

City of Hood River  
Planning Commission  
Public Hearing  
August 20, 2018

Hood River City Hall  
City Council Chambers  
211 Second St  
5:30 p.m.

## MINUTES

I. CALL TO ORDER: Chair Arthur Babitz called the meeting to order at 5:31

PRESENT: Commissioners Arthur Babitz (Chair), Tim Counihan, Bill Irving, Sue Powers, Tina Lassen, Megan Ramey

ABSENT: Mark Frost

STAFF: Planning Director Dustin Nilsen, Associate Planner Jennifer Kaden, Senior Planner Kevin Liburdy, Assistant Planner Annika Cardwell

II. PLANNING DIRECTOR'S UPDATE:

Planning Director Dustin Nilsen provided information about the upcoming Planning Commission meetings. The next meeting will be on 9/4 due to a holiday. A date for the joint work session with City Council will be determined soon. Nilsen introduced new Assistant Planner Annika Cardwell.

III. PUBLIC HEARING:

A) FILE NO. 2018-13: Jovanovic PUD Modification and Variance

PROPOSAL: Modification of an existing Planned Development, Kids Plaza PUD, to: 1) to change the approved use from dance studio (commercial) to multi-family residential for 36 residential apartments; 2) increase the building footprint from 8,000 square feet to approximately 8,472 square feet; 3) increase the building height from one story to three (3) stories with a maximum height of 35 feet; 4) add a driveway from Clearwater Lane; 5) add 25 parking spaces; 6) reduce the common open space by approximately 7,359 square feet; and 7) use Tax Lot 2007 (common open space) as a shared outdoor recreational area for apartment residents. In addition, the applicant requests a Variance to reduce the number of required on-site parking spaces from 54 to 41 spaces.

APPLICANT: Vladan Jovanovic

OWNER: 230 Clearwater LLC own Tax Lot 2006; Tax Lot 2007 is owned by NSA Property Holdings, LLC, Lowell & Sons, LLC, Howard Family Limited Partnership I, Jean McGuire Coleman, and Warren Limited Partnership II.

LOCATION: 230 Clearwater Lane. Legal Description: 3N 10E 26CD Tax Lots 2006 and 2007

ZONING: The property is zoned General Commercial (C-2)

STAFF REPORT:

Chair Babitz explained that this is a continuation of the hearing for the Jovanovic PUD. Associate Planner Jennifer Kaden recommended the Commission open the public hearing and continue the hearing to a future date to allow the Planning Department more time to review the revised project plans. Kaden summarized the proposed revisions. Staff had not received comments from the City Engineer and Fire Chief for the revisions.

Babitz opened the hearing for File No. 2018-13. Kaden provided options for future meeting dates of 9/4/18 or 9/17/18. Senior Planner Kevin Liburdy said a legislative matter is scheduled for 9/4/18.

Nilsen stated that the legislative matters scheduled for 9/17 will most likely be postponed because of a Council work session.

Commissioner Tina Lassen stated that she'd like to keep broader public issues together in one meeting.

**MOTION:**

Commissioner Irving moved to continue File No. 2018-13 to 9/4/18. The motion was seconded by Commissioner Coughlin. Kaden said the hearing will have to be continued if she has not received comments from the City Engineer and Fire Chief.

Motion passed on a 5-1 vote with Lassen voting No.

B) FILE NO. 2018-07: Westside Area Concept Plan Report, Zoning PROPOSAL: Amendments to the Hood River Comprehensive Plan and the Hood River Municipal Code (HRMC) based on the Westside Area Concept Plan Report, Housing Needs Analysis and Housing Strategy. Amendments may apply outside the Westside Area Concept Plan study area, and may include updates to various sections of the Comprehensive Plan including the Transportation System Plan, Zoning Maps, Zoning Ordinance, and Subdivision Ordinance.

Topics to be discussed on August 20, 2018 will focus on the Land Use Framework including discussion of Scenarios A, B and C as described in the updated process road map (August 10, 2018).

APPLICANT: City of Hood River

OWNER:

LOCATION: ZONING:

Babitz opened the hearing for File No. 2018-07 and read the procedural script. There were no questions from public about procedure. Babitz asks the commissioners to disclose any ex-parte contact, bias, or conflict of interest. Irving stated that in the future, he will probably represent buyers and sellers in areas included in the West Side Plan, but it will not be an issue.

