

The Malheur County Planning Commission Meeting was held remotely, via GoToMeeting, and in person, on April 27, 2023. Kathy Clarich called the meeting to order at 7:30 p.m.

MALHEUR COUNTY COMMISSION MEMBERS PRESENT:

Kathy Clarich
Teresa Ballard
Ed Anthony
Robert Quick
Linda Simmons
Chad Gerulf
Clark Forsyth

PLANNING DEPARTMENT STAFF MEMBERS:

Eric Evans, Planning Director
Tatiana Burgess, Planning Manager
Julie Bromley, Planning Clerk
Stephanie Williams, County Counsel

NEW BUSINESS

Applicant: Ashlee Garcia
801 Foothill Drive
Ontario Or, 97914

Owner of Record: Stacey Captein
801 Foothill Drive
Ontario Or, 97914

Consideration of a Conditional Use Permit for a non-farm dwelling in an exclusive farm use zone.

Kathy Clarich – So, the first up is going to be applicant Ashlee Garcia. And is she here?

Tatiana Burgess – She is supposed to be online. I’m not sure. One of the callers are there.

Eric Evans – You can ask caller 2, if it’s Ashlee Garcia.

Kathy Clarich – Caller #2, are you Ashlee Garcia?

Tatiana Burgess – *6 to unmute yourself.

Kathy Clarich – She is not muted. They’re not muted.

Eric Evans – They’re muted probably just with their mute button on their phone.

Kathy Clarich – Ok, *6 if you're muted.

Tatiana Burgess – We were told they were going to be online so, I don't know.

Eric Evans – She said she was going to be out of town apparently and that she would be online.

Kathy Clarich – Do you want to give them just a little bit, or should we just move on?

Stephanie Williams – Well is there anybody here to testify?

Tatiana Burgess – No, not for that, no.

Stephanie Williams – There's not? Not in opposition either?

Tatiana Burgess – No, everybody here is for Rodriquez application.

Stephanie Williams – Ok.

Ed Anthony – I make a motion to table it then, if she's not here. Because we have no idea what she is going to do.

Stephanie Williams – Ok.

Ed Anthony made a motion to table this application. Chad Gerulf seconded the motion which was unanimously approved by the Commissioners present.

Ed Anthony – I guess we got to set a time and date for the next one, for her?

Kathy Clarich – Time and date certain.

Ed Anthony – Unless she shows up tonight, let's set a time and date set for her.

Tatiana Burgess – May 25th at 7:30.

Ed Anthony – Ok, May 25th at 7:30 or she will need to apply again.

Eric Evans – The other thing is, is that's going to be our only thing that night.

Ed Anthony – Well, that's what life is.

Kathy Clarich – Unless, you want to put it off another month after that?

Eric Evans – Yeah, that's my point, is that you can do date and time certain, to June.

Tatiana Burgess – May 25th or it's going to be June 22nd.

Ed Anthony – Yeah, something for June, for June?

Eric Evans – Well, yeah, I mean our May's... for our next meeting applications are due already. So, we haven't received one. So, there's for sure... will be nothing in May. Unless, you continue this. I have no problems going with June. Honestly, I was just telling Stephanie at some point in time, we're going to

have to start denying these, when people don't show up. Because this is a waste of staff time and everything else.

Ed Anthony – It going to June then.

Tatiana Burgess – June 22nd.

Ed Anthony made a motion to continue Ashlee Garcia's application to June 22nd at 7:30. Chad Gerulf seconded the motion which was unanimously approved by the Commissioners present.

OLD BUSINESS

Applicant: Larry Hinton
1796 4th Ave E
Vale, OR 97918

Owner of Record: Rodriguez Farm Holdings LLC
765 Sugar Ave
Ontario, OR 97914

Kathy Clarich – Okay, so then we're going on to the next one, which is a continuation for Rodriguez Farms. And again, I'm going to read into the minutes what I read in at the last one.

Now is the time to hear the request for a Conditional Use Permit for commercial activity in conjunction with farm use in an Exclusive Farm Use zone for applicant Rodriguez Farm Holding LLC. Planning Departments File #2023-02-017.

1. There is a general time limit for testimony of 5 minutes. The applicant's initial presentation will be 20 minutes; with a rebuttal of 10 minutes.

2. All testimony and questions shall be directed to or through the chair. No talking back and forth. Testimony and questions should not be directed to staff or directly to witnesses.

3. Do any members of the County Planning Commission need to abstain?
If so, state the reason.

Ed Anthony abstained due to his niece being married to one of the Rodriguezes.

4. Do any members of the County Planning Commission have any conflicts to disclose?
If so, state the conflict.

5. Do any members of the County Planning Commission have any bias to disclose?
If so, state bias.

6. Do any members of the County Planning Commission have any ex parte communications, including any site visits, to disclose?

Kathy Clarich, Linda Simmons, Robert Quick, and Chad Gerulf have all been by the property.

Chad Gerulf disclosed that he received a text for George Rodriguez Jr. after the April 27th meeting. He just told him he couldn't communicate with him and he respected that.

7. Does anyone object to any of the members of the Malheur County Planning Commission hearing this application?

8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?

9. Land use statements for the record: Oregon land use law requires several items be read into the record at the beginning of this hearing. I will now read these items.

The applicable substantive criteria upon which the application will be decided are found in Oregon State laws and rules as well as local code provisions, which are specifically set out in the Staff Report and include:

The Malheur County Code:

MCC 6-6-7 General Criteria to Evaluate Suitability

MCC 6-3A-3-J Conditional Uses in EFU, ERU or EFFU Zones

Testimony, arguments, and evidence presented must be directed toward these approval criteria or other criteria in state law, the Malheur County Comprehensive Plan or the Malheur County Code that the speaker believes to apply to the decision.

The failure of anyone to raise an issue accompanied by statements or evidence sufficient to afford the decision makers and the parties the opportunity to respond to the issue will preclude appeal on that issue.

An issue that may be the basis of an appeal must be raised no later than the close of the record. Such issues must be raised and accompanied by statements or evidence sufficient to afford the decision makers and the parties an adequate opportunity to respond to each issue.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the decision makers to respond to the issue precludes an appeal or an action for damages to circuit court.

10. Order of Proceeding:

The applicant will be allocated up to 20 minutes for initial applicant presentation. The applicant may also present up to 10 minutes for final rebuttal. All others wishing to testify will be given 5 minutes each.

Kathy Clarich – Do we want to do the staff report again?

Eric Evans – I don't really have anything to add, so, if you guys, want me to go over what I went over last time, I think everybody was here last time, correct?

Tatiana Burgess – Except for Ed.

Stephanie Williams – He is abstaining anyways.

Kathy Clarich – He is abstaining anyways, so.

Eric Evans – If you'd would like me to, I mean... but I don't have a new staff report.

Kathy Clarich – Ok, so we should be good? Well, we'll start with the applicant then. You need to, when you come forward, you need to state your name and address before you speak.

Applicant's Testimony:

Larry Hinton – My name is Larry Hinton. I live at 1796 4th Ave E, Vale, just down the road from Mr. Anthony.

Eric Evans – Do you want that to go right now, that slide show?

Larry Hinton – Yeah, let's go, and I'll just explain as we go.

Eric Evans – Okay.

Larry Hinton – I have some additional slides; some PDFs and a word document I want to show also.

Eric Evans – Let's see if I can get this to work.

Larry Hinton – One of the things that, I want to do, was show you the process there at the plant. So, I have a little Power Point presentation. This is the wash water that we would take to the evaporation ponds. The first... the process starts inside the plant, this is their Topper Tailer Machine, that's essentially taking the top and the tail and part of the outer shell off the onion. This is where it comes out of the Topper Tailer Machine and there's actually a sorting line here, where they can be re-run through the thing, if need be. Here's essentially, a clean machine, and you'll see the spray bar there – they're giving the onions a rinse. The first rinse was in that Topper Tailer Machine, so at this point those are the two wash cycles that the onions have received. This is the overall view of the bulk onions side of it. This is roughly 50% of the product, and that's the onion that has been topped, tailed, and the outer shell has been peeled off of it. Okay, then we go to the... this is the dicing cycle. This is coming out of the dicer. This is a blancher. It goes in there on the right-hand side, it goes in and hits a blanch cycle, which is a quick flash blanch, then it hits a flash cool cycle on the left-hand side there, it's in all in one machine. This is the finished diced product coming out of that line, that's going to the packaging cooler. This is the... one thing we've talked about was water reuse. This is an RO water reclaim system, that is used for the... on the chiller water. This is the onion wash water pipe outflow. This is where those samples, that are all of record, were taken – all the sampled records that went to Idaho DEQ and then it goes from here to... it's transferred to the big tanks.

Okay, we also talked about, in ponds – about potential odor control being... the best means for odor control of this type of product is aeration. So, I was just going to show you some examples of aeration so that everybody can see they're real simple, they're mechanical-free, outside of the air compressor.

Eric Evans – Is this what you want to show?

Larry Hinton – That's the one, that's one of them, yeah.

Eric Evans – Do you want to show the other one too?

Kathy Clarich – Can we make it bigger?

Larry Hinton – Does it get bigger than that?

Eric Evans – Oh, sorry, yes.

Ashlee Garcia – Hello?

Eric Evans – Hello.

Ashlee Garcia – Hi, sorry, this is Ashlee Garcia.

Kathy Clarich – Ashlee we've gone on to another one because you weren't online when we were at yours.

Ashlee Garcia – I'm sorry, we were trying to figure out how to do this. We're out of town for work, for work purposes and trying to get this figured out. We couldn't figure out the online, how to get on here.

Kathy Clarich – Ok, I need you to mute yourself, then we'll talk after we're finished looking at the stuff we got on, the one we're working on now.

Ashlee Garcia – Ok, so what do you need me to do?

Kathy Clarich – Mute yourself *6. Are you on phone?

Ashlee Garcia – I am on the phone, yeah.

Kathy Clarich – *6.

Larry Hinton – Ok, these are different types of diffusers for micro bubbles. They're the most effective as far as for oxygenating the water. And the one there, you see it, is a perforated tube type and there is a disk diffuser. And then there's also a tube-type diffuser. Our intention is, that we'll

probably end up using, most likely, end-up using the disk diffusers. And I have one other picture of a disk diffuser here. This particular model is, it's a just a series of wound perforated tubing, much like you'll see drip, similar to the drip tape that you see out in the onion field. And when they run it, they just... it actually serves multiple purposes. One – it mixes and keeps the pond circulating. Two – it is micro-aeration and also provides macro-aeration in some cases. But it is known and documented that it is one of the best ways to control odor, because it does keep the pond mixed. And by keeping the pond mixed, they don't turn over like they do, like you'd see a normal sewage treatment pond, which this is not. This is just a waste water pond. Think of it like less than gray water in your RV trailer. We also have a pond section, to give you a pond cross section.

Eric Evans – Sorry, I can't find it.

Kathy Clarich – There they are.

Larry Hinton – I don't know how well you folks can see this, but this is a lined pond system. And so, the pond liner goes up to the top of the embankment, and then is trenched into the embankment. Then in the... from cell... between cells one and two in the pond system, there's essentially, think of it as a broad-crested weir, it's 3 feet in height off the pond bottom, and that will be optimized, but that's where it's at right now, having not gone to full-blown design yet. And then, there is additional two foot of free board that we're required to have on a pond-typed system like this. That free board is an area for... all the water is still contained, even in a wind event or anything like that, that would cause it, you know, to have, you know, possibly a small ripple, but it's to contain all the water, within the pond system. The ponds can't overflow because they... the one cell – the operational cell, will have a dry cell beside it. And if you can see, well you can't see it because it is too small, but we have a 100-foot offset off of the existing waterway on the south side of the property, and that's required by DEQ. So, all the criteria that DEQ is going to require, we illustrate it right now in our pond section there. This is also available online as a submittal, so if you want to take a closer look at it, it is online.

Eric Evans – And this is exhibit #8.

Larry Hinton – Exhibit #8. One of the things that we also presented in our exhibit 8 was, we show how baring on the truck size and operating between nine o'clock in the morning and three o'clock in the afternoon, non-school hours, that if it's an 8,000-gallon truck it'll have maximum of a load a day, at half of it going to Clay Peak. And if Clay Peak's shut down, even then, we would only have 2 loads a day, with 8,000-gallon tanker. We would have 4 loads with a 4,000-gallon, bobtail water truck. And that's also shown in exhibit 8, and it shows all the math is in the spreadsheet, to show you how we came up with that, and that's a mean average value. At this time, I am going to turn it over to Partners Produce's legal counsel, and he can discuss some of the other submittals.

Todd Winegar – I am Todd Winegar, I live at 13267 N Dechambeau Way in Boise. Just a couple of things I wanted to mention. This application, as everybody knows, is being applied under a Conditional Use Permit as commercial use in conjunction with farm use. And referencing the staff report that was put together by the County, they referenced a case that I think it's helpful. And I just want to go through it, just for a couple of minutes today, because it provides some analysis in this situation. The facts, or course, are different than what we have here, but the analysis is about spot on.

