

COLUMBIA COUNTY PLANNING COMMISSION MEETING

July 25, 2016
Meeting Minutes

Planning Commission Members Present: Paula Lichatowich, Linda Hooper, Bill Dejager, Claudia Frace

Staff Present: Glen Higgins, Deborah Jacob and Kay Clay

Others: John & Briana Maison, Roxanne Maison, Carol Acker, Charlotte Thompson, D Thompson, m Acker, Jasper Renholdt, Al Wood, Matthew & Tiffany Thompson, Leland Berger, Terry & Jerry Reinholdt, Wendy & Cory Hart, Robert Schwirse and Alice White

No-exparte were declared for application MO 16-07, although Paula Lichatowich did do a site visit

Deborah Jacob presented the staff report.

BACKGROUND:

SUMMARY:

On November 25, 2015 the Columbia County Board of Commissioners adopted Ordinance No. 2015-4 related to cannabis regulation in Columbia County, Oregon. The State of Oregon regulates cannabis by provisions in the Oregon Revised Statutes in ORS Chapter 475B. County Ordinance No. 2015-4 amends the Columbia County Zoning Ordinance and sets the time, place and manner regulations for the growing, processing, and retailing of marijuana operations in the county's unincorporated areas. The County must review and approve the applicant's Marijuana Growing Operation Permit requested for MO 16-07 in order to authorize the applicant's proposed outdoor marijuana growing operation in the Forest Agriculture (FA-80) Zone as provided for in Sections 504.16 and 1803 of the Zoning Ordinance.

The MO 16-07 application for Administrative Review was deemed complete on May 16, 2016. On May 18 2016 notices were mailed out to adjacent property owners within 750 feet and affected government agencies. Those notified were given 10 calendar days in which to submit comments to the Planning Department or to request a public hearing on the matter before the Planning Commission. Within that time period, on May 26, 2016 a Referral was received from a notified party and the Appeal/Referral to the Planning Commission was filed in the Clerks's Office. The Planning Commission shall be required to review and approve the request proposed for MO 16-07 before the applicant will be able to plant and harvest any marijuana onsite.

The applicant, John Maison representing Pole Enterprises LLC, is requesting approval to establish and operate a future Oregon Liquor Control Commission (OLCC) Recreational Marijuana production on the ~10 acre property that is currently vacant. The applicant intends to grow marijuana outdoors in the central portion this property (shown below) within an 0.92-acre completely fenced area that will be at least 100' away from all property lines.

Aerial View of subject 9.55 acre FA-80 site & proposed location of outdoor operation



The site is currently vacant and Milton Creek is located in its central eastern portion as shown above. According to the NWI Map Trenholm, Oregon, the site contains identified PEMW (Palustrine Emergent Intermittently Flooded) wetlands associated with this portion of Milton Creek. Likewise, the FEMA FIRM Map 3 41009CO325 D indicates the central portion of the site is designated as Milton Creek's 100 Year Floodplain. The Oregon Department of Forestry Stream Classification Map of Trenholm confirms that Milton Creek is a Large Fish Bearing Stream at this location which will require a 50' protected Riparian Corridor to be preserved.

The proposed fenced grow area appears to be located within the 100 Year Floodplain area and will need to be reviewed by the County Floodplain Administrator for consistency with the provisions for Nonresidential construction in Section 1109.2 of the County's Flood Hazard Overlay Zone. The St. Helens - Columbia City Beak Map shows that the site is within a Peripheral Big Game Habitat Area but does not have any hydric soils or threatened or endangered plant or animal species.

The attached Oregon Department of Water Resources brochure dated 10/09/2015 "*Understanding Water-Use Regulations: Medical and Recreational Marijuana*" states that marijuana related water uses are subject to the same water-use regulations as any irrigated crop. The applicant is not proposing to utilize Milton Creek to irrigate the proposed outdoor grow operation. He will either purchase the water off-site or install a rainwater collection system for irrigation purposes.

Confirmation from the District 18 Watermaster that the applicant is authorized to use water purchased off site and/or harvested from an approved rainwater collection system for the irrigation of the proposed marijuana grow operation shall be required as one condition of approval.

Staff finds the proposal requested for MO 16-07 is an authorized use in the FA-80 Zone. In addition LDS staff's June 22, 2016 field visit provided no evidence that the property's topographical characteristics and significant natural areas (Milton Creek's wetlands, floodplain, and riparian corridor) would prohibit the new use of the subject property. Prior to commencing any growing however, the applicant will be required to apply for and obtain all necessary authorization and licensing requirements from the OLCC, District 18's Watermaster, and the County Sanitarian prior to submitting any building permits to the County Building Official. The application presented for MO 16-07 and the related LUCS 16-62 submitted to OLCC demonstrate the applicant is applying to Columbia County for the land use authorization of the State of Oregon's License to Produce Marijuana on the subject FA-80 zoned property, pursuant to the provisions in ORS 475B. Staff finds the uses identified in Sections 504.1 through 504.15 do not apply to the proposal requested for MO 16-07.