**STAFF REPORT:**

Senior Planner Kevin Liburdy led a PowerPoint presentation on the Land Use Framework for the Westside Area Concept Plan. Liburdy state the presentation is available online and the focus tonight is 'land use'.

Babitz asked the definition of 'partially vacant' and Liburdy explained there is something of value on property (a house etc.).

Irving asked for a description of the three regions for the Portland State University population forecast methodology. Liburdy responded that the forecasts are for cities and counties, not regions. The regions are generally the Coast, Northeast/Central and Southeast/Central – and used only for timing of conducting forecasts.

Liburdy clarified that biggest changes between Scenario A-C is less R3 zoning.

An audience member asked whether the different zones (multi-family etc.) are required by somebody. Liburdy explained that the Housing Needs Analysis (HNA) developed by experts was used to determine proposed ratios of types of housing. Irving stated this is also due to affordability.

Lori Middleton (4320 Royal Ann Drive, Hood River) asked what are we trying to accomplish here? Why do we need apartments and condos etc.? What is the goal, and who decides that? Nilsen responded that the City is required by law to provide a certain amount of housing. This is what the HNA examined. We cannot exclude anyone and only provide housing for a certain income bracket within the urban growth boundary. Nilsen explained the Comprehensive Plan and how it pertains to housing needs as well. The West Side Concept Plan adopts goals of the HNA as well as Comprehensive Plan.

Susan Sarney (insert address) asked whether the plan changed after the population forecast changed and what the City's definition of affordable is. Liburdy stated that the definition of affordable is that no more than approximately one-third of your monthly income is spent on housing.

Kristi Chapman (4290 Alpenglow Drive, Hood River) asked why we need to grow if HNA shows we have room for growth.

Joe Giordano (1807 Prospect Avenue, Hood River) requested clarification of the vision for Hood River. Babitz explained that the Comprehensive Plan provides a vision for Hood River, and that it is regularly updated with things like the HNA. Giordano asked what is the minimum the town would have to do to meet state requirements? Have we met it? Nilsen states technically we have a deficiency in affordable housing and multi-family housing. We need to start changing zones to R2 and R3 which is consistent with adopted goal 10 of the Comprehensive Plan. The State must 'acknowledge' changes to zoning are still consistent.

Tracey Thomasphol (3816 Rocky Ridge Ct., Hood River) asked what the State's remedy is if all these deliberations end up as 'non-compliant.' Liburdy responded that the State tells us where we're not meeting state law. Example: regulations on townhouses. We look for direction from the State and then act to make changes to comply.

Middleton asked if we are punished if we don't meet the requirements. Liburdy responded that the City is given recommendations to fix the problem.

Irving asked how often our comprehensive goals are checked by the State. Nilsen stated that some goals are required to be updated periodically, and if the State identifies issues it works with cities to remedy the non-compliance, not to punish.

Middleton asked for examples of towns we're using as examples that we like. Babitz responded that that is a good question to ask City Council.

Steve McMahon (3480 Westcliff Drive, Hood River) added that it's an attempt by State to have social engineering. It's a drive by State to change things. Did we use the 1.4% population estimate for housing? Liburdy responded the forecast change didn't change the existing deficit in affordable housing. It didn't affect the traffic significantly.

Commissioner Megan Ramey said she likes vision and city example questions. Would like public to include examples of what they like and what they want in their testimony.

Susan Sarney (insert address) stated that she hates the word 'affordable' because it's different for everyone. Will this plan be updated for modern times since housing costs have gone up since the HNA? Nilsen responded that we are trying to create more affordable housing. We need to do something to address this issue because regardless of the population forecast percentage, we are growing, and we need a good plan to develop.

Babitz stated a goal is 'if you work in Hood River you should be able to live in Hood River.'

Irving explained that the population forecast said we had stratified HNA into levels through income. The forecast translates into why we need affordable houses like apartments etc.

Babitz stated that the City is trying to address affordable housing. We don't want to turn people away to places like The Dalles or Mosier. Irving highlighted the need to 'plan vs not plan,' because if we do nothing, more and more expensive houses will get built.

Jim Klaas (1824 Wasco Street, Hood River) asked: Are housing prices too high or are wages too low? Babitz recommended he read the Economic Opportunity Analysis.

Irving asked about the process for implementing the concept plan. Liburdy responded that we have already started and there were few comments – the public wants to see a comprehensive approach to weave it all together.

Liburdy continued the PowerPoint presentation.