So, I am going to spend a couple of minutes going through that. It's the Craven v. Jackson County case, the citation for that is 308 Ore. 281, it's a 1989 case. Essentially, what happened there is, there was a farmer in Jackson County that was putting in a vineyard. In connection with the vineyard, this farmer decided he wanted to put in a winery, tasting room, a retail facility, all those things. So, because of everything beyond the vineyard, he applied for a conditional use permit, again, under the same exception, or as the Partners Produce application. And again, commercial in connection with farm use. This, unfortunately, the code doesn't really provide us a definition of what that means. You know, you've got your County Code – uses that exact language, but there's no definition. There's Oregon Revised Statute – exact same language, not a definition, and the Oregon Administrative Rules – again, the same thing. And so, this case is nice, because the Supreme Court kind of went into detail as to how you can apply this, which I think is helpful for the Board, maybe to review and recognize how this was applied in this case. Some examples they gave of exceptions that wouldn't qualify for this, would be, you know, a grocery store. Yeah, it's commercial, and they're selling farm products, produce, whatever it is, but that doesn't fit within the scope of the intent behind this conditional use exception. You know, they also looked at well, if you had a store selling only wool jackets, you know or mink jackets even, kind of ridiculous examples. But I think the purpose there was to show that you can take this to the extreme and you can read this and say, well, commercial and farm, hey, anything applies, and anything goes and that's not the intent. And so, what they narrowed this down to, they come up with two, I guess, factors that they applied in this case to determine if this application met that standard. And so, I'll just read from this real quick. It says:

“The phrase upon which the validity of the conditional use permit turns is in conjunction with farm use”, again, the same in this case, which is not statutorily defined. It says that *“we believe that, to be “in conjunction with farm use”, the commercial activity must enhance the farming enterprises of the local agricultural community, to which the EFU land hosting that commercial activity relates”*. The second factor was, the agricultural commercial activities must occur together in the local community to satisfy the statute. So, in this case, they found that yeah, it did meet the standard. The County found that it met the standard, the Court of Appeals found it met the standard, and the Supreme Court said “yeah, this meets the standard as well”. They said in this case, the wine production will provide a local market outlet for grapes of other growers in the area, assisting their agricultural efforts. Even though the facts are different here, it's the exact same thing in this case. We've got a facility, located in Payette County, that every spring enters into 20-25 onion contracts with various farmers in the valley, most of which are in Malheur County. Not only do they have their written contracts in advance, of course, they're purchasing additional onions throughout the year, from these farmers and maybe others as well. And so, this particular facility provides a market for those farmers. And if they weren't there, those farmers have to go somewhere else. There may be other sheds that will take their onions and there may not be. The other benefit that Partners provides is, they have 50 to 55 end-users, where they're sending these onions, that a lot of these other onion sheds don't have. And so, losing that, impacts directly the onion growers in the valley. And so, like the case here, the Court found that there was a direct conjunction between the commercial use, and then the ag use. And so, because of that, they upheld of course, the decision, again, at the County level, Appeal Court level, and the Supreme Court level. But the case, I think is helpful. I have copies if anybody wants one, to go through that, I've kind of highlighted those sections. The other thing I wanted to address is, just because it's been brought in and the documents have been filed for the record, is the... what do they call that thing...? the... I knew I'd forget this. The Consent Order with the Idaho Department of Environment Quality. And so, this Consent Order was entered into in 2021 between Partners

Produce and the Idaho Department of Environment Quality. It was related to the disposal of the vegetable, wash-water on the location there. Several factors led to that, there was issues with Covid and getting some screening. They have these filters, that Eddie and George can explain better than I, but having a hard time getting the filtration system in place. The Clay Peak landfill was restricting some of the delivers at that time, and so they were in a tough spot, and they ended-up putting some of this on their own property there, as well. DEQ of course, said that was a violation, you can't do that. So, they put them under this order. So, for a one-year period, Partners Produce had to effectively do three things. One, they had to report all the loads they took of this wash water from their facility, wherever they took it. They had to disclose where it went, how much it weighted, all of those things. The other thing they did, and maybe more importantly, is they had to have their water tested twice a month by an independent firm, and so, they did that. The third thing they did, if I remember right, was they had to provide the DEQ within 30 days of the Consent Order an alternate location where they could take some of this water. At that point, the dump at Emmett was willing to take some of it, so that satisfied Idaho DEQ at that point. I've got an email, and I will enter this, however you do this, on the record. I have an email and from DEQ, letting Partners Produce know they fully complied with the Consent Order. They considered that matter closed. None of this was submitted, so I wanted to make sure they got this. I'll just read this really quick, it is just a couple of sentences. This is from Valerie Greear at DEQ. She had taken over this at that point. This is a response to Eddie sending him the last email, saying here is the final test. It says: *"Thank you Eddie. To follow up from our conversation last week, we are able to close out the Consent Order from our side, so you can expect a letter from us with that closure before long. It may take a little longer than it would otherwise since, as we discussed, Tom's old position remains unfilled, but I'll try to keep it in mind to make sure it goes out."* Tom was the person in charge, overseeing this at the time, I think he retired or something.

Kathy Clarich – Ok. Time.

Todd Winegar – Ok.

Eric Evans – 20 minutes is up. So, we'll enter that as exhibit...

Todd Winegar – Can we get any extra time for the delay, the interference?

Kathy Clarich – They'll have rebuttal time.

Eric Evans – There is rebuttal.

Todd Winegar – Oh, ok. Well that's fine. I just, I thought we had 20 minutes.

Kathy Clarich – Yeah, that was 20 minutes.

Todd Winegar – But, he was interfered for about 2 minutes. So, I don't know if that matters?

Eric Evans – You guys started about 23 minutes ago.

Todd Winegar – Ok. How do I enter this?

Eric Evans – Yeah, so we'll just, give it to them, we'll enter that as exhibit #9.

Todd Winegar – Ok, thanks.

Eric Evans – So their presentation will be 9 and this will be 10, excuse me.

Kathy Clarich – So, next on the agenda... Ok, so next, we're going to take testimony and remember, it is 5 minutes a piece, for those that are in favor of the action. And Todd, you're top of the list, if you want to use your 5 minutes.

Todd Winegar – I will use in the rebuttal, I guess.

Kathy Clarich – Ok.

Todd Winegar – But I would like to read that last sentence. But it's only going to take 5 seconds.

Eric Evans – You can allow it, but you know, it's up to you.

Kathy Clarich – Yeah, you're signed up as a proponent, that you're for it, for this action. So, you got 5 minutes, if you want to read your last sentence.

Todd Winegar – Ok, if I take 30 seconds do I have 4 and a half minutes of rebuttal?

Eric Evans – I mean.

Todd Winegar – I'll wait. I can wait. I'll wait.

Eric Evans – Yeah.

Kathy Clarich – Ok.

Todd Winegar – Sorry, I am being difficult.

Kathy Clarich – Next, I have Larry. Do you want to?

Larry Hinton – That was for speaking at the podium.

Kathy Clarich – Ok, well this is as a proponent, you have 5 minutes, if you want to talk about it.

Eric Evans – No, they're... I mean they're the applicant. So, they spoke as the applicant.

Kathy Clarich – Same with Eddie? Ok. Ok, anybody else in favor of this action? Anybody, that's online or on your phone, *6 if you're in favor on this action. * 6 to unmute. Ok.

Eric Evans – Hey, Kathy, I do want to mention one thing. We do have the Vector Control District.

Kathy Clarich – Ok.

Eric Evans – That’s online, right there. If you guys had questions regarding that, I mean they would be...

Kathy Clarich – Okay, you want to do that, before we go any further on these? Yeah, let’s just do that. So, do you guys have any questions?

Eric Evans – Yeah, I mean they would be “agency testimony”, right?

Kathy Clarich – Yes, I forgot about that, because you don’t have it on my list.

Eric Evans – Yeah, no, you’re right. That’s why I was looking, it’s not on this either, but we don’t... Usually our agency testimonies are within a letter, so.

Kathy Clarich – So, I forgot about it, I am sorry. Who is it, anyway?

Eric Evans – Megan Bernard.

Kathy Clarich – Megan, if you would like to unmute, please.

Public Agency Testimony:

Megan Bernard – Hello.

Kathy Clarich – Hello. So, last time we had some questions, on... Oh, please state your name and address for the record, please.

Megan Bernard – Megan Bernard. 710 Smith St S, Vale, OR.

Kathy Clarich – Thank you. So, last time we had some questions about mosquitos and other insect control coming off of the ponds. Can you speak to that at all, as to what you think might... we might have?

Megan Bernard – Yeah. So, the Vector Control District’s goal is to help protect the surrounding residents from the wash site, as a potential breeding grounds for mosquitos. The Vector Control would need access to monitor the site for mosquitos during the warmer months. So, March through October of each year, that the plant will be used and have water in it. In addition to monitoring the site, the District would also need permission to treat the water if mosquito larva is present, either by ground and or by aerial, which is, would be via drone. That would be until a proper decision can be made on the treatment. The larvicide that the District would be using it is called VectoMax FG. This product can be used to treat waste water from vegetables and fruits, if the water from the waste pond has not reached the Malheur river.

Kathy Clarich – Ok. Anybody have any questions for her?

Eddie Rodriquez – What was the name of the chemical again?

Kathy Clarich – Can you tell us what the chemical is again?

Eric Evans – It was VectoMax FD I believe.

Megan Bernard – VectoMax FG.

Eric Evans – Oh, FG.

Kathy Clarich – Is that a granular?

Megan Bernard – Yes, ma'am.

Kathy Clarich – And how do you apply that? Do you, is that like mixed with water, and then sprayed on the ponds, or how?

Megan Bernard – No, so how we apply it, is if we apply it by ground, it will be done by a backpack. So, the VectoMax that we put in, is 8 pounds per acre. So, we'll go and assess the site and have a map drawn out. So, we can adequately and properly apply the product and also, same thing goes via drone, also. So, it's still 8 pounds per acre and it's the dry chemical weight of it.

Kathy Clarich – Ok.

Megan Bernard – So, there's no water added to the product.

Kathy Clarich – Ok, thank you.

Megan Bernard – You're welcome.

Kathy Clarich – Anybody have any questions for her?

Clark Forsyth – Megan, I have one question. This is Clark Forsyth. And is it put on as a precursor or is it only in the event of larva showing up?

Megan Bernard – So, it can be put in as a preventative, also. But we try to keep it where, if the larva is present. So, there's four stages of larva for the growth. And with the four stages is 1-4 instar. So that is what the product targets. And then once it gets into the pupa, we cannot treat it with the VectoMax. So, once we find the larva that is present, we will go ahead and apply.

Clark Forsyth – Alright, thank you.

Megan Bernard – You're welcome.

Robert Quick – This is Bob Quick. So, if this goes forward, do you have a planned schedule that you do the site inspections and visit because it's there, or what triggers your response?

Megan Bernard – So we will, prior to treatment, we will go out and evaluate site. And once we get the permission from the land owner, we will go out there and we can meet with them on site, and we can get a better plan, or we can go out there and I can have myself, and my monitors, so we can get a better assessment made.

Robert Quick – Is that done systematically, or is it just by appointment, or occasional?

Megan Bernard – By appointment. So, we... Our office hours are Monday thru Thursday, 7:30 in the morning to 6:00 at night.

Robert Quick – So, are you saying it'd require a phone call or a notification, that it needs to be there, or will you have already established a timeline for set times with which you would inspect this?

Megan Bernard – No, I have not been in contact with the land owners to come out and evaluate the site. In order for us to be able to be on the property, we will need a permission slip signed, stating that we do have permission to be on their property, and evaluating, and also monitoring, and potentially treating the site also.

Kathy Clarich – So, do you treat for anything other than mosquitos?

Megan Bernard – No, ma'am.

Kathy Clarich – Anybody have any other questions for her?

Richard Oleson – I have a question. Richard Oleson, 694 Sugar Ave. What's the effect on pollinators with this stuff, you named two different ones? I'm wondering is it going to kill the honey bees, what's... leafcutter bees?

Kathy Clarich – He wants to know what effect it might have on pollinators? The chemical?

Megan Bernard – So, the product that we use, just targets the mosquito larva. So, if there's any other insects that live in the water, it doesn't harm them.

Clark Forsyth – Is there any drift involved?

Megan Bernard – No. So, with the VectoMax, when we use it, if there is high winds, we will not apply, we want to be able to get direct contact with the granular to the water. So, if there's higher than about 10-15 miles an hour wind, we will not treat it, to ensure that there is no drift, if any.

Eric Evans – Kathy, I'll point out that, you know, within, on exhibit 8, they did put: *"they'll work with the Vector Control District to develop a proper monitoring and abatement program for insect control"*. It's the 6th bullet point down. Additionally, I mean, we could, you know put it in as a condition as well.

Kathy Clarich – Ok, so...

Eric Evans – I mean, I could put it like a performance condition, that can be on going.

Kathy Clarich – One more question for you Megan. So, if you miss, and then there's nothing you can do, if you missed catching it in the larva stage?

Megan Bernard – Yes, there is a different product that we can use and it's called MetaLarv. But the reason why we're going to be doing the VectoMax is because, per the label, it can be used on the waste water sites for fruits and vegetables.

Kathy Clarich – And the other one can't, that you were talking about?

Megan Bernard – I cannot find on the label. So, if I can, I will go ahead and send it over.

Kathy Clarich – It's not a special registration for it?

Megan Bernard – I do not believe so.

Kathy Clarich – Ok. Ok, anybody else have any question for her?