The applicant also submitted his **Operations Plan** and explains under the "Employment" section that he will create 60 new positions/employees as follows: 1 Premise Manager, 4 garden managers, 10 junior garden managers, 30 trimmers, and 10 sales representatives. However, the proposed site plan does not include any structures (office facilities, storage structures, bathrooms, break rooms etc...) or proposed parking areas to support these new employees. None of these new structures shall be classified for residential use since residential uses associated with marijuana growing operations are prohibited in the Primary Forest Zone.

Discussion related to the Referral of MO 16-07 to the Planning Commission and concerns expressed by neighbors of adjacent properties. All of these comments are attached to this Staff Report:

Gerald Reinholdt, resident and property owner at 62323 S. Canaan Road: Is opposed to the applicant's proposal for the following reasons, summarized:

1. Potential contamination of Milton Creek's headwater, floodplain and salmon resulting from chemicals that will be used for growing marijuana.
2. Is concerned about who will be responsible for guarding this outdoor grow operation if living quarters (associated with marijuana production facilities) are prohibited.
3. Future impacts to Milton Creek if it will be used for irrigation of marijuana.

4. Is also concerned about various legal and political aspects of the legalization of marijuana; no specific issues were addressed.

Charlotte Thompson, resident at 292123 Pittsburg Road located directly east of the subject property: Ms. Thompson was the person who referred the application to the Planning Commission for a public hearing. This referral attached the letter from Gerald Reinholdt and stated these were concerns of all neighbors.

Erica Winnestorfer, submitted an email dated 5/23/2016 stated she has major concerns about the proposal's impact on their tight-knit rural community and impacts on their children

During the site visit, the Project Planner relayed some of these concerns to the applicant who offered these responses which are also included with the documentation submitted with MO 16-07:

1. The applicant will install and maintain a security system with over 20 night vision cameras and motion detectors as well as security codes to enter the garden and any part of the premise.
2. The operation will utilize organic soil, fertilizers and pesticides; no synthesized products will be used in order to preserve and protect the area's ground and surface waters.
3. Rainwater will be collected with rain barrels to supplement water that will be purchased from an off site purveyor.
4. An automated watering system will be utilized and all plants will be in large pots that are elevated on pallets to minimize/eliminate run-off and potential ground or surface water contamination.
5. State and County regulations (in ORS 475B and Section 1803 of the Zoning Ordinance, respectively) prohibit any dispensaries from being located on the same site. The State's licensing requirements mandate all products are sold only to licensed dispensaries and electronically tracks the location of all marijuana he produces.
6. He purposely chose to locate the outdoor grow area in central portion of the ~10 acre site which has been in pasture and is at least 100 feet away from Milton Creek's protected wetlands and riparian corridor. The site's existing trees located along its entire perimeter will offer additional privacy for all neighbors and will seclude the proposed operation from public view.

Discussion:

Claudia Frace questioned if the set backs were 100' and actually 200' is more correct according to the map in the staff report.

Linda Hooper discussed that other building if any would have to also meet the set backs.

Bill DeJager was curious about the distance from the flood plain and the applicant is staying 50' from the creek.

Overall discussion addressing anything over 200 sq ft needs a permit, each building would be reviewed and flood plain assessment would need to be done.

Open for public comments

In Favor:

Leland Berger, Attorney. This property is approximately 9.5 acres and it is fenced. In the ORS 475B it references the regulation for cannabis. This site will be out of public view. The wildlife will not be affected. There will be a fence around the grow. Mr Maison will be bringing in his water and there will be no contamination to the creek. The marijuana will be grown in pots and will be up off the floor. If this in a flood plain area the pots will not be in that area. They are not intending to build any structures for the grow they will have a 200 x 200 canopy. There will be a manufacture structure and porta potties on the south side and a security office. The OLCC requires 24 hour security. There will not be any signage. This is in a FA zone. The watering will be done by a drip system with imported water. The applicants are concerned about children and there safety, none are allowed on the site. All of the OLCC rules will cover the production to keep everyone safe. In the overall process the State has a tracking system to monitor seed to sale tracking.

Paul Lichatowich questioned what was the advantage of this site. **John Maison** responded that some zones were better for the grow and with this being at sea level at the site it makes for a productive grow, The normal growth time will be from April to November.

John Maison pointed out that there would be one harvest a year and when there is no activity there would be no work. The flowers are marketed, the plants can be used for oils and the trimmers trim the buds.

Linda Hooper wanted to know about the odors and where the harvesting would be.