Susan Crowley (411 12<sup>th</sup> Street, Hood River) observed that there are specific spots for R3 and for parks, but how do we know that land will turn into parks or apartments? Liburdy stated that is why parks are part of the plan and R3 is split into specific areas because we found people didn't want large chunks of R3. The City looked at where they would fit best based on factors such as whether it is vacant and whether it is near a major transportation corridor.

Crowley asked if there be changes to code for current zoning. Nilsen stated yes, it's anticipated and part of the package. Liburdy explained the process roadmap starts with the zoning map and move towards policy and code.

Liburdy continued the PowerPoint presentation.

#### PUBLIC TESTIMONY:

1) Susan Crowley, 411 12<sup>th</sup> Street, Hood River – (handed out packet) – Crowley questioned buildable lands and if orchards would be built up. The State leans on the City to follow recommendations of consultants. Westside Citizens Project Advisory Committee handout – suggested that it's more a sales effort than a planning effort. HNA changed land issue to affordability issue. Her main concern was 'if you build it, they will come'. She thought affordability was overstated. Hood River is doing better than a lot

of the state. We are a resort town, nothing is getting cheaper here. The HNA has no evidence to show it would actually lower housing costs. We need more data.

2) Peter Talmage, 2752 Montello Avenue, Hood River – Talmage believed change is inevitable but unsure why we're spending so much capital on this project. It is irresponsible to add housing without infrastructure for the existing population. There are towns nearby for affordable housing. What about a better transportation plan to shuttle people in and out of town? Need to fix problems we have today first.

3) Kristi Chapman – Chapman thought the parks plan of proposal is 'iffy'. Oregon has a huge demand not just Hood River. Small lots are attractive for second home buyers, and it will push out the full-time community. Supply-Demand model doesn't work here. The City didn't explore the base case and how we could function in this current scenario. She wanted to put upzoning to a vote for the people. R2.5 is not big enough and would require more parks.

4) Ann Frodel, 1009 Columbia Street, Hood River – Frodel advocated for open space conservation and cluster development. Need an open space ratio for each district. Frodel didn't think the plan had strong enough open space provisions. The City should be adding 50 acres of park. Set aside 10% for open space.

5) Susan Sarney – Sarney stated that there are some real flaws. She thought there are plenty of places being developed, probably 200 homes. Maybe it's not the right distribution of homes, but some are already being built. Sarney asked how suggested park areas are going to be paid for. Are we going to limit the number of homes built each year? Affordability is never going to happen.

6) Terry Moore, 825 Carroll Road, Mosier – Moore was a property owner in Hood River and potential future resident. There are other options, sympathetic to growth pressure. We need to focus on 'what do we want to get to?' How do we implement principles of economic development and affordability? Is building more housing going to make things more affordable? 20-year plan is not long enough. It will make the next 20 years really difficult. We need to find good growth pace for the town economically. How do you get road grid into parceled land? Connectivity is really difficult. Locations for R3 is a challenge. Density should go from high to low (inside to out).

7) Jim Klaas – Klaas thought there was a surplus of housing, and the study shows we have land. Let's focus on the infrastructure we already have, because if it's not failing it's under pressure. Thought the green space/belt, parks and school issues were brushed aside to other entities. Housing is not the City's concern. Fix current problems and worry about housing later. We don't have services that we need currently. The park system is dysfunctional. Provided a handout to commissioners. Forecasting is more difficult the farther out you go. Need green belt infrastructure for connectivity.

8) Lori Middleton – Middleton suggested looking at other places for examples such as Sun Valley and Hailey, ID. She recently visited, and her family loved it. Schools and transportation were amazing. Lots of wealthy and working-class people. Prices are going to keep going up even if we build. She doesn't feel safe riding bikes in town, so why expand when it's not safe now? Work and live in same place is not reality, so it shouldn't be the goal.

9) Joe Giordano – Giordano moved here with his family for livability and community. He asked how synched up is the Planning Commission and City Council? Babitz stated there will be discussion between Planning Commission and Council at a joint meeting. He added that it seems like changes are getting

pushed through very quickly, and that if they're wrong, they would be very hard to change. There needs to be a package with ordinances, zoning etc. not independent of this process. Why don't we live 'Streets Alive' all the time?

10) Zan Moore, – Moore thought we need more detail than color chunks. A property by property analysis is needed. Maybe we do need to change current zones to R3 where it would fit in such as near schools and places with the infrastructure.