Eddie Rodriguez – Hi, Megan this is Eddie Rodriguez. I live at 3600 SW 18th Ave in Ontario. So, my question is on the application side, how many applications per, March through October would you anticipate that you would need? That's the first part of my question. The second part of the question is, do you put trap stations and monitor the mosquitos out at site?

Megan Bernard – Yeah, so the VectoMax FG that we would be applying is a 30-day product, so it lasts in the water for 30 days. Along with the treatment of the water, we will also be placing mosquito traps frequently, just to ensure the mosquito activity in the area.

Kathy Clarich – Did that answer your question?

Eddie Rodriguez – Yes, thank you.

Kathy Clarich – Alright, we'll have some further discussion here. Thank you.

Megan Bernard – Yes. You're welcome.

Kathy Clarich – Do we have any other?..

Eric Evans – You know, Karl was going to be here tonight, but I don't... I don't see him. With the Road District.

Kathy Clarich – Ok.

Karl Shrum – Inaudible

Eric Evans – Oh, Karl is here. Yeah, there we go, never mind.

Karl Shrum – I have been here the whole time.

Eric Evans – Thanks, Karl I appreciate that. I didn't... I didn't know who the callers were so. Thank you very much.

Kathy Clarich – Karl, there was some questions last time about the road and the amount of traffic that these trucks would be bringing down, going back-and-forth on the road. Can you talk to us a little bit about that?

Karl Shrum – Sure. From the information I've have gotten from the permit and talking with Larry, the weight of the trucks and the amount of trucking going up and down that road, we haven't had any extensive forecasting in the past or anything. But I've traveled that road personally and it's not an asphalt base, with multiple years of chip sealing. With the 80,000 pounds-and-under weight, I don't see any effective issues with that road holding up, other than the apron that I requested they put in on their entrance onto Sugar, which they've implemented in their engineering plan to my specifications. Other than that, I don't have any worries or any... foreseeing big issues with that road.

Kathy Clarich – Ok, because it's got a lot of pot holes on it right now, so, that's why I was questioning you.

Karl Shrum – It's got a few, just like, yeah, on your right, but it's a constant maintenance thing, but that's on us, to kind of keep up with. And, you know, let these guys kind of, use the roads, within reason to do what they need to do and... But yeah, I know exactly where you're talking around – that dogleg corner, there's a couple of spots that I've spotted and that's kind of the normal maintenance now. And I don't think, I don't think anything's going to be expedited out of the norm out on that road.

Kathy Clarich – Ok. And then, my other question was, the coming by the trailer court, and around the curve at the airport, the road's not very wide with the public parking on that street...

Karl Shrum – Exactly. The only thing that I could see, is if we proposed, or had alternate routes to Butler, but then there's that stop sign, at the bottom of Clark onto Sugar. I mean, that's I think, it's a 35 miles per hour around the corner, at the end of airport runway. But, like I said, the amount of trucks, they have to rely a little bit on the driver. I mean, it's not a terribly narrow road – it's standard width, but there is a little bit of visibility because of the corner there. So, I understand. That's the only thing I could see, is just people will have to be somewhat vigilant just like anywhere else. But, if they were to propose an alternate route, that could maybe alleviate some trips totally down that area of the road. But that's all I can think of.

Kathy Clarich – Ok. Does anybody have any questions for him?

Richard Oleson – I do. That road's all chip sealed, there's no asphalt in there at all, is there? It's just all chip sealed?

Kathy Clarich – It's yeah, it's not asphalt at all, it's all chip sealed, right?

Karl Shrum – Right.

Richard Oleson – So, there's a couple of places I could walk, walking distance from my house, I could go out there with a shovel, and plant a pretty nice post in the travel lane right now, without getting...

Kathy Clarich – Yeah, that's what I was just mentioning, that there's some potholes on it right now, that are pretty good, so.

Richard Oleson – That road is not in very good shape. I happen to disagree with that man on that one.

Kathy Clarich – Ok, any other questions? Oh, Eddie.

Eddie Rodriguez – Eddie Rodriguez again, 3600 SW 18th Ave. Karl, when was last time that it was chip sealed?

Kathy Clarich – Karl, when was the last it was chip sealed?

Karl Shrum – Probably...

Kathy Clarich – Last year?

Karl Shrum – Let me think back, probably I thought it was... No, it's been 2 or 3 years.

Kathy Clarich – It was either last year or the year before.

Eddie Rodriguez – Did he say 2 or 3 seasons?

Kathy Clarich – He said 2 or 3 seasons.

Eddie Rodriguez – Oh, ok when would you reseal for that? (inaudible)

Kathy Clarich – When would be anticipating resealing it?

Karl Shrum – We'll hot-patch asphalt over or any obstruction or any potholes or any issues right now, this year's the plan. But I would probably wait over 4 or 5 years before I re-chipped it again.

Kathy Clarich – Ok, thank you.

Karl Shrum – Ok, thank you.

Kathy Clarich – Any other questions? Ok, were we going to have any other public agencies?

Eric Evans – I don't believe so.

Kathy Clarich – That was it. You don't have anybody from DEQ or anything?

Eric Evans – No, DEQ doesn't come to meetings like this, they informed me.

Kathy Clarich – Ok. So, then I'm going to.

Stephanie Williams – Why would they?

Eric Evans – Yeah, absolutely.

Kathy Clarich – So, then I'm going to go back to... these're the ones in the audience that I have are opponents. And the first one is Emilio Gonzalez. Please step up over there and state your name and address. And again, you get 5 mins.

Opponent Testimony

Emilio Gonzalez – Emilio Gonzalez at 790 Sugar Ave, Ontario. I'd like to share some of what I've discovered, and my hope is that this project not be allowed to continue. What I've learned: I shared with some friends, who happen to be onion growers themselves, what Partners was wanting to do near my home. The first thing they said was "*You don't want that there*". I asked why? "*Because of the smell*". Well, water, onions it stands as reason. I was told, this thing I was told is that many of the onions are brought in from as far as Washington state, Idaho, surrounding areas. So, some of the onions grown here in Malheur County are produced there at Partners, but a lot of them are from out of state. So, Mr. Faw is not here, is that right? So, I wanted to talk to Mr. Faw, because he mentioned at the last meeting that this would be a good thing for our community and the local onion growers. After what I just shared, I would say that the local onion growers have done well and will continue to do well. Partners Produce needs Malheur County only to use for a dumping site for waste produced from onions grown outside of our area, not the other way around. Malheur County doesn't gain anything from onions grown outside of our area. Consider the money spent and made elsewhere, that doesn't help us here. What we will receive from Partners Produce? That would be the wastewater, the smell, the traffic, and other things we have not yet considered. So, please consider all that has been presented and from myself and from others that will soon come up, and don't allow this to be approved. This is a request and signed petition, which you have received at the last meeting from the surrounding residents. Many have lived and raised families in our... and continue to be our neighbors. They have all come together on what could be, might be, and will be, a disruption to our lives. So, ask yourselves: would I want... would I want this near my home? The trucks, the smell, the possibility of an accident with a truck and its heavy load, given an increase on the number of trucks on our road.

Kathy Clarich – Thank you. So, next opponent that I have is Walt Longtin.

Walt Longtin – Thank you.

Kathy Clarich – Ok, state your name and address.

Walt Longtin – Walt Longtin, 3605 SW 4th Ave Ontario. This is for each of you guys. If you look at the back three pages first, it would really help what I'm saying.

We had one of our members in our community access through the Freedom of Information Act, records from DEQ regarding Partners Produce, what transpired, so I'll just read it. A lot of it has already been covered by the attorney, but there's a little more. It's... we don't trust it, you'll see why. Ok, I'll start over. One of our members of our community requested information through the Freedom of Information Act. We received documents from State of Idaho DEQ. I have only 5 minutes to talk, so here are the highlights. In 2014 Partners pumped onion water into ditches on their plant, in '14. Skip forward 6 years to 2020. Partners is caught again dumping wastewater into the 4 swales or ditches around the back of their plant. This resulted in a fine of \$38,700. The fine was reduced to \$19,700 that was paid to DEQ. Initially, two complaints were called into DEQ, resulting in an investigation, where DEQ found large ditches (four), full of onion wastewater. Quote, DEQ officials stated "*Ditches have a very strong onion smell*" and they also stated it wasn't coming from plant – the wind was blowing the wrong way. One person that called DEQ stated that he smelled onion water in his well water – what was stated. In this paperwork is a text from Partners' consulting firm, that Partners was looking at two Idaho locations for evaporation ponds between Weiser and Payette. Why did they want to build here and not there? Also, in correspondence, Partners was granted permission to dump wastewater at Emmett's evaporation ponds March of 2021. Why are they not dumping there? So, they have been caught 3 times: 2 in Idaho, 1 in Oregon, one with a fine, and not seeking the proper permission from Malheur County. So, in closing, here are our worries: high truck traffic, and truck and trailer traffic, strong odor smell as DEQ described in their violation notices. This is just a bad thing for us, we don't want this down there. Partners has showed bad management practices through their industrial waste in the past. Do we want to take a chance here in Malheur County? Thank you.

Kathy Clarich – Thank you. So, next up would be Richard Oleson. State your name please and your address.

Richard Oleson – I am Richard Oleson. I live at 694 Sugar Ave. And I am opposed to this, mostly because the odor and what it'll do to the property values. And it's all about money. Everybody knows – everything we do is about money. And it's just a business and these guys are good businessmen, I mean, you can just tell by how well they have grown. But I think they dropped the ball, when they built this facility. They should've had this waste treatment thing thought-out before this ever got started. We should be dealing with this now. I am opposed to the trucks running down my road. I don't think any large truck running down that road now is hiding something – it's either the driver, the trucker, the load. There's no reason for big trucks to be driving freeway speed down that road. I am worried about the groundwater. I rode my four-wheeler out, looked at this pond to see what it was. And on every corner, there's a fairly large pipe, I don't know, 24 inches for overflow... And if you look on the south-east corner, that overflow pipe's about 50 feet from the drain ditch that comes by my house, that's really unacceptable. That's about all I have to say, but I really don't think you'd want this by your house. It's going to stink, it's going to have flies, and mosquitoes. And the truck traffic is going to be bad. The roads – I don't know where he is saying that's a good road. You can go out in front of my house and it's broken up in a piece about that big I mean, all the way across the road and it's going to fall apart. Thank you.

Kathy Clarich – Thank you. It's your turn Tate.

Tate Tuner – At this time, I have no comment.

Kathy Clarich – Ok. Alright, so do we want to ask any questions or just go to the rebuttal? You guys want to ask any questions? We can get them back after, let them do the rebuttal and then ask questions?

Robert Quick – I recommend we just go to the rebuttal.

Kathy Clarich – Ok. Let's go right to the rebuttal. So, whoever wants to do the 10 minutes there, or you can split it.

Todd Winegar – Ok, we'll split it.

Kathy Clarich – State your name again.

Todd Winegar – Todd Winegar.

Kathy Clarich – Thank you.

Todd Winegar – Again, just in follow up to, again the DEQ issue in Idaho. They did list Emmett as another site. Emmett at this point, has reduced or limited any delivers to that location, otherwise they would, that would be an option. They certainly looked at Idaho for a place to do this as well. It would be much more efficient for them to do so, but nothing has been available. And so, that's the reason that they're going to haul this across the valley, because they don't have any other options. So, I would point out in connection with the DEQ consent order, this is really the next step in that. Idaho DEQ's not requiring them to do this at this point, but they don't want to be in this position ever again. And that's why they're looking to establish these ponds, to create a little bit of independence, so they don't find themselves in that position again. Because where they're taking it now, they could call tomorrow and say: we're full, we can't accept anything. Emmett is not an option right now, Weiser is not an option right now. They don't have any other options really. And so again, the reason they're doing this, is they do want to have happen, what happened before. So, that's why they're proposing this. Can I see that really quick, that top one?

Tatiana Burgess – Oh, yes.

Todd Winegar – Yeah, I just want to read that last part of the email again, from the DEQ. Not again, but just want to read it in real quick. It says: *"In the meantime, you have fulfilled your obligation, and you don't need to send in any additional information about sample results or volumes. I look forward to working with you and your engineers towards a permanent solution in the future"*. Which is exactly what they're trying to do right now, is to come up with some kind of permanent solution. So again, they're not relying on third parties with this, so. Thanks.

Kathy Clarich – Do you want to say anything more, Larry?

Larry Hinton – My name is Larry Hinton. I live at 1796 4th Ave E, Vale. Obviously, the odor topic came up by both Mr. Gonzalez, Mr. Longtin, and Mr. Oleson. And we feel we've addressed that

with respect to our plan of operations, through aeration. And this is not a product like you see going down the road, that's slop in the hot onion water, on 18th and the beltline. And that's the misconception, as far as I'm concerned, on this whole issue, is that wash water is just that. I showed you the process of where that water is coming from. And it really, you could barely smell an onion odor when it's got a strong one... it's very odor-free. This is not a waste site, this is an evaporation pond. The truck traffic – these are water trucks, with highway tires on them. They are not the heavy lug tires. I mean, most of the complaints are coming from people that don't farm. But, you know, that have a non-farm dwelling and I want to make that point, because when you move into agriculture land, you should expect agricultural entities be operating. That the truck traffic is much heavier with the heavy lug tires, you know, the Gator fertilizer wagons and all those are part of our agricultural heritage and process in Malheur County. As far as Mr. Oleson going out on the site and one, he was trespassing...

