going to complain and your life can become a living hell living next to this person no matter how you're putting the effort that you're putting in to try to be a good neighbor if you own a dog.

I feel like dog owners really are discriminated. I'm happy to be a good neighbor and make my neighbor happy, but my neighbor can determine he doesn't have to work with me and that's what's happening here with us. So there has to be laws in place and everybody has to, you know, ten feet of your property has to, you can't use your property, you can't use that ten feet.

Another thing is where is the application process. They talk about the application process, how much is really going to be involved. I like the conditional use permit, I don't like it because it was too arduous and it was going to be 30 to \$50,000 people would have to put in their property, nobody can do this. You're just going to have a whole bunch of people going underground like they are right now.

HOLLEY: Can you slow down.

SHIPMAN: I'm sorry. So I have concerns about all the restrictions. The inside, the 10:00 to 7:00, the animals being enclosed soundproof structure, this is really a big expense for people, especially if you can control and manage your animals and they can come in compliance with the noise ordinances.

DELEISSEGUES: Questions? Thank you very much.

SHIPMAN: Thank you.

ALLEN: I have a question for staff. How much does it cost to get a CUP now versus getting the proposed?

SNELL: I don't have the fees memorized, I'd have to grab the code book.

ALLEN: But is there like a big difference --

SNELL: Yes.

ALLEN: -- is it just a \$5 difference or is it thousands of dollars?

SNELL: No, thousands of dollars.

ALLEN: Thousands of dollars difference?

SNELL: Yes.

ALLEN: So right now we're requiring the CUP --

COOK: Tens.

SNELL: Tens of thousands.

ALLEN: So right now we're requiring the CUP that requires higher level of review with a lot of expense for the fees, but what you're proposing now is to make it lesser level of review at much less cost to bring these people up to code.

DELEISSEGUES: He's looking at two or three different books.

SHIPMAN: I'm just wondering, if we start the process is it going to end up being large again and too much to do and then you've invested in your property, you've lived there for a long time and you just end up living this defines your life to try to come into compliance when you have your animals that you love and you care for and this has been your business. I'm just worried about the impact emotionally on us as well.

ALLEN: Right. But under what I'm looking at from the perspective of what is required now and what are they proposing to do and what they're requiring now is much more expensive it sounds like, thousands of dollars more expensive for you to be in compliance with the code; however, the proposal that we have in front of us would make it much less expensive.

SHIPMAN: Well, they say it is but there's nothing really spelled out. I still don't know what financially we're going to be looking at with the inspectors, code compliance, different people coming to your house to look at this, look at that.

We have an arbitrary amount of 30 to \$50,000 with the conditional use permits, but I would like to get a realistic idea of how much we are really looking at now other than just saying it's going to be less expensive.

ALLEN: Right. Exactly. That's why --

SHIPMAN: Is it going to be 15,000?

ALLEN: Or is it going to be 5 bucks.

SHIPMAN: Yeah.

DELEISSEGUES: Well, there's no way to tell because there's two parts to it. One of them is the fee that you pay for the process, the other is whatever mitigation that they require you to meet and that will be another expense. So the fees are one part of it, the costs of complying with those fees are maybe a significant part of the cost also.

SHIPMAN: Well, I don't see that that's going to be a problem, I just wonder where it's going to stop. I'm a little worried about the conditional use permit with the fees that they come out, I mean what are we really looking at.

ALLEN: And I don't know if you saw this or not, while he's looking it up, it says "Create special use standards for kennels. Review and approve kennels in the rural area through to a Type II process instead of requiring a conditional use permit."

So that's my point is that now there's a requirement for the CUP, whereas now they're proposing a Type II which is a lot less expensive than a CUP because it's at that lower level of review and less agencies that are involved.

SNELL: So I'm very reluctant to just quote fees and give you that that's 100 percent accurate, no questions asked. I'm just going to read the conditional use permit fee is 5,952, so about \$6,000, that's just the conditional use permit. How we're treating this it's a major home business Type II \$2700.

COOK: And a conditional use permit includes a public hearing.

SNELL: Yes. So that's just the conditional use permit, that's the difference, it's about \$3,000.

VARTANIAN: Those are just the fees for the County.

SNELL: Yeah.

VARTANIAN: If you do go to a conditional use permit, you probably are going to have counsel and there's a lot of other issues that are not netted by the County but may involve cost into your pocket.