Babitz closed the public testimony.

MOTION:

Babitz stated that Staff requested to continue this hearing to 10/15/18. Any objections? No.

Babitz summarized the questions and issues to address in the future:

- Data about housing built generated since HNA? How does it compare to the pace to achieve the goal?
- History of population estimate changes in the past decade or two? Would like to see population trend graph.
- More detailed information about recent PSU population estimate and why it changed from 2% to 1.4%? Basis for differences in Scenarios A, B, and C.

Irving said we should talk to Mid Columbia Housing Authority. How do we deliver small housing and keep it affordable? Babitz would like to ask MCHA, when people leave Hood River, where do they go?

Ramey asked how we can un-incentivize second home buying.

Counihan asked if the Commission will we be looking at a package with all the parts when we make a decision. Liburdy stated that the process roadmap recommends answering the zoning map question before code work (without radical zoning changes). Commissioners discussed importance of map changes before answering more detailed infrastructure questions. May St neighborhood continually comes up as a favorite example.

Babitz stated there is very little the City can do to un-incentivize second home buying in Oregon.

#### IV. UPCOMING MEETING

The Commission and Staff discussed the purpose of the upcoming work session with the City Council. Babitz and Counihan said they were uncomfortable with meeting with Council before public testimony is heard.

Irving wanted Council to tell them if they should be planning for 30 years not 20 years due to strict UGB in Hood River.

#### V. ADJOURN

Babitz adjourned the meeting at 9:10 p.m.

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Arthur Babitz, Chair

Date

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Dustin Nilsen, Planning Director

Date (Approved)

DRAFT

City of Hood River  
Planning Commission  
Public Hearing  
October 29, 2018

Hood River City Hall  
City Council Chambers  
211 Second St  
5:30 p.m.

## MINUTES

I. CALL TO ORDER: Acting Chair Tim Counihan called the meeting to order at 5:30 p.m.

PRESENT: Tim Counihan (Acting Chair), Mark Frost, Sue Powers, Tina Lassen, Megan Ramey

ABSENT: Recused Chair Arthur Babitz, and Commissioner Bill Irving

STAFF: Planning Director Dustin Nilsen, Assistant Planner Annika Cardwell, City Attorney Dan Kearns

II. PLANNING DIRECTOR'S UPDATE:

None.

III. PUBLIC HEARING:

**FILE NO.:** 2018-29

**PROPOSAL:** Appeal of the Planning Directors Decision to approve the request for Site Plan Amendment Approval of a Tennant Improvement for the Ferment Brewery, Tasting Room, and Commercial/Industrial Kitchen. The Site plan for the building was originally approved as file 2015-22, the proposed tenant improvement for the second floor required the amendment to the previously approved site plan. The proposal does not include building expansion, external building or site improvements. Building Permit #1300-3288/Planning File Number 2018-29 (Ferment Tenant Improvement Site Plan Amendment per section 17.09 and 17.16 of the HRMC)

**APPLICANT/OWNER:** Key Development Corporation; 501 Portway Avenue, Suite 309 Hood River OR, 97031

**APPELLANTS:**

- Key Development Corporation; 501 Portway Avenue, Suite 309 Hood River OR, 97031
- Citizens for Responsible Development in Hood River LLC, 1120 Couch Street Portland, Oregon 97209
- Hood River Distillers, Inc. 660 Riverside Drive Hood River, Oregon 97031

Acting Chair Tim Counihan read the procedural script for tonight's appeal hearing. No questions on procedure from Commissioners or public.

Counihan asked Commissioners for disclosure, ex parte etc. Commissioner Susan Powers stated that she was formally employed by one of the appellants and did a site visit to Ferment to see the outdoor plaza. Commissioner Tina Lassen also visited the site for a beer at Ferment and an open house for Columbia Riverkeeper. She saw the outdoor area, but it was before she read any documentation. Commissioner Megan Ramey disclosed that she is good friends with Jen and Dan Peterson and claims ex parte as she

has been to Ferment to eat. Counihan disclosed that he knows both Jen and Dan and has eaten at Ferment as well.

Counihan asked if the public wants to question any Commissioners – no question.

Planning Director Dustin Nilsen read a statement from Chair Arthur Babitz about his recusal. Babitz disclosed a financial interest in the topic and will not be attending the hearing tonight even as a member of the public. Letter entered for record. Nilsen stated that Commissioner Bill Irving has also recused himself for financial interest with prior notification.