Richard Oleson – No, I wasn't.

Larry Hinton – No?

Richard Oleson – No, I was not. I came up the ditch road.

Larry Hinton – So how would you know there was a pipe on every corner?

Richard Oleson – You can see it.

Larry Hinton – Ok, that ditch or that pipe, isn't even going to be in the...

Robert Quick – We're not...

Kathy Clarich – Ok. Ok.

Robert Quick – No!

Kathy Clarich – Ok, we don't need to go back and forth.

Larry Hinton – Ok. So, anyway the pipe system, as they're showing it right now, that entire embankment on south end is moving 100 feet away, as I illustrated it on our pond section. So, as far the piping system – there'll be... the pipes on the entire property, when this project is complete, it'll go in into a dump, a dump site, which is essentially is a sewer man hole. It will have a pipe running to a distribution box and then a pipe, a short pipe, that runs to either cell number 1 or cell number 2. That is the extent of the piping that, where the waste or the wash water would be filling the cells. All the other piping on-site actually is not really piping, it's tubing, and that would be for the aeration system.

Kathy Clarich – I do have a question for you. That north-west corner of it, now has a pipe that's sticking out towards the top of the dike. What is that pipe for? It's like a, I'd guess 6 inches or so.

Larry Hinton – On the north-west corner?

Kathy Clarich – That corner on that side of it, that side of the pond.

Eddie Rodriguez – That was before we engineered it.

Kathy Clarich – It doesn't... it doesn't show it in any of the drawings.

Larry Hinton – What is there, is not... is not been engineered. What I am showing on the plans is an engineered product.

Kathy Clarich – So, everything could be changed from what it is now, is what you are saying?

Larry Hinton – Everything, that is there right now, everything on the south end would move north, to be a minim of 100 feet away from the canal.

Kathy Clarich – So, is the north end also going to move then, too?

Larry Hinton – The north end – we've tried to utilize as much as that much as that as possible. Part of the north end, is shifting a little bit, but the east side and the west side are representative of what the finished product would look like. But there is... there will be no pipes sticking through the embankment outside of the fill lines. They're on, you know, they're going to be in the center of the pond, where it can be... either to feed the cell to the north or to feed the cell to the south.

Linda Simmons – I have a question.

Kathy Clarich – And then, where did you get your information for the evaporation? Is that just for like plain rain water or irrigation water that's evaporating?

Larry Hinton – No.

Kathy Clarich – Or is it the contaminated water, like what you're talking about?

Larry Hinton – All waste, you know, all wastewater calculations are typically done with local pan evaporation data. In our case, the local pan evaporation data is only a few miles away, at the Oregon State University Ag Experimental Station. They have a weather, a Ment weather station set up there, and they monitor, and they measure pan evaporation. Then when we do, when we're engineering it, we have what they call "pan evaporation coefficients", where we take that pan value, and multiple it by typically, anywhere between 70% and 90%, depending on the configuration of the pond. And then, so I take into account, on my water balance, I take into account, and all this information goes to DEQ, because this is part of their operation plan. So, I take the pan data out of Oregon State, that's a monthly value. I take that. I take the monthly mean precipitation for that month and that is added into the pond log. So, you're essentially, you're adding precip and deducting evaporation, and then, your influence. So, we have so many inches of inflow on a weekly basis, so many inches of evaporation, and it's measured just like you're measuring the ET rate for an alfa field, for example. And it's a similar type... we have free-surface evaporation, and the free-surface evaporation in our area is around 60 inches a year. So, and we're talking about a pond, that we're going to add about 34 inches, to give you some volume metrics.

Kathy Clarich – I kind of don't agree with all your assessments there, because I know some ponds around here that have water in them that it doesn't evaporate like you say. But that's just the way it depends up on whether they're in the shade, whether they're in the sun in the summertime, it depends on whether it fills up more in the winter time. It doesn't evaporate, the deeper it gets, it doesn't evaporate quite as fast, temperature of the water itself... there's a lot of that stuff that goes into it. That's why I was asking you how you figured it so. You have a question for him?

Linda Simmons – I do. I believe that you said that Clay Peak will still take some of the waste there and that will continue. Do you feel that they will stop if this... if this comes in there, everything will come here and nothing will go to Clay Peak?

Larry Hinton – I don't anticipate that. I mean, I don't operate Clay Peak. But right now, the Partners Produce plan is to take 50% of their water to Clay Peak, whatever Clay Peak will take.

Linda Simmons – Ok. That is what I thought, that it was 50%. So, you're not cut off from them, yet?

Larry Hinton – Correct.

Linda Simmons – Ok, thank you.

Robert Quick – My understanding was that there was a letter on the last testimony that Clay Peak said they would no longer going to be accepting? Or, am I wrong on that?

Larry Hinton – They didn't send a letter to me.

Eddie Rodriguez – No, no letter.

Larry Hinton – There is no letter to that liking.

Kathy Clarich – It was in the original package. It said they weren't going to be.

Robert Quick – Yeah.

Kathy Clarich – Yeah, it was in there.

Eddie Rodriguez – It was a reduced flow.

Larry Hinton – Reduced quantities.

Eddie Rodriguez – Yeah, reduced flows.

Linda Simmons – Yeah, that's what I have.

Robert Quick – Now you're giving us assurance that based on the new engineering and the solar connection here, that the evaporation was going to meet the proper specs, and there will be no odor. Is that what you are saying?

Larry Hinton – Right, the odor will be controlled. We’re abating odor just like you’re abating the mosquitos. I mean, the same, I mean, the same idea.

Clark Forsyth – The average depth of the ponds?

Larry Hinton – The maximum depth of the pond at any given time will be no more than 3 feet.

Clark Forsyth – Ok.

Robert Quick – And 2 feet of free board, right?

Larry Hinton – And 2 feet of free board.

Clark Forsyth – Does that answer your question on evaporation, though?

Kathy Clarich – No, I just have some experience with it. So, that’s why...

Clark Forsyth – Because your points are accurate but, this is a level, you know, of...

Kathy Clarich – Just depends on how much they’ve put in and when they put it so.

Larry Hinton – And this is also a black HDPE Polyethylene. So, therefore, it’s absorbing additional heat that’s increasing the evaporation rate.

Kathy Clarich – So, we kind of touched on it, last time, but why are you not land-applying any of this water anymore? Is there something in the water? Because like, the thing from the DEQ said that, *“some of the wells have arsenic, some of the wells have lead, some of the wells have copper”* I think, and none of that, of course, is being tested when you’re sending out for the water tests. Is that the reason that you’re not land-applying the...

Larry Hinton – No.

Kathy Clarich – Wastewater?

Larry Hinton – No. there’s no... there’re no metals being added in the process, and this is well water coming out of on site.

Kathy Clarich – Yeah, and some of wells, it said tested with arsenic and stuff on the DEQ report.

Larry Hinton – And those are tested for on an annual basis or no annual?

Eddie Rodriguez – Quarterly.

Tatiana Burgess – Quarterly.

Larry Hinton – Quarterly, by the Health Department on site.

Kathy Clarich – Ok. But we don't have any report as to what's still in that water? Because that water then, what comes from the well, and you're adding to it by the processing, it's going to be put into the pond. So, that's all I was asking is... is that the reason you're not land-applying some of it, is because it has stuff in it, that cannot be applied?

Larry Hinton – No, the make-up water for this process, is all passing under EPA and including drinking water act.

Kathy Clarich – So, you would drink it?

Larry Hinton – I'd drink... I would absolutely drink their tap water out there.

Kathy Clarich – No, I'm talking about the water that's going in the ponds? You said it passes the EPA, so that's why I was wondering.

Larry Hinton – Well actually, and for nitrates, interesting enough, for nitrates it's actually less than the threshold. So, the threshold is 10 and we're measuring maximum 8.

Kathy Clarich – Well, some of the test have it at 9.17, I think. So, it's close to the threshold. The other thing I was going to ask you about, I guess last week I must've missed it. I thought you were cutting the tops and the bottoms off the onions, I didn't realize you're dicing them. So, are you saying that all the water when you dice them goes through the reverse osmosis process, or is some of that also in this waste water?

Larry Hinton – I'll defer to Eddie on that.

Kathy Clarich – Yes, I want you to stand up there, please. Answer my question, please.

Eddie Rodriguez – Sure.

Kathy Clarich – Address.

Eddie Rodriguez – 3600 SW 18th Ave in Ontario. So, going into the reverse osmosis system is our water off the boiler, blowdown, and the towers – the condensing towers – their blowdown. So, that water's clear, obviously. We just apply a chemical for hard water deposits. That water goes to the OR system, gets cleansed, and gets pumped back to the plant. That's the purpose for the OR system.

Kathy Clarich – So, could you not have put in a bigger... I don't know whatever you need... kind of system to clean the water and reuse more of this water, so, that not so much of it need to go into several ponds?

Eddie Rodriguez – The answer is “no”, because what it is, it's not the diced particles, that plug up the filtration filters, it's the microscopic in the onion. Microscopic membranes of the onions, they clog-up the UF Filtration, that's been tried and you can't do that with that. So, that's the reason we're trucking that off and that's the reason for the oxygen in the cells to keep the bugs from dying off. It provides bugs with oxygen, so they'll eat that microscopic membranes of onions.

Kathy Clarich – So, I don't know what the spray might do to that then.

Eddie Rodriguez – The what? Excuse me.

Kathy Clarich – The spray, for the mosquitos and stuff, I don't know what it might do to your bugs.

Eddie Rodriguez – I mean, it would be a case study. I mean Megan said she would provide trapping and what not so.

Clark Forsyth – I think she said too, it wasn't, it didn't kill other...

Kathy Clarich – It's supposed to be for other bugs, but it not might not, necessarily for microorganisms that are breaking stuff down, that is my question.

Eric Evans – It's a larvicide. Larvicides don't affect bacteria.

Eddie Rodriguez – So in other words, when we're dumping at a pond site, we have the oxygenation working on the diffusers, you know, there's a set of blowers installed and they're pumping oxygen into the pond. One side of the pond will have affluent darker water. By the time it reaches to the other part of the pond, the water is clear. Because you've got all those microscopic bugs and everything eating on that membrane. So, that's kind of how these ponds work.

Kathy Clarich – Ok, Thank you. Did we have anything from the Irrigation District?

Eric Evans – No.

Kathy Clarich – Not at all? Did we even contact them?

Eric Evans – I didn't contact them.

Kathy Clarich – No? Ok.

Eric Evans – They would have got notice right?

Kathy Clarich – Ok. So, I forgot to ask was there anybody online who is an opponent to this action? If so, *6 if you're on telephone, to unmute yourself. Ok. I forget about them back there. You have any more questions for them before I close it?

Teresa Ballard – I... I have a question.

Kathy Clarich – Ok.

Teresa Ballard – I have a question about the trucking of those loads of water. I think last week when I was online, and I was online last week so, I may not have understood correctly, but it sounded to me like the drivers of those trucks have farm, just farm truck licenses, am I correct? Did I understand that correctly? What kind of licenses do your truck drivers have, that drive those water tanks?

Eddie Rodriguez – They have farm endorsement.

Teresa Ballard – Wouldn't... wouldn't they need a tanker endorsement for those?

Eddie Rodriguez – No, depends on the gallons and the size of tankers.

Teresa Ballard – Yeah, it does.

Eddie Rodriguez – Yeah.

Teresa Ballard – But 80,000 gallons would seem to me...

Eddie Rodriguez – Oh no, it's not, they're not 80,000. These are around 65 to 75, as high as 8,000 gallons.

Teresa Ballard – 65 hundred?

Eddie Rodriguez – Mhm.

Kathy Clarich – I think he was saying 80 thousand pounds is what I heard.

Eddie Rodriguez – Under 80,000 - gross.

Teresa Ballard – Ok. Thank you.

Kathy Clarich – Then I have one other question for you, and maybe you can answer it and maybe you can't. The DEQ from Idaho calls it "industrial waste". So, you're not calling it industrial waste obviously, if you want to put it on farm ground.

Eddie Rodriguez – Well, if you refer back to my testing results, we refer it as a byproduct. These test results here, by Analytical Labs we refer to it – "byproduct".

Kathy Clarich – Ok.

Teresa Ballard – But in the exhibits that we saw...

Eddie Rodriguez – Right.

Kathy Clarich – I've seen those.

Teresa Ballard – DEQ calls it "industrial waste".

Kathy Clarich – Yeah, so... Ok. Any other questions for them? Other questions before I close it to public testimony?

Closed to public testimony

Kathy Clarich – And now, we get to have a discussion. I have problems with it. I'm just going to lay it out there. I have problems with it, because I drive that road all the time and I know what Karl says but it's... Up there by the airport, it really bugs me, coming around that corner. Because as you come around the corner now, it doesn't really leave you a lot of room when you have somebody sometimes that's over the line. I guess you could have that anywhere, but the corner just makes it worse, because there's that drop-off on the side. And then going by that trailer court, there's no room, with people parking on the side of the street. You have to pull over into the other lane a lot of times, because they're too far out into the road, the ones that are parking by their trailers. And now the City has put up "Do not" parking signs over in the dirt, where you could possibly pullover, if you needed to. So, that's another thing that does bother me, as on the road... not just the road itself. It's got big pot holes in it right now, and it hasn't been... I think it's been 2 years since they last chip-sealed that one, but anyway. That really does concern me. The other thing that concerns me is, the fact that, you knew ahead of time from the DEQ in Idaho, already having problems, that you would need to have permits to do something in Oregon. And that really bothers me, that you went ahead and started to do it without. What does... what does everybody else think?