John Maison stated that it could be aromatic for two months probably September and October and the fragrance usually does not affect those with allergies. The product will be inside (trailer) to dry which usually takes a week, then it is packaged and sealed. The harvest usually takes 1-2 weeks.

Leland Berger pointed out that they will be using carbon filters and not trying to annoy anyone, there should not be any pollution and the grow site is in the middle of the property.

Paula Lichatowich questioned the number of trailer and how many are outside of the fenced area.

John Maison, any trailer set up would be outside the fence and they would be set up by County standards. It could end up being a pole barn.

Paula Lichatowich pointed out that there are different type of permits for different projects and that we need to have more than maybes meaning more specifics about the project . It appears we, the commission are getting very vague answers and would like more details.

Leland Berger stated that the applicant would adhere to all the rules by the county and OLCC.

Deborah Jacob pointed out the any of the structures would have to comply with commercial standards. No residential structures are allowed at this site.

Claudia Frace questioned if the applicant would have to have security from November to April. Leland Berger responded that they would follow the OLCC rules., OLCC still monitors the site all year.

Opposition:

Jerry Reinholdt, lives on Canaan Rd and has issues regarding this site. It might be the right time but it is the wrong place. It is too close to the head waters of Milton Creek and there are concerns about the salmon. Jerry has concerns regarding the elevation and septic. There is little rain storage there and there is a lot of rain even though it is ok in the floodplain. It just won't work at this elevation. He wants to be sure that this is not near the creek and that the fence will not be on the creek. In the lower field there are many beaver dams and that creates lots of flooding. There are serious flood issues in that area.

Carrie Reinholdt, There is little trust regarding this application. Carrie feels we should go back to the application process because there are many changes since the application and statements said are different than what was submitted, There are flood plain issues, between November and March there is flooding in the upper left portion and the beaver dams are an issue.

Dustin Thompson, lives east of the property and is concerned about the access to the site, there is not an easement. There is serious flooding, can't pasture horses in a flood area so how can this be done.

Charlotte Thompson, Has concerns regarding the children in the area and the exposure to them, what will happen to the property values, does not feel that the trees around the

grow will stop the odors. Living out this far there are concerns about fire and police response, the response times are noted to be slow as it is. What is the possibility of more crime in the area. What chemicals are being used and what will the lighting situation be?

Carol Acker, this is a very tight community and this is not a good area for a grow. Will there be a parking lot for the employees?, what traffic concerns will this create.

Cory Hart, lives in this area for a reason, the wildlife, Milton creek. What about the effects on the farms and animals? Does not want it in the area. People are taught not to do drugs now its acceptable.

Al Wood, pointed out that the existing access is not an access and will not be one. If they are going to use an acre in the middle they will have to raise the ground due to major flooding.

Matt Thompson, young man, this is a drug free zone and marijuana should not be allowed to grow here.

Alice White, concerns about pot and the chemicals, is it safe and how is it protected?

Charles Randall, What structures are going to be there, where is the electricity coming from? Wildlife including dogs run on the hill side and he is concerned about animals including the dogs getting shot.

Rebuttal:

Leland Berger. Mr Berger has been an attorney in the area and does understand the rain issues. They are not taking water from the creek and no chemicals will get in the creek. There is a due process that they are going through. Any fertilizers used are on a list at the health authority. This site is in the center of the property and is out of site from children as well as anyone else. There will be no bright lights at night because they can not be used then. The harvest period last about two weeks and there will be about 50 people there at harvest time. Mr Berger would like to reassure everyone that the flood plain is not an issue, the coding in the county would not allow this if it could not be done, the zoning is legal for this operation. The drug itself is in the process or will be soon as to what the classification it will be considered as. It is a privilege to be growing and hopes to do it with the lease impact on the neighbors. They do understand the concerns of the neighbors and will obey the rules in order to do this. The owner does have experience with growing this crop but not in this area.

Paula Lichatowich, what would happen if the county did not allow this, could you build on it? Feels that those that live in the area have a better understanding, better knowledge about the flooding. More information is needed.

Leland Berger, worse case - the marijuana can be grown in pots on a pallet and marijuana has been known to grow in colder areas.

Claudia Frace, are there guidelines to go by? Is the information submitted the same as the application?

John Maison, has current knowledge from Michigan and will follow the direction from the county. Some of the information has been revised.

Linda Hooper, reminded everyone that they will be voting on the staff report.

Bill DeJager, just wanted to state the he didn't think this crop would make it in this elevation, thought it would be safer in a controlled area.

Leland Berger, wanted to reiterate that this crop is monitored from seed to sell, all plants are tagged and it is governed by a regulatory system.

Public hearing closed.

Claudia Frace made a motion to approve MO 16-07, **Bill DeJager** seconded. 3-1 motion carried. Paula Lichatowich was opposed.

Other Business:

Meeting adjourned 8:10pm