#### STAFF REPORT:

Nilsen began a staff report and explained the history of the application. The City voluntarily remanded the process back to site plan review after it noticed changes to the building permit. There were three appeals after the Director's decision went out. We will hear from the applicant and the appellants tonight. Nilsen asked the Commissioners to focus on interpreting the code in respect to tonight's topic.

Counihan asked Commissioners if there were any questions for Nilsen. Powers asked about the procedural requirements to have two hearings as per a letter from Mike Kitts. Nilsen responds that we expect new evidence to be submitted after tonight's hearing and that Commissioners will deliberate and decide at a second hearing.

#### APPLICANT REPORT:

Kristy White introduced herself as council for the applicant and appellant. She began with the code interpretation issue and presented a handout for the record. Ferment was the green column 'waterfront overlay zone' (WOZ) and industrial was the blue column. Nobody gets over 2500 square feet. Are we accessory and essential? Are we allowed 2,500 sf (how do we measure), and is the tasting room devoted to sale and display? *Accessory* and *essential* are defined in the code. The first Planning Director (Cindy Wallbridge) said yes and never questioned upon subsequent reviews. The tasting room is smaller than the brewery, especially in revenue. Breweries can 'brand and test' their product in the industrial zone. A tasting room is a brewery's research and development lab.

Moving on to '*devoted to sale and display*' – neither term is defined by the code, so we go to the Webster definition. The prior Director looked at the TI and looked at site plan 1A behind tab 1 and approved it. General retail is not devoted to sale and display. White admitted that the floor plan did change, and Nilsen or some other planner reviewed and approved it. In any case it was less or equal to 2500 sf.

Regarding complaints that the menu is too big, the OLCC requires at least five dishes of food. 'Devoted to sale and display' does not mean where people walk or where food is made. The light industrial (for fermented goods) kitchen shares industrial use and tap room use. There is shared circulation with the industrial kitchen workers and tap room workers. Each change was revisited and square footage was counted by the City because they thought 1,700 sf was well below 2,500 sf. White thought the City decision was reasonable, but attributes (4) and (5) are where they have an issue. The City cannot count shared space.

White continued and stated we should have reapplied for a site plan review, and we are happy to use the site plan amendment process. In regard to the traffic analysis, it still applies because it has not changed. Even with two new buildings they're not over the trip cap.

Claudia Von Flotow spoke on behalf of Key Development. She introduced herself as the operations person and project manager for the project. They started the project in 2015. A tasting room is accessory and essential but it is not the main part, the brewery is. Throughout the process she spoke to planning staff about how to interpret 'devoted to sale and display'. This process is holding up jobs and the building of an international plan.

Jeff Pickhardt spoke as the President of Key Development. He takes pride in the work Key does and being part of the community. He has navigated city zoning as well as the waterfront overlay zone. They organized the building as a mosaic of the (Waterfront Overlay Zone) WOZ. The plaza is not a purpose built outdoor restaurant. It's open to everyone, and nonexclusive. Other buildings in the WOZ have decks. Next, he addressed the 'observation area' inside. It's for the public. He stated that Key worked well with City until Andrew filed his appeal. He has worked with Cindy Walbridge dozens of times. Cindy agreed with the math and square footage of areas. Devoted is an unusual word for land use code. It's rarely found nationally in code. 50% is not devoted as stated in the Planning Director's decision. It doesn't set a precedent for people to trust the City. We worked hard to fit a building into the difficult zoning layout, and we have filled the building with industrial uses. Code needs to be cleaned up to minimize debates on language. This do-over doesn't feel right. Cindy did not make an unreasonable decision.

Frost wanted clarification on outdoor space. He asked if there was any intention for it to be dedicated for Ferment. White responded that it's nonexclusive, and not on leased premises. It's a shared space for tenants and public. You can't buy a beer or food out there- there is no wait staff. It's in the OLCC because Ferment is responsible for alcohol being outside.

Powers said that at visit a sign said 'no outside alcohol allowed'. White responded that the sign is taken down (it was a joke). There is now a sign that says you can't take alcohol beyond this point.

Counihan asked about the nature of the industrial kitchen. White stated that the business plan is an industrial brewery, but they also plan to produce and sell fermented products. When they opened, they realized they needed some of industrial equipment to be used as the commercial kitchen as well. The square footage was subtracted to accommodate the shared kitchen space. Powers asked about square footage subtracted. White responded that once the retail is up and running smoothly they won't need to use the industrial kitchen for early growing pains. They will check in with City if they want to take that space back.