Robert Quick – Are other farm vehicles being used on that road now?

Kathy Clarich – Not very often.

Robert Quick – Trucks, tractors?

Kathy Clarich – There're some. I take the swather up and down that road. I don't want to... I wouldn't want to meet one of the trucks but...

Robert Quick – So basically, we're looking at, what? Three trucks a day?

Kathy Clarich – 3 to 6, is what they said.

Eric Evans – I just... As you guys are discussing this, I mean, one thing I want you to keep in mind is that, so what you guys decide, we have to come up with, you know, the legal reasons of "why".

Kathy Clarich – Right, reason, right.

Eric Evans – So, I want to make sure that you're applying criteria that's within some kind of code and give me a reason why. So, and, you know, I am a little bit iffy on you saying, the roads, you can't park on or there's some parking issues. Because that's not a criteria, that I really have to deny an application for. So, I just, I just want to make sure that you guys, as you're having this discussion and realize us, as staff, have to write up findings to deny these things, and guys got to have... you need to give us a reason of why we can do that.

Kathy Clarich – Right. Right.

Eric Evans – So, that's my two cents.

Teresa Ballard – My concerns here, are different, Kathy.

Kathy Clarich – Ok.

Teresa Ballard – I also have that concern, too. I also think we've seen over the years, people who go ahead and start projects knowing full-well that they needed permits and then we're stuck with trying to, to look at those. But Mr. Winegar stated, you know, used as an example the winery where the product was... the grapes were grown on the farm, they processed them on the farm, and then they were selling them, it sounded like, there at the site.

Todd Winegar – No.

Teresa Ballard – No?

Todd Winegar – No, the point they made was, all the other growers in the area were going to use that winery, that's why they drew the connection between the two, a conjunction between the two. Some of it was coming from that farm, but the other farmers, they took into consideration that. That's why I made the comparisons.

Teresa Ballard – So, the onions, you know, are coming here. But in this case, the onions are going to Idaho, which is another state, and they'll be processed there. Workers in Idaho are being paid, for the most part... I don't know what Partners pays their people, but generally the pay rates are lower in Idaho. And then we're asked, in Malheur County to accept the waste from that site. So, the greater amount of the tax revenue for the processing and all that, is an Idaho income there. And then we're asked to take this waste, which, you know, I can't believe that this is really going to be anything that would benefit us very much. We're going to have to control some more mosquitos then we would've had to control. We have to take care of roads, that are going to get more wear and tear. And you know, we run the risk of contamination of people's water systems and I just, I think it's... I don't think it's a good thing for Malheur County. Now, that may not be a tangible thing that you can use for criteria, but I still go back to the fact that Idaho DEQ called it "industrial" and we're being asked to put it in our farming-commercial criteria. I just don't... there's a conflict there, in my opinion.

Chad Gerulf – I think the trucking, I mean 4 loads... The fact that we're going to say we can't drive trucks, scares me. I mean, because I rely on that to make my living, too. So, I don't... I don't really agree with that. I don't like the fact that the guys started without a permit, but they complied with the DEQ and did what they had to do to rectify the situation. And now they're trying to improve it, by putting in an engineered pond system. And I, I mean, I think that's a good thing, I think it's a step in the right direction. And I think it does benefit our growers. I mean, I grew up at Cairo, with the onion growers and I mean, I smelled onions. The odor thing to me... I mean when the wind blew one way at my house, I smelled Top Onion; when it blew the other way, I smelled Beef Northwest. I just don't see this as being the big problem. I mean, it's going... I think you are going to smell the onions once in a while, but that water, that picture was nothing like what Top Onion's land-applying. And it's the same bugs, but there's no aeration, right? There's... there's no way to control it in that, in the fields, that way. So, I mean I... I think these guys, I think they should have a right to put a pond in. And I think that it's going to be... it's going to be inspected by the DEQ, there's going to be testing, and I don't want to hamstring business because we have odors and stuff. And if the road goes bad, guys, it needs fixed. I mean, that... it's Karl that needs to pave it. Four more trucks a day isn't going to ruin the road.

Richard Oleson – Kill a kid.

Eric Evans – Hey, Kathy you also did ask me about DEQ, and I just wanted to... So, I did receive... so if you guys remember, DEQ is in the process of, you know, looking at their information for the Water Pollution Controlled Facility permit. And, you know, obviously he said he... they don't really testify in public hearings like this. They did send me an email and as part of that email, they directed me to a link that is DEQ's nuisance odor policy or plan, that I can share with you guys, too. So, there's a website out there, if you would like?

Kathy Clarich – Ok.

Eric Evans – And so this is their strategy. They have a report you know, a place to file an odor complaint, and they generally have a, you know, a process they go through for nuisance odors.

Kathy Clarich – Which is what happened in Idaho, the guys were smelling.

Eric Evans – I mean the thing is we... we can't, we can't say anything about Idaho DEQ because when we cross the Snake River, this is now Oregon DEQ.

Kathy Clarich – Yeah, all I'm saying is, that's how they had to handle it, they had odor over there, so they called Idaho DEQ.

Eric Evans – I know nothing about Idaho DEQ. Yeah, I mean and obviously they have...

Kathy Clarich – Well, it was in those papers so.

Robert Quick – So, here are the things that I'm... that I'm thinking. On one part, the DEQ thing that happened over there, I honestly, quite, from Partners' standpoint, bad form. But that was not an evaporation pond, that was not an engineered evaporation site at all. Nothing like what we're looking at here.

Kathy Clarich – True.

Robert Quick – So, shame on them. They've paid their fees, but interestingly enough, they did comply. The attempt to build or move ahead without the permit, again, bad form. But there's nothing in the law that says that I have to punish them, if they still meet the basic criteria. And as I researched, I looked at this, and I have a lot of concerns about it. But the reality of it is, is that it's not... their pond isn't in the shade, so we can't through that out there and say some of them are in the shade and some of them are out. I mean, it's a full solar open area there, that... and the black lining that they're using, apparently, both by California, and Nevada, and Kentucky that I looked at on their sites, that the form of the... it really accelerates the evaporation. It's actually a component. And the one thing that they all said, is that if you add the aeration and you keep the movement the same as if we have a pond, and I don't know if Chad has it up in his pond at his place, but the aeration is very fundamental to that. So, as I look at this, again, I... the traffic thing – I have little concern for, you know, I guess it was because I was kid in Nebraska and we lived... we had dirt roads, we... we didn't even have chip-seal and we were in farming areas, and we drove on the road.

I mean, everything went down the road. And so, for me, there's been no salient evidence here, that's been shown that we're going to have excessive weight. The road crew, even though we may disagree with them, they're the people that handle this stuff. They didn't see it as being a problem. So, I don't think I want to read between the lines and move forward, from that standpoint, only on my feeling. I have feelings. I think it was bad form what they did and dumped that stuff over there in Payette. If they had an evaporation pond, we wouldn't even be having this discussion. And so, as I look at it and I look at what the laws are on the farm use here and the criteria that was even brought up about the winery, I find that this is within the realm of the things of which I can't adjudicate on. The other things, I mean, if I'm here to punish them for using bad judgement then... But I can't use that, I can't use that information based upon my feelings. That's just me. I'm obligated by law to find out if they meet the law thing, and in my estimation, they do.

Kathy Clarich – Ok, thank you.

Clark Forsyth – My two cents: I would agree with Chad and what we just heard. I don't have an issue with it.

Kathy Clarich – Ok. I do still have a problem with it being on farm ground.

Clark Forsyth – It's a sealed pond.

Kathy Clarich – Yeah, but we've lost farm ground is what I am saying. Remember, that's always been our one thing. Plus... plus...

Clark Forsyth – Well, it's still being used in a farm realm activity of agricultural situation. I mean, you're right, you're not going to drive a tractor in it, but...

Kathy Clarich – But it's not... it's not... the Oregon's... it's not being originated here, it's being originated over there. So, we're taking out our farm ground over here for something that is being originated in another state, that they're bringing over. It's just kind of like...

Clark Forsyth – That's a valid point.

Robert Quick – It is a valid point.

Kathy Clarich – To me, it's kind of like taking it from a garbage, your garbage, and you don't want to take over there, so you bring it over here and just dump it.

Teresa Ballard – That's exactly what I was trying to say.

Kathy Clarich – That's what... that's what it's like. That's what it seems like to me, and I just have a problem with it. We've always said "no net loss of farm ground". Where are they going to farm instead of that? I mean, what new ground is going to be opened up for that. And then, it bothers me that they call it "industrial waste", because this is not an industrial area. We do have industrial areas, just outside of Ontario, which would not take any farm ground, that, you know, that they could have checked in to getting, or something like that. There's just a lot of things that I think, that wasn't

handled well and it's forcing us to try and make a decision on some ground that we'd normally would be farm ground., that we're taking out now to put in something that they need to have for their business. Because it is a business, it's just not a farm business, it's a business.

Clark Forsyth – I get that, but this is the whole valley.

Chad Gerulf – So, maybe... maybe we could do a condition, that if they ever sold, that they had... they would have to roll all the liner back up, and return it farm ground.

Kathy Clarich – But by then, they would have lost the water rights.

Teresa Ballard – I agree, Kathy I agree.

Kathy Clarich – So I mean, like I said, you look around there're a lot of other places that have sagebrush or whatever, that they could have put this in. In fact, I'm sure they even have ground with sagebrush they could've put it in, which would not have caused... Whether it had anything to do with the odor or not, that would not have caused the loss of farm ground. And that's one of the things that we always have been trying to protect.

Teresa Ballard – That's right.

Kathy Clarich – And that's... that's I mean... Yes, I have a problem with the trucks – we can change that. We can make them go a different route. We can send them down Butler or 18th, or whatever, and back. If we don't want them coming by all those houses, because there are a lot of houses on that, on Sugar, right there. We can do that, but we can't put the farm ground, replace it as that easy. So, that's... that's my feelings on it. I just, I have no problem with them doing the ponds and stuff, is just that it's where it's at.

Teresa Ballard – Yeah, where they put it.

Eric Evans – Well, we could also, with... if you're talking about water rights, they could request commercial water rights, especially if they needed to ever supplement any water in those ponds, because too much evaporation or something like that, they could apply for commercial water rights, with that and...

Teresa Ballard – It's not about the water rights that I am, you know...

Eric Evans – I mean. I guess... I guess if, if it was what Chad was saying about going back to farmland as a condition and if those are commercial water rights then you're not losing those water rights, they're going to stay with that, even if you reverted back. That was my point.

Clark Forsyth – Don't they use something similar to that for gravel pits? The reclamation, like, you had to put it back to the way it was.

Chad Gerulf – It's... it's you're temporally taking it out service, it's basically what it does.

Clark Forsyth – Right.

Robert Quick – That falls under the mining laws, though right? For quarries and stuff?

Kathy Clarich – Yeah, DOGAMI.

Chad Gerulf – Mhm.

Robert Quick – My feelings on this, where the DEQ using the term “industrial”. I actually, in looking at the law and the stuff like that, I think it was actually an improper use of the word. Because “industrial”, under the Code and at least Oregon law, looking at that, very specific in what is industrial. It also is very specific in what is “farm byproduct” and so I don’t know if we look at how they said that, I don’t know that’s salient to our state and laws.

Linda Simmons – And wasn’t that Idaho DEQ not Oregon?

Robert Quick – It was Idaho.

Linda Simmons – So that...

Robert Quick – It really isn’t salient to our discussion.

Linda Simmons – I agree.

Chad Gerulf – I mean, at the end of the day, it’s an onion and water.

Clark Forsyth – Yeah, I would not call it “industrial”.

Char Gerulf – It’s onion, or it’s a word, to me, I mean.

Clark Forsyth – Gray water.

Eric Evans – So... so I mean, you’re going to hear that term anytime, I’ll put my sanitarian and Environmental Health hat on. So, any... anytime there’s processed wastewater, so they’re processing a product and they’re always going to call it “industrial waste”, right? Because it’s actually a processed wastewater. I mean, that’s the way they see it. So, I mean, when... I mean, but... but then again, also trying to sit there and say compare it to any other kind of industrial wastewater, it’s probably kind of unfair as well. So, this is a processed wastewater for an onion, and yeah, it probably is considered, by definition an “industrial waste”, because it’s an industry that is producing this. But I mean, it’s no different than Farmers or Fry, sorry... Fry Foods, Select Onion. I mean those ponds are the same thing. They’re going to be industrial wastewater on farmland with food product out in it.

Robert Quick – We were, since we’re speculating, and as a businessman... I would be reasonably certain that... that, when we talk about, go buy another piece of property or find it here, and then build roads to get to that property and the cost... I do think there’s a profit thing that’s been involved in to the why of the location and where it’s at. I mean, I... it wouldn’t even make sense if a businessman wasn’t looking at that, where some options are absolutely cost prohibitive. Also, my

understanding was in the testimony that we had last time, is that... that if Clay Peak is no longer, Emmett is no longer, you know, we're talking about a... a major employer, major business, being shut down. I mean, that's just my, if we're talking about worst case scenario. So those are the things we're just talking about what's in the behind, because I haven't talked to them, I don't know. But I would really be surprised that if there wasn't in that. This is probably the most cost efficient, most reasonable thing, that they're hoping that they can do and not be forced to have to bankrupt or liquidate their business. Because some of the options we talked about you know, I'd would hate to build a road out here and go through all the DEQ stuff with that. If we found sagebrush land and went through the whole thing, let alone even getting, to the site and all the stuff, we're talking about millions, upon millions of dollars to do that. Just my thought, just since we're surmising to the why.