DELEISSEGUES: Well, let's --

MORASCH: A lot of other stormwater and engineering and all kinds of other County fees that apply to a conditional use permit besides just the \$5,000 planning fee.

SHIPMAN: And that's what raises the cost, is it possible to function.

WRISTON: Well, and also --

MORASCH: And you need a consultant or somebody to help you through the process.

SHIPMAN: Yeah, nobody can do that.

ALLEN: That's for the CUP. But for Type II?

COOK: For the Type II home business?

SNELL: It was \$2700.

ALLEN: Yeah, so we still need --

WRISTON: You got to bring up what we just talked about. Sorry.

SNELL: It's getting long in the evening and I apologize for that.

WRISTON: For bringing it up. I was bringing it up anyway.

SNELL: No, no, for my sigh. Typically when you have any use and it requires a conditional use, you also look at a site plan and so there's a fee to the site plan as well.

ALLEN: Right.

SNELL: Our major home business applications to my memory, which is faded at 9:35, I don't think we require you to submit a site plan for a major home business. You submit and you show us a sketch of what it is you're proposing and that's that.

ALLEN: So that's an additional benefit is not having to do that under Type II?

SNELL: Correct. And when this goes to the Board of County Commissioners, I'm sure that they're going to be asking me about costs and in fairness to anyone whether you're a kennel owner or a neighbor to a kennel owner the Board is asking us to minimize the cost

on the applicant.

ALLEN: And make it easier for them to conform.

SNELL: Correct. Well, I had another thought and it escaped me, so I apologize.

DELEISSEGUES: Does that pretty much answer your questions?

SHIPMAN: Well, I'm happy with this because the way it stood before we would have been out so I'm really grateful that they retooled this, but I still worry about restrictions being in law.

I'm still going to have dogs out on my property at night. My whole kennel's not going to be out at night, we don't want to hear the noise either, we want to be good neighbors, who doesn't want to sleep.

But as an American I have a right, I don't care if I have one dog, to have a dog out on my property and for them to say that my whole entire kennel has to be enclosed in a soundproof structure from the hours of 10:00 to 7:00 I don't think that they should do that.

I think that if your dogs can be out and it's not subject to the noise, then you should be allowed to do that. If it becomes a problem, then you can do more. As a good neighbor I'd think you'd want to do more. Thank you.

DELEISSEGUES: Thank you. Anyone else wish to testify? Then we'll return it to the Commission for deliberation and a motion.

WRISTON: Go ahead, George.

VARTANIAN: Okay.

DELEISSEGUES: Jeff, do you want to start and we'll just work down the line? If you don't have anything --

WRISTON: Well, George wanted to start and then I'll go second.

VARTANIAN: Well, I don't care.

DELEISSEGUES: Whatever.

VARTANIAN: Well, I kind of like made this known before and I'm going to make it known again, I don't like code that's written to do one thing by encroaching on rights or making it difficult to do something with your own property. If you want all of these setbacks and runs and fences and all that stuff are nothing more than ways to manage the impact on the neighbor hopefully.

I would much rather see code that is written that says what you can't do, you can't make noise, you can't make smells, you can't have lights all over the place, whatever, but once you start going into all of these things that you have setbacks and whatever else just so you don't disturb the neighbor or whatever, sometimes they're effective and sometimes they're not.

But there are other ways to manage noise, light, sense, without having setbacks, without having allowable dog runs. And I know that's a little bit unorthodox, but to me it seems like it would be much easier to manage and much easier to comply with code that says what you can't do as opposed to these are a list of the things that you must do in order to not do what you shouldn't be doing.

And that's not the code that's in front of us right now, I realize that, but that's my idea about what good code should be written by. Finished.

DELEISSEGUES: Jeff, do you want to go.

WRISTON: Okay. Well, first of all I agree that the one provision about all the dogs need to be in the soundproof structure between the hours of 10:00 and 7:00, I mean that just seems like something that's just not reasonable. You should be able to have at least one dog out or two dogs out. Sometimes dogs need to go out. So I mean that I agree with the testimony there.

I was actually kind of curious, and the answer may be no, but are there best management practices for kennels?

SHIPMAN: Are there what?

WRISTON: Best management practices for kennels.

COOK: Well, the Health Department licenses kennels. Is that --

WRISTON: I'm just curious if there's --

COOK: Is that correct?