Counihan asked to clarify where the issue is with the Planning Director's decision. White responded that it's in conditions (4) and (5). The area devoted to sale and display. It's a shift from square footage area to how somebody uses a space (50% or more). The use changes minute by minute. The decision inserts new language to code. It defines devoted by a percentage instead of a definition.

Lassen had a question about the usage and asked if there were situations where industrial workers are on the second floor. White responded that there are industrial workers on the second floor because of the industrial kitchen. The observation area is 'maker space'. They added tables and counted square

footage to still be under 2,500. There is some space where there are no tables, because there could be someone touring the industrial brewery.

Powers clarified that this all started 11 days after the original permit was sent from planning. What did you receive? Claudia answered that it was an SDC dispute, and it started because of commercial tap room space in the industrial second floor.

Ramey asked Nilsen why there was a change between Cindy's and his decision. Nilsen answers that commercial retail shall not exceed 2,500 sf in the WOZ. Despite 'sale and display', you cannot push beyond 2,500 sf. The code language isn't specified to the point of language definitions. There is discretion because there are a lot of things that are discretionary in the code. What goes into counting towards 2,500 sf is one. The five bullet points show us how we count that area.

Counihan asked what would happen without those last two bullet points. Nilsen responds that you would lose how to differentiate between different uses in one space. 50% is not perfect, but it's a place to start counting. This issue was born from imperfect code and he is trying to interpret to show what he sees as fit. City of Hood River council Dan Kearns adds that there is a problem with eliminating the last two. Without the last two, it would not count commercial food prep areas as commercial space. They address hybrid areas, and how devoted is devoted - the two areas that need definition. If you eliminate the last two, you'll need to add one that clarifies the issue.

Ramey clarified that the five bullet points came out after Ferment was open.

White added that the commercial kitchen is included in condition one. If it's shared, then it's not devoted.

#### PUBLIC TESTIMONY:

##### *In favor*

- 1) Dan Peterson (Brewmaster at Ferment) – Peterson began stating that Ferment is about more than beer alone. It's about kombucha, fermented products, spices etc. They have worked closely with government officials in all levels. Decisions made about 'accessory use' could eliminate tasting rooms from breweries in Hood River. Outside sales are a direct result of visiting the tasting room in Hood River. They are a means to interact with customers and test product. Peterson trusts that the Planning Commission will choose something that helps with the business and community of Hood River.
- 2) Jen Peterson (General Manager at Ferment) - Peterson presented a letter for the record with 102 community members signatures in support that tasting rooms are essential to the success of breweries and other businesses. Ferment wants to take advantage of their tasting room to test fermented products other than beer. The tasting room is a testing platform. Kombucha will be a part of their business, and it's their job to educate the community. They also need a tasting room to test krauts.
- 3) Roy Slayton (Co-founder Camp 1805 Distillery) – Slayton stated that he is part of the beverage industry, and he can't use his new still until they expand because he's tied up in 'all this'. He is invested in the community. People are staying longer in Hood River because there's more to do.

-Frost asked what Slayton wants. Slayton responds that he wants to move into the new building.

-White responded that he is waiting because of this code interpretation. Slayton wants to see things move along.

- 4) Jaime Athos (President of Tofurky Company) - Athos was on the Waterfront Overlay Commission, and he wants to talk about what it's like to be a light industrial user. Industrial is usually not done in such a beautiful place. He initially wanted to open a restaurant but couldn't with original zoning plan. He doesn't see accessory tasting rooms as hindering his business. He has meetings etc. at those locations around him. Thinks it's been helpful to his business.
- 5) Matthew Barman (owner of local Pedicab) - Barman saw himself as a connector between downtown and the waterfront. Saw benefits to places like Ferment and sees more movement between the waterfront and downtown. Supports the space for this innovative company.
- 6) Roger Roediger - Roediger didn't understand what big deal was. He worked at Dakine for a long time. It seems like the fundamental fight (not necessarily about code) is between downtown and the waterfront. This conflict is putting a damper on progress to 'protect' downtown. Sometimes you need to push the limits of code to have progress. He thinks if this decision closed down tasting rooms in every brewery, you'd have a lot more people here. Wants to know what would really happen if the last two conditions went away.
- 7) Lynda Webber (front of house for Ferment) - Webber was there to support her team and work family. She was at Full Sail for more than seven years. Breweries need a tasting room to be successful. Consumers want to be informed on what they're buying. Staff all lives here locally.