Teresa Ballard – We have some pretty big chunks of land down there, off Butler.

Robert Quick – Yeah, we do.

Teresa Ballard – You know, I mean, it's there. You know, I understand about the cost, I have a business too. But I also think that we need to stick with, just like Kathy said, no net loss of farm ground and being true to what definitions are. You know, I know these are important business people in, in our County and we appreciate what they do. You know, I don't mean to be nasty about that, but you know, there's industrial waste, there's something that we produce on a farm that's truly, honestly, a farm product. And I don't really think this is a farm product. Now, that's my subjective opinion. But I think if there are industrial sites where that would be better located...

Clark Forsyth – Do they own the land?

Robert Quick – It's their property. They have the right to do what they can.

Linda Simmons – Because they already own the property.

Robert Quick – They can do what's legal to do on it. They own the property.

Linda Simmons – They do.

Clark Forsyth – So Eric can you clarify that?

Eric Evans – About the? Sorry, I was half-listening, about the farmland piece of it?

Clark Forsyth – Yeah, well, like if it's their land, if we consider it farm activity that's kind of a moot point, I guess that would be my question.

Eric Evans – I mean, yeah. So, you know, when they came in the office initially, you know, I kind of go through the process in my head about where to put these things into, right? So, if this were truly a product of just marketing or getting the harvested product, as it is harvested out and getting it to market, that's actually considered, you know "Farm Use", as farm uses, outright allowed under, you know, everything, right? You can farm, and it's a very broad definition that's how I get onion packing, storage on EFU land, all day every day. If you go between here and Nyssa, there's some of

the newest ones with a, I don't know what Corn's operation is, but that's all out on farmland and he used that land to put those. But it's an outright allowed use, right?

Clark Forsyth – Onion sheds, yeah.

Eric Evans – So... so in this case, they've also allowed under a Conditional Use Permit, the state and under County Code the ability to do commercial in conjunction with farm use. So, the way that's been, you know, adjudicated in the past is that, now you have this harvested product and now you're somehow processing that into, maybe not a new product, but a different product. So, when you start chopping... the winery when you start pressing that and making wine out of it – it's still a farm product, but now you're processing it into a different product. Now, in the rules, you're outright allowed processing on a farm, as well. But there's certain stipulations and I want to say it's...

Tatiana can maybe help me. It's under 10,000 square feet?

Tatiana Burgess – 25%

Eric Evans – You have to grow 25% on your... on that farm. You have to supply 25% of the product and so that's a pretty small number, too. So, 25% is little. So, you can buy 75% of your products, and that's processing, that's outright allowed. And when you get bigger, then you've got to look at something else. So, as it came into my office, I didn't feel like it was necessarily farm use. They're processing it a little bit into a different product, and that's where... So, it is allowed as a conditional use permit in the County.

Kathy Clarich – But, that's processing it on that property, not taking the waste from...

Eric Evans – No. I mean I can process 75% of products from Idaho. I can pull 75% of product from Washington State...

Kathy Clarich – I know.

Eric Evans – And process them on my farm anywhere in the State of Oregon.

Kathy Clarich – But he's not processing it there is what I'm saying. They're processing it in Idaho. We're just getting the wastewater off of the processing.

Eric Evans – Right, so, I mean the way I put in the staff report is, I mean I...

Tatiana Burgess – The criteria what he's talking about, the 25% on that, that's for the outright permitted.

Eric Evans – Right.

Tatiana Burgess – He's just explaining that, what is outright permitted. This is not outright permitted, this is something else.

Eric Evans – So, this why I put it under... I'm saying why I didn't necessarily put it as an outright permitted processing, it didn't fit that one. So, then it brought me to this, you know, a commercial

activity. I... to be honest, commercial activities and determining commercial activities in farm use, is not defined in state statute, we don't define it in County Code. And you know, LUBA, Court Of Appeals, Supreme Court, has put the onus on the local jurisdictions to determine, as long as they can meet that criteria and show that it's commercial in conjunction with farm use to allow us to make those local decisions.

Clark Forsyth – Can we put a stipulation similar to the mining rule?

Eric Evans – About? Like some kind of a reclamation?

Clark Forsyth – If they sold that land, it's returned back to farmland.

Eric Evans – Sure, we can put it, but it gets a little more complicated, right? Because in the reclamation site, DOGAMI actually requires reclamation, and they put a bond to it. So, I mean, you'll put a million-dollar bond, meaning that if you don't reclaim it to the natural state, then they can take that bond, and now they hire somebody to put it back. So, I mean, so saying it's like mining? Yes, we can put that condition there.

Clark Forsyth – And you're required to have the bond, because I don't remember that.

Eric Evans – I'd have to ask Stephanie if we could require a bond for reclamation. I don't know that. I mean, it's not in our... I mean it's not in our code to be able to allow to do that so.

Kathy Clarich – And Robert, I was listening to you talk about the financial stuff, but they're going to have to re-do this all anyway, because it wasn't engineered.

Robert Quick – I know that.

Kathy Clarich – So.

Robert Quick – It's costing them quite a bit of money.

Kathy Clarich – Yeah, so, if they could... Since they have to re-do it anyway, if they could find a piece property that wasn't in farm ground...

Robert Quick – Well, they would've been way ahead if they were able to get it in and get it started and nobody knew. I mean dollars and cents-wise, I mean, I got that. All, I'm saying is that, the transportation, since they're going to use Clay Peak for 50% and over here, part of that. And if you saw the numbers that they were spending monthly on that... I'm just saying, since we were speculating.

Kathy Clarich – Yeah.

Robert Quick – I don't know that for a fact, and I could be completely wrong on that. But as a business, we're thinking things in terms of what's costs reasonable, what's cost effective, that's... that's all.

Kathy Clarich – Yes, I agree, we’ve got businesses, I know... I know what you’re taking about. I was just thinking, to the point that they’re going to have to re-do it anyway, that it would be better, since they basically are going to take it all out and moving it around and making it come up to whatever the requirements are, that maybe they would still have been better off to put it on some other ground that’s not actually farmed.

Robert Quick – I got that.

Kathy Clarich – And that’s, you know, still a viable thing that they could do, at this point, because they haven’t finished it.

Robert Quick – I understand, as long as we’re just speculating.

Kathy Clarich – Like I said, it’s not so much the pond that I have a problem with. The problem is that they took, are taking that 10 acres or whatever, about 10 acres of farm ground out. And that’s 10 acres of farm ground! I know somebody will say that’s just a little field, but no, it still can produce quite a bit.

Robert Quick – But, the EFU and use of farmland, what they’re doing still meets criteria.

Kathy Clarich – Well, no, but he said it doesn’t. That’s why he said he had to put it as commercial.

Robert Quick – I know.

Kathy Clarich – So, then we could make the decision.

Robert Quick – It’s left to our discretion on it. And whether they’d be putting in a packing house, or a new shed, or something on their property, and all these things.

Kathy Clarich – Well, that’s approved thought. If they put the shed up there – that’s approved.

Robert Quick – That why I said last time we need to be very careful on this, because, you know, we haven’t actually had something like this, dealing with onions and processing come before us.

Kathy Clarich – I don’t know if we’re going to agree to disagree or what here.

Robert Quick – Let’s take a vote.

Kathy Clarich – Yeah.

Chad Gerulf – I look at it as, not a net loss of farm ground. I mean, I really don’t.

Robert Quick – I don’t either.

Chad Gerulf – Like, I mean, we, literally, we can take those... you could roll those liner up and take a dozer in there, and put it back. I mean, where like a packing shed – you have 30 inches of gravel, and concrete foundations, and sewer systems, and wells, and all that stuff.

Kathy Clarich – And I understand that, but that is an approved use.

Chad Gerulf – Mhm.

Kathy Clarich – Where, this is up to us to decide it, we're going to approve it. It's not by law approved as such, we can make that decision. But, like I said, where they're going to have to re-do it anyway, maybe actually, it'd be better off finding a better place.

Chad Gerulf – Mhm.

Kathy Clarich – That's just my... So, if somebody wants to make a motion, we can go from there.

Robert Quick – I'll make a motion that we approve.

Clark Forsyth – I second.

Eric Evans – Can I... can I say something real quick?

Kathy Clarich – Yeah.

Eric Evans – As your guys' motion, I would make a recommendation that if you approved it, that you require us to put a condition in there for the vector control.

Robert Quick – Agreed.

Kathy Clarich – If we approve it, I got other things we got to put in there, too.

Eric Evans – Ok.

Stephanie Williams – Are you just taking a...

Eric Evans – Are you just doing an informal?

Stephanie Williams – Not making any finding, you're just doing a tentative?

Robert Quick – Straw hold.

Stephanie Williams – Right, and then we will develop findings.

Robert Quick – That's right.

Eric Evans – Then we don't want to do that under a motion necessarily.

Kathy Clarich – No, we just want to know.

Stephanie Williams – Just an a tentative.

Eric Evans – Just do a hand-raise of who wants to approve, who wants to deny, something like that.

Kathy Clarich – Ok.

I'm in favor: Clark Forsyth, Robert Quick, Linda Simmons, and Chad Forsyth.

Eric Evans – Now, let's talk about what conditions you think, and also hey, would you be willing to write the findings?

Stephanie Williams – The conclusions, because you're going to have to defend them.

Eric Evans – So, the County doesn't defend them.

Stephanie Williams – Not the County, yeah.

Todd Winegar – Ok.

Kathy Clarich – Ok, so.

Eric Evans – We'll get you anything, the staff report, everything, we have so.

Todd Winegar – Ok. Ok.

Kathy Clarich – I want some leak detection put in there, we've talked about that before. The road needs to be the full-width gravel instead of just a strip of dirt and a strip of gravel. I don't know, maybe the dirt doesn't belong to them on that road in there?

Robert Quick – The access road in?

Eric Evans – Yeah, what do you mean full-width?

Kathy Clarich – Well, I think it's not like 20-whatever... It needs to be whatever our standard width is, for the roads.

Eric Evans – Ok. So...

Linda Simmons – I thought we already addressed that when we talked to them.

Eric Evans – Ok, so is that one of my conditions in there?

Kathy Clarich – I didn't... You know what, I can't remember what conditions are anymore. Why don't you read through your conditions again and we'll go from there?

Eric Evans – So, I have the driveway must be constructed to meet the requirements of the Ontario Rural Fire Protection District.

Kathy Clarich – Just like all of them, make it to meet the International Fire Code.

Eric Evans – International? Ok.

Kathy Clarich – We're making everybody do this, so we might as well do that.

Larry Hinton – I actually show that on the drawing right there.

Linda Simmons – It talks about the apron and...

Eric Evans – I'll just beef-up that one. We have a... right, Tatiana? Will you pull that language that, where we talked about the driveway to International Fire Code? Yeah, we can do that.

Kathy Clarich – Then we were told that we can select the route for them to go down, is that not correct?

Eric Evans – If we want to change or if we want to... yeah. Yeah.

Linda Simmons – A back-up.

Kathy Clarich – Like, I don't want them coming around the airport corner, especially in the winter time. So, I would prefer that they go down to either SW 18th or Butler, whatever it's called, from whatever what point it is.

Linda Simmons – Can we do that?

Robert Quick – Come back up on Lincoln?

Linda Simmons – Can we do that?

Clark Forsyth – Like, that's a public road.

Kathy Clarich – They can come up on Lincoln to the...

Tatiana Burgess – They can.

Eric Evans – I mean we.

Stephanie Williams – As an alternative, I mean.

Clark Forsyth – They can put it in as alternative.

Tatiana Burgess – They put conditions in before. They can choose that.

Eric Evans – We’ve had them for a gravel pit.

Linda Simmons – We can’t make them do that.

Kathy Clarich – Yeah, we can.

Eric Evans – We’ve had them for... We have one for a gravel pit that we’ve done, out there off of Alder... And I mean, it’s pretty tough to have to require them to use especially...

Stephanie Williams – You have Road District #3 saying that it’s ok.

Kathy Clarich – Yeah.

Eric Evans – Right.

Stephanie Williams – I mean, you have to substantial evidence in the record to...

Kathy Clarich – Well it’s a safety thing.

Stephanie Williams – Right, but.

Clark Forsyth – It’s an opinion, it’s a safety opinion.

Kathy Clarich – Well.

Clark Forsyth – But if Karl didn’t seem to...

Kathy Clarich – But Karl hasn’t been out there and seen the kids going up and down the roads either, and I have. And you know, I travel that road probably twice a day... (inaudible) Because in the winter time that corner up there, by the airport gets pretty nasty, gets pretty slick, when we have any snow or anything.

Stephanie Williams – So does Hyline. Hyline’s horrible.

Robert Quick – It’s awful.

Stephanie Williams – You know, I’m just saying that, where you know, Road District #3, they’re all...

Robert Quick – Terrible.