WRISTON: -- anyone that has best management like how a kennel should be set up? Because I'm going back to the urban livestock we were kind of going along a plan that was developed that basically followed kind of best management practices and here we're trying to develop a bunch of rules and I'm just curious are there best management practices for kennels?

KRAFT: I'm Officer Kraft, Clark County Animal Control. We do regulate kennels, there are management practices, they do come into compliance with other codes that the Health Department as well as Code Enforcement manages, but we do have facility inspections and yearly licensing and yearly reviews that we do as well.

WRISTON: Okay.

KRAFT: And also conforming with the nuisance codes including the animal cruelty codes and currently in the nuisance code kennels are exempt from the noise.

WRISTON: Oh, they are.

KRAFT: Currently.

WRISTON: Currently.

KRAFT: Yes. As is livestock.

DELEISSEGUES: Would you be able to do your job without this ordinance?

KRAFT: It would probably make it easier with the ordinance, but we would be able to hopefully have compliance with a lot more facilities and that way be able to monitor them and know that they are using best management practices because for as many good kennels that are out there, there's equally as many poorly run kennels that do need supervision.

ALLEN: And not all of them are good neighbors.

KRAFT: And not all of them are good neighbors.

MORASCH: Another issue with the noise I think is like State noise code measures over a period of time an average decibel level and dog barking tends to be a peak issue, and so you could meet State noise requirements and still be quite annoying to your neighbor.

VARTANIAN: Yeah. I was just going to ask, would it be easier to include the dogs in a noise ordinance? And I'm not talking about the State ordinance, I'm talking about not to exceed decibel level type thing.

MORASCH: Well, the problem with that is those are typically measured like an average over a period of time, like over a ten-minute average or something, and a dog barking is a peak interval and not an average thing. And so you might be under 45 dBA on the average, but you have these spikes of the dog bark that might be way above but just for a short duration.

VARTANIAN: But that's my point that the State ordinance and the County ordinance is so many decibels average over a 60-minute period as opposed to peak time.

MORASCH: You'd have to write some whole new noise code --

VARTANIAN: Okay.

MORASCH: -- because there's currently no noise code --

VARTANIAN: Okay.

MORASCH: -- in existence in Washington that I'm aware of that deals with the peak interval --

VARTANIAN: Agreed.

MORASCH: -- that you probably would have with a dog barking.

VARTANIAN: Agreed.

KRAFT: Our current County code which like I said excludes kennels is a ten-minute continuous or intermittent for a half an hour.

VARTANIAN: Right.

BARCA: Yeah.

DELEISSEGUES: Jeff, did you have anything else?

WRISTON: No. It seems like there are good kennels and there are bad kennels and I'm going back to this urban livestock and I know and I feel for the argument that livestock is being treated differently than dogs, but yet we've had barking dogs in our neighborhood and you can hear them from acres away.

So I understand the reason for some of that difference perhaps, but what I was getting at was the urban livestock standard was kind of built around coming up with a management plan and a best management plan and we're hearing that there's good kennels and bad kennels and then this plan seems to be, and I think we touched on this at work session, that I think the setbacks and things like that were just kind of arbitrary I think if I recall some of the --

SNELL: Not for commercial kennels they're not arbitrary.

WRISTON: I can't remember. One of them was arbitrary, I don't remember what they were, but some of it was. But my point is I just wondered what makes a good kennel and are we putting the things that make a good kennel into the ordinance or are we just putting a bunch of rules into the ordinance that we think make a good kennel.

VARTANIAN: We're making a bunch of rules.

WRISTON: That's all I have to say. I mean there may not be an answer to that, but I say we adopt the urban livestock for the kennels.

BARCA: But we did away with the urban livestock if you recall correctly.

WRISTON: Well, no.

VARTANIAN: Exactly.

DELEISSEGUES: You got him, Ron.

WRISTON: Adopt a more flexible management plan for kennels.

ALLEN: You just contradicted yourself.

WRISTON: There you go.

DELEISSEGUES: Ron, what have you got to add?

BARCA: All right. I think we need to try and put somewhat of a distinction on this. Joeri came forward and he made the comparison between his dogs and the horse trainer next door, the large animal livestock which is covered in the ordinance in the pastoral setting I think the vast majority of the population would recognize a different type of level of nuisance in comparison to a large quantity of dogs.