#### *Neutral*

- 8) Matt Swihart (owner of Double Mountain Brewery) – Swihart first wanted to say that the accessory definition is pertinent and valid. Tasting rooms are vital and a part of branding. He would like to stick to 2,500 sf limitation. His original square footage included the cooler, kitchen, and walkways and it seems like Ferment is creatively adding up square footage. He thinks you can create a successful taproom with a limited amount of space. He would love to see more breweries and wants to see them done within the code.

#### *Opposition*

- 9) Lynda Webber (COO Hood River Distillers) – Webber stated that HRD has been at the waterfront since 1934 with above average compensation packages. They chose the industrial park to locate and grow and have had an adversary position for the past two decades. They supported higher property taxes for the waterfront renewal and supported the Anchor Way project. There is a minimal amount of industrial space, so they wanted to invest time and energy in industrial zoning/life. They participated in the Waterfront Refinement Plan planning process, though would have liked to remain industrial. They also agreed to compromise on the second overlay, for 1500 sf or 10% of building square footage. She thought this issue far exceeded 2,500 sf and agreed with the Planning Director.
- 10) Joe Voboril (council Hood River Distillers) – Voboril handed out a document for the record. He has represented HRD many times in regards to preventing encroachment of commercial uses in the industrial zone. HRD agreed to some compromises even though they never wanted commercial use. Ferment attorney avoided the word 'products' in sale and display. Didn't see accessory in code, but in the dictionary, it must follow or be supplementary to something. Essential – of utmost importance. It makes sense to sell an industrial product on site, but Ferment is not a tasting room, it's a restaurant. He thinks beer sales will be dwarfed by food

sales. Display of goods is irrelevant (as Ferment attorney stated) because it's product. If we proceed to allow walkways etc to not be counted, when will it stop? Selling goods and services is a restaurant. There have been lots of variations of the floor plan. Ferment needs to come in with floor plan that is consistent with what they want to do today. How can you approve, if you don't know what they want to do? He also didn't see an application for a site plan amendment. The traffic impact analysis is based on 1500 sf. If it grows to 2500 sf, then they need to update the traffic study. The open container law makes the outdoor seating tricky.

- Frost wanted to know what HRD's position was when pFriem came in. Voboril responds that they didn't have notice. They didn't know about Ferment either until the citizens group appealed it.

-Ramey brought up that Jamie Athos (Tofurky) said he's benefiting from a more diverse waterfront. Webber responded that it's not that they're not happy with other businesses, it's that it's not industrial. Most of their employees get 30 minutes for lunch, so they don't have time to use the other facilities. Camp 1805 sells their product, so they're not challenging other businesses. They just want them to fit into the zoning that was designed. It's about the code and what it was developed and designed for.

-Lassen asked to clarify the use of Anchor Way. Webber responded that it's just for industrial use and to keep trucks off Portway. Ryan's Juice gets complaints about parked trucks even though that's what it was created for. HRD paid for one third of the project.

-Counihan asked about the distinction between products and goods. What type of product should they be able to sell? Voboril answered that it should be the products produced by light industrial use. A brewery can sell beer. Stay within 2,500 sf. It's different from a full-service restaurant.

11) Steve Pfeiffer (Citizens for Responsible Development attorney) – Pfeiffer stated that this is not about the tenant of these spaces, and it's not about what Cindy Walbridge did or said. The approval is subject to build out, and it's the final time to measure code. This has not happened yet. It's not about policy set within the WOZ and the base of light industrial. We cannot revisit policy or complain about tenants. It's about the intensity and aggressiveness that this building was brought forward. What happens with the next two buildings when a 320 seat restaurant in the light industrial zone constitutes display of products produced? It opens it up for future buildings. Tofurky said they can live with it but add another 15,000 sf of commercial. We will not see build out for light industrial. Industrial won't be able to afford commercial land values. The display and sale of products is not a restaurant. Commercial retail in the base zone, gets 1,500 sf. We cannot disregard the base zone language. He was surprised to see the applicant say they meet 2,500 sf. The tasting room must be essential – absolutely necessary, not just accessory. Essential must be met with evidence, and they haven't met that. It includes walkways, rest rooms, and offices. He has never seen that space left out. In terms of the outdoor space – the definition of a building is a structure, any improvement aka a deck. The outdoor space wouldn't be there without the restaurant. How can you not see that link? He didn't think Ferment is obliged to have a second hearing and asked to leave the record open for additional testimony.

-Powers asked if places like Double Mountain and pFriem are a tasting room or a restaurant. Nilsen added that pFriem is also in the WOZ with a tasting room at 2,463 sf. Areas are

periodically used or shut down to stay within 2,500. They also had to come in under 2500 sf. The downtown businesses have different rules. They can have a restaurant or tasting room from 7,500 to 12,000 sf. Swihart added that they had to go through something similar and add up all the spaces. He supported that tasting rooms are essential and the 2500 sf definition.

-Counihan asked Pfeiffer if given the criteria, pFriem is in violation as well. Pfeiffer responds that if they can show it's essential and accessory they can have 2500, but 1500 for just for accessory.

### *Neutral*

12) Ken Whiteman (pFriem co- owner) - Whiteman believed a tasting room with food is essential. pFriem ships about 93% of their product out the back door. They use the restaurant as a show room for the product. Ferment should have the same benefit. What's important is for the code to be made clear. pFriem has also been through the process and felt like it always has a different outcome. They are constantly moving things around to make it work. It's inconsistent and wishes it wouldn't be. He didn't know if the last two bullet points are the right ones, but he did think that something needs to be there.

### REBUTTAL:

White started by saying that the definitions for accessory and essential are in the code and that there are 110 seats in the restaurant, not 320. In terms of a tasting room versus a restaurant - either way, it sells food and beer. They are currently using the site plan review that was approved. Ferment needed to be sure they're never over 2,500 sf. Just like how pFriem moves locations to meet code. Today we need to define what area to count. The plaza should not be counted as a commercial operation just because a table is there. The allowance of the 1500 versus 2500 sf in code is crystal clear. They hope to grow the food and beverage industry with accessory uses. Accessory use supports industrial use. Accessory supports 2500 sf. Ferment did address the WOZ in terms of display and sale of products. The uses allowed in the underlying zone are allowed in WOZ as well. She had never seen 'devoted' anywhere else in code. The prior Director knew the definition and approved Ferment's floor plan. Kitchen, walkways etc. are counted in their square footage. Ferment wanted to work with the City to find a plan. The City had us propose a mix of uses and set a trip cap. Today we are well within the trip cap even with next two buildings. White agreed that the record should be held open as 7,7 and 7.

-Frost added that the restrooms and entry lobby are not being counted in the square footage. He wanted to know how that space is used by other people. Pickhardt responded that it was originally planned to be open air. The vestibule and bathrooms are common area and open to public. The other buildings will be able to use the space.

### *In favor cont.*

13) Shannon Burns – Burns was an owner of a fitness center, and has known the Peterson's for seven years. He was there to let everyone know that they're amazing people. We should all be proud of Ferment. It seems like they're being singled out.

STAFF RECAP:

Nilsen had no closing comments. Pfeiffer had a request to keep record open and White agreed. The process will continue in the 7,7, and 7 fashion. November 6, 2018 will be the closing date for evidence submittal. November 19, 2018 will be the closing date for applicant response. December 3, 2018 is the next chance for a meeting on the subject.

Lassen added that she might be gone, but the other four commissioners will be present. She asked if it is possible to Skype. Kearns stated yes, so long as everything can be heard.

Lassen asked if the Commissioners will be able to ask questions to staff at the next meeting. Kearns added that there will be a series of written testimony and then have a chance to clarify with staff. If you have specific questions, you can ask them prior to the meeting.

Counihan asked if it would be beneficial to have specific drawings to help understand numbers. Kearns went over already submitted drawings. Commissioners would like a clearer version of the applicant's drawings with numbers.

MOTION:

Kearns went over the process; conclude public testimony and keep record open, written submissions by anyone 5pm on 11/6/18, rebuttal to materials submitted on the first go around on 11/13/18 with no new evidence, applicants final rebuttal on 11/20/18, final decision 12/3/18.

Powers motioned to keep the appeal open until 12/3/18 with the process stated by Kearns. Frost seconded. Motion passed unanimously.

IV. APPROVAL OF MINUTES

None.

V. ADJOURN

Counihan adjourned the hearing at **8:28 p.m.**

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Tim Counihan, Acting chair

Date

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Dustin Nilsen, Planning Director

Date (Approved)