Stephanie Williams – Terrible, I mean, it’s hard.

Kathy Clarich – And are we going to put the time in? They said 9 to 3, but I don’t know what time the...

Eric Evans – Yeah, so we’ll... sure that’s a good... I will put it as “they must follow their operation plan”.

Kathy Clarich – Well the other thing I was going to say, is they have the... what’s the other, the kids... it’s not the regular school, it’s the, they run the buses for the...

Eric Evans – Like Four Rivers?

Kathy Clarich – No, it’s the other one that’s on the east side of town. Yeah, child development.

Eric Evans – Oh, like MCDC?

Kathy Clarich – Yeah. They’re out like at 2, 2:30 out there, by the trailers.

Robert Quick – So, the question is, is that they gave a plan of operation and so far, most of the things we’re mentioning are things that they’ve already stipulated how they will function and work. They’re saying there’s 2 to 4 loads of wash water between 9 and 3. Says they’re going to put the wash water in two-lined cells, vis manhole dump. Inflows to be monitored. Odor control to be maintained by the aeration. Facility to be security fenced for both animal control, and safety. They’ll work with the County Vector. Rodent control, and then the one we’ve talked about leak detection. It says they’ll do weekly inspections of the pond liner and including leakage detection. Are we asking for a supplement to that and stipulating what type of leakage detection, because it says they will have a leakage detection system? It says vegetation control, access road to be maintained as a hard gravel surface and meet the IFC Fire Codes, for fire apparatuses. Says the water sampling at the plant, and chemical testing will be done monthly, and test all pond sludge prior to disposal, to determine appropriate sludge removal, to be performed with a rubber tracked skid steer and conveyor system. Sludge will be transported to the appropriate disposal site. So, it sounds like some of the things we’re bringing up, they’re already agreeing. Can we enter their plan of operations, stipulations into our acceptance of this?

Eric Evans – Yeah, no that’s... I’ll put something, I’ll beef it up, it must follow the operations plan. But one thing that I was looking through also we don’t have is, I mean, we could put as a performance standard, that they must you know, follow all, you know, the DEQ requirements. That just give the County kind of a little bit of enforcement action that’s above, you know, with DEQ as well so.

Robert Quick – Is there any way that we can, when it comes odor control, I’m going back to that again.... So, what if there’s an excessive odor, is there any way that we could stipulate that we can go to site, and contact them, and make the changes as necessary, which would include even closure of the site, if it was accepted. Can that be worded in anyway?

Stephanie Williams – It has to be objective standards. I mean, I don’t know what is excessive odor means.

Eric Evans – Right.

Stephanie Williams – You know, like noise. I don't know what excessive noise means. It's really hard to know, you know. I know Ontario defines like noise, by decibels. That's how they got to it. So, unless it's something actually, you know, objective.

Eric Evans – And the objective standard here, is really going to be regulated by DEQ.

Kathy Clarich – I was going to say, they're going to contact DEQ. Anytime they smell something, they're going to be getting DEQ. And I can guarantee they're going to be getting a lot of calls.

Eric Evans – My point is saying hey, you must follow DEQ permit requirements. That give us the ability to pull the... you know, saying hey, look, you're not following this, so you know, this conditional use permit, you're not following the conditions on this conditional use permit. So, it gives us the ability to do that.

Robert Quick – There's so much here, if we make a motion to pass, how do we word all the addendums to accept that? How do we put that together?

Eric Evans – So, as long as I get my list, then you guys could say, word it something like "with the conditions discussed".

Robert Quick – And the conditions found stipulated in the staff report?

Eric Evans – Right, you're going to adopt the staff report.

Robert Quick – Right, I got that. I want to make sure we're taking that on.

Eric Evans – So, you want to adopt the staff report and the findings.

Kathy Clarich – And you're putting their plan of operations in the staff report, or?

Robert Quick – On the motion.

Kathy Clarich – On the motion? Ok.

Roberts Quick – On the motion, for the conditional use permit.

Kathy Clarich – Put it in there. I have another question. And I don't know, we may not be able to do it or we may be able to do it. Taking the sampling water – I know we had complaints that they were doing it themselves. Can you have it so that it's sampled by an independent party?

Eric Evans – Wasn't an independent party? Did I not hear that tonight?

Tatiana Burgess – They were collecting the samples.

Eric Evans – You guys were collecting the samples?

Eddie Rodriguez – We collect the samples, send it to Analytical Labs – third party. They have a courier service that picks up once a day.

Eric Evans – Ok.

Kathy Clarich – But they don't come and actually get the sample? You take the sample.

Eddie Rodriguez – No, no, the QC... The QCs take samples, send it out to Analytical Labs on a daily basis.

Eric Evans – You're sampling monthly, right? Is what your operation plan says? So, are you asking that you want them to sample from the ponds monthly and ask them to have a third party do that sampling? Is that what you're saying, or whether it's possible or not?

Stephanie Williams – And look at what, and look at what?

Robert Quick – Exactly.

Kathy Clarich – No, I meant the sampling over there, that they're sending it in.

Stephanie Williams – And look at what?

Robert Quick – They're sending it to an outside testing place, right?

Eric Evans – Yeah, you sample that more often, correct?

Eddie Rodriguez – Yes, so those line items on that sheet, of the byproduct.

Eric Evans – Right.

Eddie Rodriguez – Those are the criteria that DEQ wanted us to sample. Nothing, you know, nothing other than those line items. So, that was what was sampled for them.

Robert Quick – So, you're already following DEQ's guidelines on that?

Eddie Rodriguez – Correct, correct.

Robert Quick – Got it.

Kathy Clarich – Are you still doing it? Because they said you didn't have to anymore.

Eddie Rodriguez – We have to, we have to. We do internal testing. So, we are still doing it internally, but...

Eric Evans – That was part of their conditions for compliance.

Kathy Clarich – Yeah, but then that letter that he read in, said that they no longer had to do that.

Eric Evans – Right.

Kathy Clarich – So, I just wondered if they were still doing it or not.

Eric Evans – I mean, my only thing is that, I mean, in any environmental testing, sampling that I'm familiar with, I mean, they test it and they send it off to a lab. I'm not even sure if there's a facility out there, that will come and test for them. I'm not sure, so.

Stephanie Williams – What would they be testing for?

Eric Evans – Right.

Kathy Clarich – So, what would we have to... I mean, they're going to do water sampling. Are they going to test for the same thing as they were? I mean, does DEQ tell them what to test for?

Eric Evans – Yeah, I don't know. Did you guys have?

Robert Quick – Yes.

Eddie Rodriguez – I'm sorry, what was that?

Eric Evans – Were you just thinking of water testing being, what you're already testing for?

Eddie Rodriguez – So, we test... (inaudible) byproduct water. Then we do internal testing on our dicing onion pieces. So, we test for salmonella, listeria, E. coli, plate counts.

Eric Evans – Right.

Eddie Rodriguez – Total coliform, staph, and that's what Analytical tests for. So, we cannot send a load out, until we have these testings in place. So, product will be on hold until.

Kathy Clarich – So, that testing's going to go on?

Eddie Rodriguez – Oh yeah, it has to. Definitely.

Kathy Clarich – But the testing of the water that you were?

Eddie Rodriguez – Yes.

Kathy Clarich – Does that still go on too?

Eddie Rodriguez – Oh, yeah.

Kathy Clarich – I was going to say, is that a DEQ requirement or is that just something you're doing?

Eddie Rodriguez – No, we were doing it. I mean in this case, because this happened in 2020, we just want to be protective, for our products recall purposes, you name it, there's a lot of things that are involved here.

Kathy Clarich – Ok, that's what I wanted to know, if you still were doing it.

Eddie Rodriguez – For insurance and product recall.

Kathy Clarich – Because it said water sampling at the plant. So, I just wanted to know that was...

Eddie Rodriguez – So, we also test quarterly our well water for public drinking water well. So, anytime you have above 40 employees...

Kathy Clarich – Yes, I understand that.

Eddie Rodriguez – Your water has to be tested, so we test quarterly for that as well.

Kathy Clarich – Ok, so that's already covered.

Robert Quick – Well, I make motion, that we accept the staff report and findings of fact.

Kathy Clarich – With the corrections.

Stephanie Williams – Are we going to have... Mr. Winegar, are you going to draft...? So if we wait for your findings, they'll do a tentative decision based on your findings coming and having them be adopted for approval next month.

Robert Quick – Got it.

Todd Winegar – Ok.

Stephanie Williams – Well, not next month it'll be June.

Kathy Clarich – June, yeah.

Stephanie Williams – So.

Linda Simmons – That's tough.

Eric Evans – I mean, I guess they could... Could they grant Kathy the ability to sign the findings that Todd drafts?

Stephanie Williams – Yeah.

Eric Evans – So, the Board can grant her the ability to...

Stephanie Williams – Right.

Eric Evans – To sign off once we get those.

Robert Quick made a motion to accept the staff report and findings of fact with the addendums that Mr. Winegar will present back and with the Chair or the Vice Chair been given the authority to sign off on those findings. Clark Forsyth seconded the motion which was passed 4:1 (yays - Chad Gerulf, Linda Simmons, Robert Quick, Clark Forsyth; nays - Teresa Ballard), presided by the nonvoting Chair Kathy Clarich.

Robert Quick made a motion to accept the Conditional Use Permit, the adoptions of the applicants' plan of operation, and with stipulations the applicants will be following DEQ guidelines. Clark Forsyth seconded the motion, which was passed 4:1 (yays - Chad Gerulf, Linda Simmons, Robert Quick, Clark Forsyth; nays - Teresa Ballard), presided by the nonvoting Chair Kathy Clarich.

Kathy Clarich – So, when we get everything back and get it signed, then they can start again. Or do they have to do DEQ?

Eric Evans – So, where we're at right now is, DEQ is waiting for a Land Use Compatibility Statement to be submitted with their application to DEQ. So, I mean they're not going to be able to start their construction until DEQ issues their permit.

Kathy Clarich – Ok.

Clark Forsyth – But they can move forward, they can start the process.

Eric Evans – Right, going to the next step. Am I right?

Todd Winegar – Yeah.

Kathy Clarich – So, it could be a while yet, before they get to do anything.

Larry Hinton – A couple months, 90 days left.

Kathy Clarich – Ok. So, I think, Ashlee is still on there. Ok, can we go ahead and do it?

Ed Anthony made a motion to hear Ashlee Garcia's application. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.

Kathy Clarich – Ok, so I am going to read this into the minutes first, then we will go from there. Now is the time to hear the request for a conditional use permit for one non-farm dwelling in Exclusive Farm Use zone for applicant Ashlee Garcia, Planning Department file #2023-03-015. When called to speak please state your name and address and title for the record.

1. There is a general time limit for testimony of 5 minutes. The applicant's initial presentation will be 20 minutes; with a rebuttal of 10 minutes.
2. All testimony and questions shall be directed to or through the chair. Testimony and questions should not be directed to staff or directly to witnesses.
3. Do any members of the County Planning Commission need to abstain?
If so, state the reason.
4. Do any members of the County Planning Commission have any conflicts to disclose?
If so, state the conflict.
5. Do any members of the County Planning Commission have any bias to disclose?
If so, state bias.
6. Do any members of the County Planning Commission have any ex parte communications, including any site visits, to disclose? ***Kathy Clarich and Robert Quick had visited the site before.***
7. Does anyone object to any of the members of the Malheur County Planning Commission hearing this application?
8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?
9. Land use statements for the record: Oregon land use law requires several items be read into the record at the beginning of this hearing. I will now read these items.

The applicable substantive criteria upon which the application will be decided are found in Oregon State laws and rules as well as local code provisions, which are specifically set out in the Staff Report and include:

The Malheur County Code:

MCC 6-6-7 General Criteria to Evaluate Suitability

MCC 6-3A-3-J Conditional Uses in EFU, ERU or EFFU Zones

Testimony, arguments, and evidence presented must be directed toward these approval criteria or other criteria in state law, the Malheur County Comprehensive Plan or the Malheur County Code that the speaker believes to apply to the decision.

The failure of anyone to raise an issue accompanied by statements or evidence sufficient to afford the decision makers and the parties the opportunity to respond to the issue will preclude appeal on that issue.

An issue that may be the basis of an appeal must be raised no later than the close of the record. Such issues must be raised and accompanied by statements or evidence sufficient to afford the decision makers and the parties an adequate opportunity to respond to each issue.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the decision makers to respond to the issue precludes an appeal or an action for damages to circuit court.

10. Order of Proceeding:

The applicant will be allocated up to 20 minutes for initial applicant presentation. The applicant may also present up to 10 minutes for final rebuttal. All others wishing to testify will be given 5 minutes each.

Kathy Clarich – Tatiana, you’re doing the staff report?