But if we put it in the context of business and we're saying that we want to encourage business and we want to figure out how to make that business compatible with both the lifestyle of the rural area and at the same time make it where it's less onerous but in some type of compatibility, I had already written down the idea of a business license and then a home business Type II application, a conservation plan for the manure and a best management plan for noise and that would be part of the Type II application.

WRISTON: I like that.

BARCA: Yeah, it was very similar to what you ended up saying and that was what I had written down.

Now perhaps we're plowing new ground about a best management plan, but if we have the document, Code Enforcement has something to work with and the neighbors have something to work with. I'm not saying that the neighbors get to draft the best management plan, I'm saying the business owner drafts the plan, but the responsible official needs to accept it.

The responsible official may not be happy about that, but I think --

DELEISSEGUES: Maybe he's irresponsible.

BARCA: I think it's potentially a way for us to move forward trying to legitimize the

businesses, not drive them underground.

When we did our work session on this the number that I took away in our notes at that time was we were between 10 and \$20,000 without onerous screening and structural requirements and that was based on the variety of permits that we felt would be necessary and some screening that would have to be put in place.

I think we will drive people underground, we will not eliminate the problem, and let's really say that we care about both sides of the fence and say that the neighbors have a right to their lifestyle and we want the business owner to be able to do business.

So I think we can probably figure out how to put that together in words. It's quite a long way away from what this ordinance is, but that's kind of where I'm at on it.

DELEISSEGUES: Val.

USKOSKI: Well, I'd have to say I really like where Ron and Jeff were heading and I would be in agreement with those. It's all you, Steve.

MORASCH: Well, last month I couldn't be here because my client was in front of you on foster homes and it was a very similar issue, the staffed foster homes, commercial business, five or six kids in a house in a residential area, and this Commission recommended and the Board of County Commissioners approved conditional use for those foster homes.

I find it incredibly hypocritical that we are now saying that commercial dog kennels on small rural residential lots should not have a conditional use but instead be a review and approve. So because of the precedent that was established last month by the Board of County Commissioners in their vote, I cannot support anything less than conditional use for commercial dog kennels on small lots less than five acres. That's my vote.

DELEISSEGUES: Milada.

ALLEN: Since we are requiring a CUP now and we obviously have a problem with compliance under that, now we're proposing a Type II that would make it user friendly. Or more user friendly.

There are a couple of problems with what we're proposing, but let's not throw out the baby with the bath water because in this particular case there are several items including keeping dogs inside from certain hours, all dogs, that seems to be a little bit problematic; however, the remainder of the ordinance seems to be much more user friendly.

Does it need help, yes, it does need help. Maybe it should be reviewed a little bit more and maybe more thought should be put into this, but to do away with any requirement for a large commercial kennel it would be irresponsible, in my opinion it would be irresponsible, and because both sides of the properties have equal rights to the enjoyment of their

property.

DELEISSEGUES: Well, my thoughts are that in my past we have specifications and try to accomplish an end result and there's end result specs and there's method specs and what we've done here is combine the two of them. We're not only telling people what we want to accomplish, but we're also telling them how to do it.

And just to make sure that we're taking care of the worst case scenario where maybe these worst kennels that are in violation need all of these requirements that we put in there, maybe there's 50 percent or 75 percent of the kennels that don't need any of that and they manage fine, there's no complaints from the neighbors, why should they have to keep the animals inside, why should they have to have a soundproof room, why should they have to have all these things when there's no problem.

The problem identification here is zero. I mean poor. We're coming up with an ordinance to take care of the few worst case scenarios and making sure sure certain that nobody else is going to have any of these problems because we're telling them how to manage their kennels.

Some of them may need this firm direction, but some of them don't and I think that's what the code enforcement is all about. They go out and they say, hey, these kennels are doing well, no problem, why should we even go out there. Deal with the problems, don't deal with the nonproblems.

I just can't see why we would require all of these steps in any kind of review or any kind of a process, why would we require all these things when mainly there's probably just a few of them that are out of compliance, that don't want to abide by common decency, don't want to get along with their neighbors, don't want to do anything but what they want to do.

Those are the ones we need to deal with, the rest of them that are doing fine without all of these requirements I shouldn't think that they would be required to meet all of these standards when the end result would be we want good neighbors and if they're accomplishing that, they don't need to be subjected to the costs and trouble of all of the things we're requiring on behalf of a few of them that can't seem to get along with their neighbor. Anyway, I don't like it.

So somebody want to make a motion? We got a range here of ideas and where we're coming from from hit them with everything you got to zero. So somebody got a commonsense approach they would like to make a motion?

WRISTON: Ron, I think you ought to. I don't mean to put you on the spot, but...

BARCA: Okay. So if we look at the stated desired outcomes from the code updates, provide a means of allowing existing commercial kennels on less than five acres to come into compliance, provide a less expensive, less complicated means of permitting commercial kennels in the rural areas and allow indoor kennels in the commercial,

industrial, BP and OC zones with regular setbacks, I can address the first two with my proposal.

My proposal would be a motion that says we do not accept staff recommendation for the modifications of the Ordinance 40.260.110 and replace that with the requirement of any commercial kennel with a business license, a Type II application and a conservation plan for manure, a best management plan drafted and approved by the responsible official for noise. That would be the motion.

COOK: Is it possible for you to reiterate that? I'm sorry.

BARCA: Certainly.

COOK: I got lost somewhere in the requirements.

BARCA: Sure. I'm trying to keep it simple. I'll go through it again. With the idea that these are going to be commercial kennels, so the showing a business license for the business, a Type II --

SNELL: Just real quick, I have to interrupt.

BARCA: Yeah.

SNELL: Clark County doesn't issue business licenses.

BARCA: I certainly recognize that, but if we're saying that this is going to be a commercial venture, I'm saying that they should be able to state it as such.

SNELL: Okay. Just when you say "business license" we don't have the authority to say you need a business license, that's --

VARTANIAN: That's the State.

ALLEN: That's the State.

DELEISSEGUES: But wouldn't it be about the same if the Health Department okayed what the --

SNELL: You're talking about like a home business?

BARCA: Yeah.

SNELL: A home business, yeah.

BARCA: Okay. And that would be with approval through the Type II permitting process, a conservation plan through the Conservation District for manure management, and then a

drafted best management plan for noise that's approved by the responsible official.

COOK: Okay, thank you.

ALLEN: Second.

DELEISSEGUES: Is there discussion on the motion?

VARTANIAN: Type II, you're talking about a Type II application to be in conformance with the recommendations that are in the staff plan?

BARCA: No, my motion was to not accept staff's plan.

VARTANIAN: Right. But what is it we're looking for out of a Type II application?

BARCA: The approval of the Conservation District planning for waste management and a best management plan for noise.

ALLEN: I believe that the Conservation District does not deal with the dog BMPs, I believe it's the Clark County Public Health that does that.

BARCA: Okay.

SNELL: Public Health.

VARTANIAN: Whatever appropriate.

BARCA: Then, yeah, the appropriate agency can handle waste management for dog manure.

WRISTON: And the Type II is a Type II business --

SNELL: Well, Type II is, yeah, it doesn't go to an examiner, it's staff, staff reviews, makes a decision appealable to a hearing's examiner.

ALLEN: So how much difference would there be between the Type II that Commissioner Barca's proposing and a Type II that the staff is proposing? I just don't see the difference there.

SNELL: There is no difference.

ALLEN: Okay.

SNELL: It's the same, it's a home business --

ALLEN: Right.

SNELL: -- a Type II home business, it's \$2700.

ALLEN: Okay.

USKOSKI: The difference is in the code as far as they're looking at complying with waste management and noise rather than all the other items within the code.

ALLEN: But then the big portion of what is being proposed by staff looks like it's about noise and exactly the same components that Commissioner Barca had mentioned. I mean the components seem to be the same, it's just that the language and the special performance requirements that are outlined in this particular staff report would not be part of your proposal; is that correct?

BARCA: No. My motion was to deny staff report and the projected ordinance with all of the standards and provisions.

VARTANIAN: Do you want to make two motions on that?

BARCA: No.

DELEISSEGUES: Okay. Was there a second?

BARCA: Milada seconded.

ALLEN: Yes, there was a second.

DELEISSEGUES: And with that clarification?

ALLEN: But when I heard Type II I thought that the Type II would be the same Type II mentioned by both staff and Commissioner Barca but that the language would be stricken in some areas where it's very restrictive and maybe provide some other guidelines because I had a concern with the locking up the dogs at night in a soundproof structure because they do have to get out.

BARCA: That would be stricken.

ALLEN: So that would be stricken. But under the Type II that you're saying what would be the language to guide the Type II review?

SNELL: A Type I is like a building permit, there's no notice given, there's no appeal opportunity for the most, I'm certain of that. A Type II is staff reviews it under a set of conditions or under a set of criteria, we issue a decision, we provide notice, it's appealable to the hearing examiner. Typing has nothing to do with substantive regulation --

ALLEN: Exactly.

SNELL: -- it's a process.

ALLEN: Exactly. But what are the specifications that you're reviewing it under if this is all stricken?

SNELL: I'm hearing conservation plan for manure management and some kind of noise mitigation plan. That's what I'm hearing.

BARCA: That's correct.

ALLEN: Okay.

BARCA: And if staff does not feel that the noise mitigation plan is adequate, then that is negotiated between the applicant and the County.

ALLEN: And the public health?

BARCA: Well, we're talking the noise.

ALLEN: Right.

BARCA: Yeah.

WRISTON: We're basically saying it's kind of along the lines of what was proposed in the two and a half acre situation where it basically allows an applicant to come in, you know, if they're in a completely treed area they don't need to go through. I mean I don't know. It puts a lot of discretion on staff which --

SNELL: Do you want that?

DELEISSEGUES: Yeah.

WRISTON: Do you want me to answer that?

COOK: The distinction between having discretion is having standards in the ordinance which it appears that you're rejecting. So the other possibility is to have discretion on the part of staff or to have the use permitted without standards.

ALLEN: And of course the discretion could go the other way. It could be more restrictive than what's proposed here in the staff report.

SNELL: Not likely.

ALLEN: That is downside.

BARCA: So let me clarify my intent with this. The intent is that say the Shipmans choose to come in for this Type II review, they come in with a noise mitigation plan. They're not coming in asking for staff to design their plan for them.

They're coming in with a thought process that says they recognize that they have to be good neighbors and they're bringing forward a plan that says they believe that if they follow these sets of guidelines which they are the ones bringing forward, then they believe they will be successful in being both a good neighbor and a successful business person and then that's what staff uses as the initial guidelines for review.

So I'm putting it back into the context that says they're not going to want to go to six or seven meetings with staff to try and resolve the issue. When they go in for pre-application, they're going to have an understanding what some of the minimums that they would be expected to be looking at will be.

And the best management practice says that not one shoe fits in every circumstances, there's going to be the need for variety based on the parcel and the intent of the business.

VARTANIAN: Just for my own clarification, I think I agree with everything you're saying, I just want a bit of a clarification. The folks are going to come in for the Type II saying they want to mitigate for whatever they want to mitigate and at that point staff can say, yes, that will work or, no, that won't work?

BARCA: Yes.

WRISTON: And some people may come in with, you know, the ones like Dick said that have a good relationship with their neighbors may come in with something signed by the neighbors that the neighbors agree with the plan, which would probably be a no brainer hopefully for staff which was in here anyway, but it forced them to a certain extent. It didn't force them, but it talked about --

VARTANIAN: Highly recommended.

WRISTON: -- highly recommended that they get a neighborhood agreement on private roads and things like that which just discretion is always very scary because it can be abused, but then a one size fits all is always very scary too. So I guess it's just that choosing of the lesser of evils. And I do remember now, I think the arbitrary number was the number of dogs that defined --

BARCA: Commercial from private?

WRISTON: Yeah.

BARCA: Right.

WRISTON: I think someone said they just decided to pick nine or whatever it was. I don't

remember what the number was, it's late. But I just wanted to throw that out, there was an arbitrary number there.

DELEISSEGUES: I like what Ron's trying to do but I still think that we're penalizing the innocent on behalf of the guilty. We're going to ask people that have no problem, that have never had any complaints, that have these good working relationships with the neighbor to pay \$2,780 or something to come in to the County with a signed thing saying they got no problem and get a stamp on the forehead and they can run their kennel. It doesn't make any sense to me.

WRISTON: The other way, again going back to the urban livestock deal, would be to require them to get a business license or whatever. And I know we can't, we don't do business licenses, but home occupation permit maybe and have it complaint driven and then they have to come in with a plan like the urban livestock where you get a certain amount of complaints and then you have to do a plan.

BARCA: Well, we have a motion and it's been seconded.

WRISTON: Right. I'm just discussing.

DELEISSEGUES: Any other discussion on the motion? None? We'll have roll call.

ROLL CALL VOTE

USKOSKI:	AYE
BARCA:	AYE
ALLEN:	AYE
VARTANIAN:	NO
MORASCH:	NO
DELEISSEGUES:	NO

VARTANIAN: Okay, Solomon.

WRISTON: No, I don't like it. NO. I mean I like it, but...

DELEISSEGUES: Well, now you've got a job to do. You got to make a motion that corrects the rationale that caused you to vote no. So who wants to do that?

VARTANIAN: Can I offer a motion?

DELEISSEGUES: You certainly can.

VARTANIAN: Okay. I move that we strike the proposal as submitted by staff and define what are limits of noise, odors, whatever, however that's arrived at, and let people know that if that's what they want to do for a living, this is what you have to get accomplished and have a very strong enforcement policy behind it.

BARCA: That's a motion?

VARTANIAN: That's a motion.

BARCA: Wow.

VARTANIAN: It's a little unorthodox as far as code writing is concerned and Marty's having a heart attack.

SNELL: No, I'm not.

VARTANIAN: But seriously, I mean with all these dog runs and fences and setbacks and stuff like that what are we trying to accomplish, we're trying to minimize the impacts on neighbors, why don't we just say in order to minimize your impact on the neighbor you can't make more noise than this, you can't do this, you can't do that, beyond that call me when you're done.

DELEISSEGUES: Well, see, that's what I was asking, George, if they could accomplish the goals without the code.

MORASCH: And, George, if that's not okay for foster kids, why is that okay for dogs?

VARTANIAN: I never said it wasn't okay for foster kids.

MORASCH: You did, you voted that way last week.

VARTANIAN: Okay.

DELEISSEGUES: We could have that discussion later if you want.

BARCA: So there's a motion and there was no second.

MORASCH: Well, I'm just saying there was a precedent established last month, to keep up with that precedent we ought to keep the dog kennels a conditional use at least on the small lots, maybe on the bigger lots, but on the lots that are less than five acres it should be a conditional use.

DELEISSEGUES: Is there a second to George's motion or does it fail for lack of a second?

VARTANIAN: Thank you for that.

DELEISSEGUES: Jeff, do you want to try? You look like you're thinking.

WRISTON: Yeah, I am. I'm going back to --

DELEISSEGUES: You guys are pretty good for 10 after 10:00.

WRISTON: I am, I'm thinking of 10 after 10:00. I'm going back to the urban livestock plan which I mean I know it's kind of funny that I'm backing up to that, but I do, there is definitely a difference, and I said earlier there is definitely, and several of you said it, there is definitely a difference between large livestock in terms of impact and a certain number of dogs.

I mean even one dog can have more impact than ten horses, not necessarily in manure and pee and everything else we've talked about tonight, but in terms of noise impacts and all.

But I do agree that, Dick, what you were saying about that the people that just don't have a problem, are getting along with their neighbors, et cetera, we're forcing everyone to comply with a bunch of standards where there may not even be an issue or a problem.

And I wasn't here for the, and you know where I stood on that and I wish I was here --

MORASCH: It might have been different. You were here.

WRISTON: -- and maybe the vote would have gone differently, but I guess what I would say we had on the urban livestock it was a Type I process, it was plans would be approved, you know, Type I process, it was complaint driven. I know that the dog kennels, they probably need to have a home occupation permit; right?

COOK: Well, they're doing a business in a residential area, so yeah.

WRISTON: Right. But that's less than a Type II process, right, or is --

COOK: It's, isn't it --

SNELL: It's still a Type II

COOK: It's a Type II.

BARCA: It's a Type II now, yeah.

WRISTON: Is home occupation type --

EULER: Major.

SNELL: Major, that's a major Type II.

WRISTON: That's a major deal.

BARCA: Yeah. Mine was less than that.

WRISTON: Yours was less than that.

BARCA: And you voted against it.

SNELL: A minor home business is Type I, no recourse for the neighbors, court.

WRISTON: So we call this a major home business?

SNELL: Uh-huh. That's the Type II --

ALLEN: It is.

SNELL: -- that's how we treated this in this ordinance.

VARTANIAN: What's the difference between a major and a minor?

SNELL: Notice and opportunity to --

VARTANIAN: No, no, no, no. Classification?

COOK: He means the difference in the businesses themselves.

ALLEN: Impact.

VARTANIAN: What makes a major business a major business and a minor business?

SNELL: Well, I'll defer to Gordy, Mr. Home business Gordy Euler.

VARTANIAN: If that's an exercise, I made my point, okay.

WRISTON: Restate your motion, Ron, I give up.

VARTANIAN: You beat him into submission.

BARCA: Well, before we go there and repeat the failed attempt at it, is there anybody else on our esteemed Planning Commission that would like a shot at a motion?

ALLEN: Well, just for clarification, from what I understood the motion was made, seconded, some of us voted, he was the only one that didn't really vote, he said that he had a problem with it and that's why.

BARCA: So Jeff officially voted no on it, yes.

MORASCH: So we need a new motion.

BARCA: So I can restate the motion.

MORASCH: I have a motion but I can tell I don't have the votes for it so I'm not going to make it, you can go ahead and restate your motion.

BARCA: Okay.

WRISTON: What did he say?

BARCA: He says he knows his motion won't float so he doesn't want to put it on the table.

WRISTON: Oh, it's good humor, let him anyway. Or actually it's not good humor, it's not funny.

ALLEN: Commissioner Barca, can you restate your motion, please.

WRISTON: It's not funny.

BARCA: Okay. So we're going to do this a second time. My motion is to allow commercial kennels to come forward with a Type II application as a home business, they would offer a conservation plan for the manure through the appropriate agency, they would offer a best management practice for noise mitigation and that would be what it would take for them to come into compliance.

ALLEN: Second.

DELEISSEGUES: Discussion? Do you want a roll call again?

ALLEN: Except for maybe one friendly amendment. Instead of saying conservation plan, management plan instead because this doesn't go to the Conservation?

BARCA: Right. Through the appropriate agency a management plan for manure is an acceptable modification.

ALLEN: Second.

DELEISSEGUES: Are you ready for roll call?

ROLL CALL VOTE

USKOSKI:	AYE
BARCA:	AYE
ALLEN:	AYE
VARTANIAN:	AYE
MORASCH:	NO

WRISTON: I'm going to say AYE but I do want to say that I'm going to explain my AYE. I can explain my AYE. I'm saying AYE because I'm in a box because I do believe that they need to get a home occupation permit. I mean if you're going to have a commercial dog kennel, I think you need to get a home occupation permit. If that's the Type II process, then it put me in a box.

The other thing I want to say, and I wasn't here for that vote, is I completely agree with Steve and I would vote no just on what Steve said, but that would be wrong for me to do that and continue to punish people. But I do agree with Steve that it's hypocritical. So how's that?

ALLEN: So you just voted to be hypocritical.

WRISTON: Well, I'm not hypocritical because I wasn't here for the vote.

ALLEN: Too late.

DELEISSEGUES: NO

WRISTON: Apparently.

WISER: No?

DELEISSEGUES: NO. And I'll explain my vote. I still think we're causing an awful lot of trouble for the majority of the people that have absolutely no problem in managing their kennel. It just doesn't make sense.

BARCA: All right. Is that everybody?

DELEISSEGUES: That's it.

MORASCH: That's it.

DELEISSEGUES: Thank you for coming. Thanks for your testimony. Is there any old business to come before the Commission? New business?

BARCA: New business.

DELEISSEGUES: I'd like to wish everybody happy holidays.

VARTANIAN: Here here.

DELEISSEGUES: Do you have a statement?

BARCA: Are we off the record?

HOLLEY: No, I'm still going.

BARCA: Okay, I got nothing to say.

OLD BUSINESS

None.

NEW BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

None.

ADJOURNMENT

The hearing adjourned at 10:15 p.m.

All proceedings of tonite's hearing can be viewed on the Clark County Web Page at:
[http:// www.clark.wa.gov/longrangeplan/commission/06-meetings.html](http://www.clark.wa.gov/longrangeplan/commission/06-meetings.html)
Proceedings can be also be viewed on CDTV on the following web page link:
<http://www.cityofvancouver.us/cvtv/>

Chair

Date

Minutes Transcribed by:
Cindy Holley, Court Reporter
Sonja Wiser, Administrative Assistant