Preliminary Staff Report: Read by Planning Manager, Tatiana Burgess

Tatiana Burgess – This is the Planning Department file #2023-03-015 for a conditional use permit for one non-farm dwelling. The applicant was Ashlee Garcia at 801 Foothill Drive in Ontario and the owner of the record is Stacey Captein - 801 Foothill Drive in Ontario. The property is identified as tax lot 801 on Assessor’s map 18S47E. There are... but it is identified as two separate Malheur County Reference numbers – 20441 and 20442, due to the fact that the property crosses taxing districts boundaries. It is located off of Butler Blvd. It is zoned Exclusive Farm Use. It is 13.11 acres and it is currently vacant, with no water rights. Everything around, all the properties around it are currently being farmed or engaged in ranch use. There is a private easement that had been previously recorded when this parcel was created through Partition Plat #11-05 and it has been entered into the record as exhibit #4. A DEQ sanitation system would be required for the home and where the current site of the home is, as submitted, it is outside of the boundaries of the Ontario Rural Fire Protection District. Most of the property is within the 100-year special flood hazard area and the proposed site of the home, as currently submitted, is outside of that. The soils on the property are Class II and IV. And about the zoning history: as I mentioned, this property had been created as a result of a conditional use permit, that was at the time, for two non-farm dwellings and two non-farm partitions. That was conditional use permit #2009-06-001 approved in 2009 and it was valid through 2013. Although the partitions were created, the partition plat was filed and recorded as instrument #2011-0848, the non-farm dwellings weren’t constructed and the permit as has since expired. And Ashlee is proposing to build a home there now, and that is it.

Kathy Clarich – Ashlee?

Ashlee Garcia – Yes.

Kathy Clarich – Ok, tell us where you plan to put it and what your plans are.

Applicant’s Testimony:

Ashlee Garcia – Well, we’re, obviously, it’s not a very big site, but the area where it is in the non-flooding zone, we plan on building a house. And we’re just going to see how big we can build it in

that area, like, out of the flood zone. It's a... my dad was going to build there many years ago and then he, he just didn't. He ended up, he passed away. And it's just a nice piece of land right there. I mean, I know that most of it is in the flood zone, but the area where you would build isn't in the flood zone.? (Inaudible) ...like farm fields and stuff. But, I mean it's just, I just like it there.

Kathy Clarich – Ok. You do know that there was water up in there, the other day, when we had the water, excess water from Malheur River?

Ashlee Garcia – Yep, I actually went... I went and checked it out and none of the land actually flooded that was in the flood area. And then, where we're going to build, it did not, it didn't flood either. So, the whole piece of property – none of it actually was under water.

Kathy Clarich – Ok. Did you go the day that it flooded or afterwards, just curious?

Ashlee Garcia – The day, like you couldn't get across either of the bridges those days.

Kathy Clarich – Ok.

Ashlee Garcia – Like, all the bridges around, like over... I mean, we live on Foothill Drive. We live by the Malheur Butte. So, he and I went down there, to get like... went to get access through... all the way... to see if I could get down there right now, and there was no water at all on either of the roads, on none of the land, and not anywhere near, obviously, the building, cause I was worried, you know, that where would we build?

Kathy Clarich – Ok.

Ashlee Garcia – We do plan on building it up a little, too, like building up a dirt pad.

Kathy Clarich – That's what I was going to ask you, if you were going to raise it up some. So, I can't read on the map, how wide is the easement in?

Tatiana Burgess – As recorded...

Kathy Clarich – Yes, the easement as it's recorded.

Tatiana Burgess – It is 25 feet.

Ed Anthony – So it meets the requirement.

Kathy Clarich – No.

Ed Anthony – No?

Kathy Clarich – It's more than 500 feet, so it has to be wider than that.

Ed Anthony – Has to have turn-outs.

Kathy Clarich – And yeah, it has to have turn-outs, which means it would put it out in the field. Because it's got to meet the International Fire Code.

Ed Anthony – Right.

Kathy Clarich – Yeah. So, we would require them to get coverage from the Fire Department.

Tatiana Burgess – So, we looked into that today and we couldn't find anything that can mandate that we require coverage, because we approve houses in Jordan Valley outside of an area, outside of fire coverage all the time, because there is none. We even talked to the Building Official and there was nothing that we could mandate them to expand coverage.

Kathy Clarich – So, they're really taking a risk down there then to build.

Eric Evans – Potentially, sure. There's a lot of wildfires. I mean, if you remember wildfire mapping stuff, that was a huge thing against the wildland urban interfaces and stuff. But there's no like, state law, or county code that requires us to say, hey, look, you must be in.

Kathy Clarich – Ok, and she realizes it? (Inaudible)

Tatiana Burgess – They do.

Eric Evans – Yeah, they do. But it's at their risk, right? Because they're going to have to tell their insurance company that...

Kathy Clarich – That they don't have any fire protection.

Eric Evans – And they're going to pay more for their insurance, probably.

Clark Forsyth – Ashlee?

Tatiana Burgess – They have the letter from the Fire Chief that says it doesn't provide coverage to that area.

Clark Forsyth – I would just warn you to check with your lender. Unless, if this is a cash deal, it's kind of a moot point. But if you're financing the house, get your ducks in a row, because you're going to fight a battle to get financing, insurance, etcetera. Where you're building, I think that's a great spot personally, but it doesn't matter what I think personally. The view is great, river is awesome, but your... you will struggle to get insurance. I'll just put that out there. I'm in that business that's the only reason I'm speaking my opinion.

Eric Evans – And the thing is, that if you look at the mapping of where that... and if you guys wanted me to, I could put it up and show you where the Fire District ends. It kind of surrounds that whole quarter right there. So, I think she could go through a pretty fairly easy process to get annexed into the Fire District.

Tatiana Burgess – So, the Fire District coverage currently stops at Lincoln. So, where they are however-many feet away from that. It's not like they are completely remote and 1,000 miles away from it.

Clark Forsyth – Yes.

Eric Evans – They're right on the edge of it.

Tatiana Burgess – They're just outside. Because, I mean, a portion of their property is within the District.

Kathy Clarich – Yeah, but that would be up to them.

Tatiana Burgess – Right.

Kathy Clarich – ...to have to, for fire insurance.

Clark Forsyth – Yeah, yeah, I'm just putting it out there. That will be tricky, just for what it's worth. Not impossible and it's really none of our business, but just putting that out there for you, before you get in there too deep.

Ashlee Garcia – Right. So, what... does it hurt to get it, you know, approved and we're already in this process of getting approved to be built. And then we go through and start asking these questions, to the insurance, and all that before we obviously build.

Clark Forsyth – Right.

Kathy Clarich – Yeah, this is just for your information, before you would build. If we approve it, you're going to want to check into that.

Tatiana Burgess – Those are her private contracts she needs to take care of outside our jurisdiction.

Ashlee Garcia – But that's what we'll do. Go with the first step, and we'll just see obviously how everything goes. The worst thing that happens, well, it expires again and it never gets built on.

Kathy Clarich – Yeah, well, we just wanted to make sure you knew that it was outside of the Fire Protection District. So.

Linda Simmons – We did our job.

Kathy Clarich – Yeah.

Ashlee Garcia – Ok, perfect.

Clark Forsyth – Yeah, you're doing step one. That's just pure information.

Kathy Clarich – Ok. Anybody have any questions for her other than...? Would have liked a little better design map of where they're going to put stuff.

Ed Anthony – That's something we can ask them to do though, before we put it in there, before they get the permit.

Kathy Clarich – Yeah.

Ed Anthony – Show Eric a site plan.

Kathy Clarich – Yeah, is just, she just got a little square in it.

Ed Anthony – Hey, I know, but I mean.

Kathy Clarich – I mean, we don't have where they plan to put septic. (inaudible)
And like where the road is actually going to come into this piece and where it's going to go towards the house and that stuff. So, because International Fire Code, I'm thinking they're going to have to have a turn around at the house too?

Clark Forsyth – And it depends on the length of the driveway.

Kathy Clarich – Well the driveway is over 500 feet.

Clark Forsyth – Yeah.

Kathy Clarich – Ok. So. Is there anybody else on there?

Eric Evans – I don't know who caller 3 is or is she caller 3?

Robert Quick – She is.

Eric Evans – Oh, the only other person on there is, was for the last...

Tatiana Burgess – And they just left.

Kathy Clarich – Ok. I will just ask, just because I have to ask, is there anybody here that is in favor of this action? Anybody that's opposed to it? Ok, I am going to close it to public testimony. I'm just following procedure here.

No proponent testimony.

No opponent testimony.

Closed to public testimony.

Ed Anthony – I think it's a good idea. But I think we need to put in a couple of, we need to make sure Eric sees a site plan.

Eric Evans – Ok.

Ed Anthony – We need to make sure roads meets International Fire Code.

Kathy Clarich – Yes.

Tatiana Burgess – So, I have a question about that, because this was a partition plat, that was already created and predetermined. Fire Chief saw the proposal, and he didn't add anything else.

Ed Anthony – We still have to have it.

Kathy Clarich – We're following International Fire Code.

Ed Anthony – We're started following International Fire Code.

Stephanie Williams – Where the well is going, where the septic's going.

Ed Anthony – But on the road...

Tatiana Burgess – No, they're talking about the road. The fact that it is a different width.

Ed Anthony – Because it is 500 feet long. We're going to have to have a wide enough road on the turnout. Whether the Fire Marshall wants it or not, that's what the International Code says.

Kathy Clarich – The original agreement we had was that, whatever came out of farm ground moved over to that road that they're going down the fence, that, that has to be incorporated into the field.

Eric Evans – So, I would... Here is the thing that I guess my two cents on this. Is I think that when you guys approve this, we say something more like that's approved by the Fire Chief or something like that. Because I think the International Fire Code has some discretion that can be applied and really that's the Fire Chief or the...

Ed Anthony – She's not even in the Fire District.

Eric Evans – I mean, but the thing is that...

Kathy Clarich – The road is.

Ed Anthony – Yeah, I know the road is.

Eric Evans - You know... you know what I mean?

Ed Anthony – Right.

Eric Evans – I think those codes... I don't know them well enough to say, hey, look follow the code, especially who is going to determine that? I'm going to call the Fire Chief and say, are they following? So, I would leave it at the discretion of the Fire Chief.

Kathy Clarich – Ok, but that's your opinion. We've already had the discussion before in this group, and I don't know if it was before you took over or what, that we were going from then on, have everybody follow the same set. the International Fire Code.

Eric Evans – Ok. So, I will have them submit it, and then you can determine if it's following code.

Kathy Clarich – Ok, whatever the Fire Department...

Eric Evans – That's my point - it is whatever the Fire Department says.

Kathy Clarich – That's what I'm saying. Whatever, the International Code...

Eric Evans – I'm just saying I don't know the code. So, if you guys want me to apply the code, then I am going to have to figure that out. I'm just saying, leave it on the experts. Let the experts determine what exactly is that they need and they require. That's my two cents.

Kathy Clarich – I know. And my two cents were that we're making everybody... We already had it... set it up that everybody has to meet that International Fire Code. So now, if you say, well we're just going to decide we're back to where we were before, where, just put a road in, we don't care.

Ed Anthony – Right. But we're still making the Fire Chief decide. It's not like we're letting a landlord decide.

Kathy Clarich – Oh, no, it was the Fire Chiefs before that were deciding what the roads would support. Then they were complaining about some of the ones that they couldn't get into because...

Clark Forsyth – Ok, well to play devil's advocate.

Kathy Clarich – You're very good at that, too.

Clark Forsyth – If the Fire Chief approves it, who's going to enforce the department, you're talking about? Like who's... like who are they?

Kathy Clarich – It's the permit for the building and everything.

Clark Forsyth – So, I guess my question is wouldn't that automatically happen? When they file for a building permit? That's not in there?

Kathy Clarich – Well, we just put in as the International Fire Code and then whoever gets the building permit is supposed to make sure that all gets done.

Robert Quick – I’m a little confused, because we’ve made decisions, a number of decisions on these, where in the record we just listed that they met the IFC. Am I wrong on that? I mean that’s standard protocol.

Kathy Clarich – That’s standard protocol that they meet the International Fire Code.

Clark Forsyth – And you’re ok, if the Fire Chief says that they meet it?

Kathy Clarich – Well, he’s got the regulations. He’s supposed to make sure that it meets it.

Clark Forsyth – Ok. Yeah, I’m good with that. That’s what you’re saying right?

Eric Evans – Right.

Clark Forsyth – Let the Fire Chiefs make the decision.

Eric Evans – Yep.

Ed Anthony – Ok.

Stephanie Williams – I think we run in some problems when we weren’t getting letters from Fire Districts.

Kathy Clarich – Yeah. And the one we got this time, all that it says is just that there’s no coverage on part of the lot. That’s all it says, it’s like a one-liner.

Ed Anthony – Ok. So, those’re the only things that I have to put in: the site plan and to meet the Fire Code.

Kathy Clarich – And the Road District said a 15-inch culvert.

Ed Anthony – It’s already in there.

Kathy Clarich – It’s a proposed condition.

Ed Anthony – Yep.

Kathy Clarich – So, anybody else got anything? Ok, I need a motion.

Ed Anthony made a motion to accept staff report and finding of facts with the added conditions about the site plan and International Fire Code. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.

Ed Anthony make a motion to accept the Conditional Use Permit for one non-farm dwelling. Clark Forsyth seconded the motion which was unanimously approved by the Commissioners present.

Kathy Clarich – The next thing is the minutes. I already turned in some corrections.

Ed Anthony made a motion to accept the minutes for the April 2023 meeting, with the corrections. Robert Quick seconded the motion which was unanimously approved by the Commissioners present.

Robert Quick made a motion to adjourn meeting. Clark Forsyth seconded motion which was unanimously approved by the Commissioners present.

Respectfully submitted, Julie Bromley.

Minutes approved by:



Name: Kathy Clarich, Planning Commission Chair



Date: