

COLUMBIA COUNTY PLANNING COMMISSION MEETING

June 20, 2016
Meeting Minutes

Members Present: Jeff VanNatta, Bill DeJager, Rod Lloyd, Claudia Frace and Alta Lynch

Staff Present: Glen Higgins, Deborah Jacob and Kay Clay

Others: Roger Martin, Troy Martin, Jill Griffin, Kelly Griffin, David Potter, Anna Potter, John McSwain, Dorothy Sahlfeld, Doug Potter, ??, Kathleen Moore, Brian Andrews and Chelsea & Ryan Neil

Jeff VanNatta called the meeting to order at 6:30pm.

Deborah Jacob read the pre hearing statement.

Deborah Jacob announced that we received additional information for the record, document will be attached.

No-exparte were declared for MO 16-06

BACKGROUND:

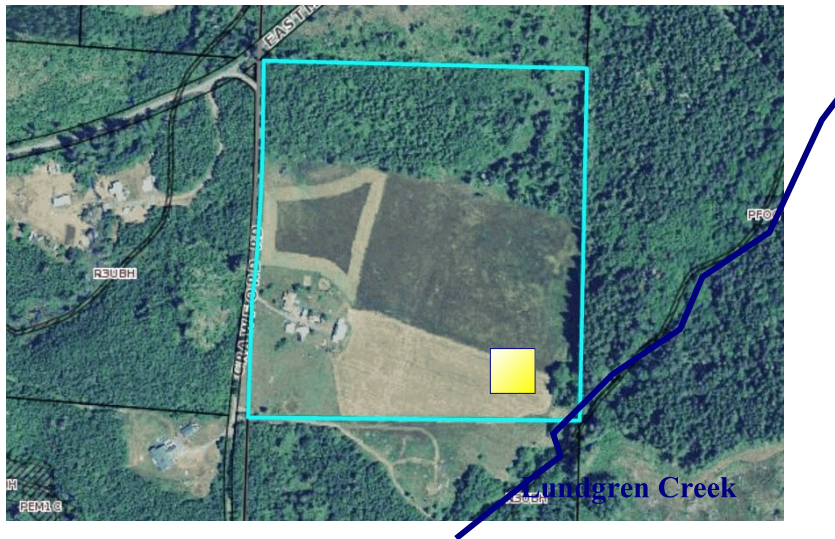
On November 25, 2015 the Columbia County Board of Commissioners adopted Ordinance No. 2015-4 related to cannabis regulation in Columbia County, Oregon. The State of Oregon regulates cannabis by provisions in the Oregon Revised Statutes in ORS Chapter 475B. County Ordinance No. 2015-4 amends the Columbia 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 16-06 in order to authorize the applicant's proposed outdoor marijuana growing operation in the Primary Forest (PF-80) Zone as provided for in Sections 504.16 and 1803 of the Zoning Ordinance.

The MO 16-06 application for Administrative Review was deemed complete on April 7, 2016. On April 14 2016 notices were mailed out to adjacent property owners within 750 feet, affected government agencies, and the Community Public Action Committee (CPAC for Mist-Birkenfeld). 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 April 21, 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 16-06 before the applicant will be able to plant and harvest any marijuana onsite.

The applicant, David H. Potter, is requesting approval to establish and operate a future Oregon Liquor Control Commission (OLCC) Recreational Marijuana production on the ~40 acre property where he lives. The applicant intends to grow marijuana outdoors within a 8-foot high fenced area in the far eastern corner of his property (shown below). The entire 240' by 210' (1.15 acre) fenced area will include surveillance video cameras installed every 40' along its perimeter that will provide 24-hour monitoring of the proposed 40,000 sq foot outdoor marijuana canopy, hoop houses, and security trailer. There will be two fences surrounding these structures, one chain link and a separate screen- obscuring one for privacy.

Aerial View of subject 39.70 acre PF-80 site & proposed location of outdoor operation



The applicant has applied for a Recreational Marijuana Growing License from the State of Oregon OLCC which must be issued by the State before the county can authorize the applicant's establishment of a Recreational Marijuana Growing Operation on the subject property. The OLCC producer application number was provided to LDS with MO 16-06.

On May 25, 2016 the County received written confirmation from Amanda Borup, Policy Analysis at OLCC stating that their office will provide written notification to proposed recreational marijuana growers when they have completed a majority of the OLCC application process, including the required criminal background check. This documentation also informs applicants that OLCC would be able to conduct their required site inspection to verify all marijuana-related facilities comply with the minimum licensing requirements. Before LDS can issue any building permits/authorize any onsite growing as presented for MO 16-06, the County will require the applicant to provide LDS with this OLCC written document confirming that all licensing requirements are met except for the final site inspection(s) by OLCC staff.

The site is already developed with the applicant's residence and is served by an approved septic system and private well. The proposed 8'-fenced grow area will be located in the far eastern portion of the 40-acre site and sited so it is at least 100' away from all property lines. Lundgren Creek runs along the far SE corner of the site. The applicant has a June 16, 1950 State of Oregon Water Right to use this creek for domestic and irrigation uses according to the State of Oregon Certificate of Water Right recorded in State Record of Water Right Certificates, Volume 16 on Page 22679.

The 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 intends to irrigate his marijuana from Lundgren Creek as authorized by his Certificate of Water Right. The Watermaster for Oregon's District 1 comments dated 5/25/2016 (attached) state that if the cannabis grow operation is approved, the applicant has options to exercise his existing water right provided it is consistent with the applicable provisions with the OR Department of Water Resources brochure dated 10/9/2015. Confirmation form the District 1 Watermaster that the applicant is authorized to use Lundgren Creek to irrigate his new marijuana grow operation shall be required as one condition of approval for MO 16-06.

The provisions in OAR 340-071-0130(4) prohibit any sort of processed wastewater resulting from the cultivation of marijuana from being discharged into an onsite septic system. Any agricultural process wastewater must be managed according to the Oregon Department of Agriculture standards in OAR 603-095-00800 related to the Water Quality Management Plan for the North Coast Basin; i.e riparian streambanks maintained, erosion sediment controlled and nutrients/pesticides managed. The applicant shall submit a plan to the County demonstrating appropriate disposal/reuse of wastewater generated from its proposed outdoor marijuana grow system. This wastewater plan shall be reviewed and approved by the County Sanitarian as one condition of building permit issuance.

Findings & Discussion

1803 MARIJUANA LAND USES

- .1 State Issued Marijuana License or Registration Required. All marijuana land uses except for those not required to be licensed by the Oregon Liquor Control Commission (OLCC) or registered by the Oregon Health Authority (OHA), such as home grown or home made marijuana, shall provide to the Land Development Services Department document of the issuance of the applicable state issued marijuana license or registration at

the time of application for a required land use permit. Applicants for recreational marijuana land uses including producing, processing, wholesaling, and retailing shall also show evidence of a completed County land use compatibility statement for the use for which the application is being

The applicant submitted the OLCC License Application form and documentation (dated June 2, 2016) indicating he has applied for the required Recreational Marijuana License Application. This License Application confirms that the applicant has been assigned a OLCC License Investigator who he will work with to obtain a Recreational Marijuana License for the authorized establishment of an outdoor marijuana growing facility on the subject property.

Finding 1: The applicant submitted a copy of a LUCS requested by OLCC for the licensing and establishment of the Outdoor Producer/Growing Operation in a 240' by 210' area as presented for MO 16-06. The provisions in Section 1803.1 require the applicant to submit documentation of the state granting a license or registration through one or both the dual state marijuana programs. With the submittal of the June 2, 2016 OLCC Licensing application confirming the applicant has applied to OLCC for a Marijuana Growing/Producing License, staff finds the proposal requested for MO 16-06 is consistent with these provisions in Section 1803.1.

This application was referred to the Planning Commission from concerned neighbors. Comments are noted below:

Discussion related to the Referral of MO 16-06 to the Planning Commission and concerns expressed by neighbors of adjacent properties.

Roger Martin and Troy Martin owners of the 37-acre PF-80 vacant property to the south: The Martins expressed various concerns as follows:

1. The visibility of the marijuana growing operation from his adjacent property;
2. Possible impacts on his grand children who regularly visit his property that is adjacent to 40-acres especially if the grow operation will be guarded by armed personnel;
3. Additional customers and employees visiting the site to buy and/or harvest marijuana;
4. Additional vehicular traffic on Crawford Road generated by grow operation and need for improvements to accommodate emergency vehicles.

Charlene Washburn, resident and property owner: opposed to the applicant's proposal for the following reasons:

1. Prodigious odor on surrounding properties from a large outdoor growing operation;
2. Proximity of site to Mist Grade School about 1/4 mile away and concerned about customers coming to property to purchase marijuana..
3. The impact that the irrigation of 1-2 acres of crop will have on nearby well;
4. Disruption to the quality of life in this remote area of the county.

Concerns/objections from Kathleen Moore and Brian Andrews residents.

1. Increase in crime and trespassing in this low income area with reduce law enforcement services;
2. Traffic increase on Crawford Road that is maintained by residents. Concerned about customers purchasing product onsite.
3. Excessive water use from Lundgren Creek;
4. Concerns that the proposed grow operation will decrease the value of their property's natural resources.

Jill Griffin owner and resident: Did not express any specific concerns but wanted to be able to talk to someone in the county about the applicant's proposal requested for MO 16-06

During the site visit, the Project Planner relayed some of these concerns to the applicant who offered these responses:

1. The security trailer will only host the electronic surveillance equipment installed on the 8' fence; no armed personnel or caretaker will be present.
2. The applicant intends to also grow traditional agricultural crops (hazelnuts) in the southern portion of his property that will help to buffer the marijuana operations from Mr. Martin's garden for his grandchildren that is located on a vacant ~40 acre PF-80 property.
3. The applicant will use tractors and ATVS to access his onsite operations; there is no need for him to improve this access.
4. The fenced area will include a wire fence as well as another site-obscuring privacy fence to screen the canopy, hoop houses, and security trailer activities from view.
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 the far SE portion of his 40-acres that is furthest away from his neighbors to the west. The adjacent property to the west consist of 200+ acres owned by Bascom Pacific.

Constructing the proposed 8' fence around all future grow facilities (marijuana canopy, hoop houses security trailer) in the far SE portion of the 40-acre property appear to be a reasonable way of reducing their potential impact on nearby adjacent properties' forestry and farming operations as well as the other concerns expressed by the neighbors. State and county requirements prohibit customers from buying the product onsite and the applicant will personally transport all harvested products to licensed dispensaries as required by OLCC licensing requirements. There are no identified wetlands or riparian corridors located on the ~ 1.5 acre portion of the site intended for the outdoor marijuana growing operation. These protected areas associated with Lundgren Creek are at least 100 feet away from this fenced area.

Staff acknowledges that the neighbors' concerns are also shared by the County Board of Commissioner, Sheriff, and LDS, and that the provisions in Section 1803 have been designed to help mitigate these potential impacts by prohibiting the onsite selling of marijuana. The applicant has also elected to locate growing facilities to be at least 100' feet away from all property lines in the portion of his property that is furthest away from his closest residents to the west. If in the future, it is evident that these provisions are not successful in mitigating these threats to the public's safety, the Board of Commissioners has the authority to amend the applicable provisions of the Zoning Ordinance to do so.

Based upon research about the property and findings of the Staff Report for **MO 16-06** staff recommends the Planning Commission **APPROVE** this request to establish the necessary facilities for the outdoor production of marijuana on the subject 39.70 acre PF-80 zoned property, subject to conditions.

Open meeting for comments.

In Favor:

David Potter, owner/applicant. David is a civil engineer, has worked on many security projects and both him and his wife have clean records. The intent was to buy the property and have a nut orchard but in order to produce enough of the nuts it will take approximately 7-10 years and the marijuana will be a crop that will support the farm. The marijuana crop will be surrounded by the nut trees and supported by a drip irrigation system which uses less water. There are water rights for the hay field and the hay fields require much more water than the marijuana grow. The only time there will be odors will be the last month or two of the growing period. During the harvest only the flowers will be processed and that is all the product that will be transported in a relatively small

container. As far as security the OLCC has about 80 pages of requirements. Any signage will follow the laws and regulations by the state and or county. The fence will be a wire fence with mesh and will not be able to be seen through. OLCC requires that video cameras cover the area, they will be located in a security trailer, there will not be any armed guards and family members will be the only ones allowed in the area.

Claudia Frace wanted to know what type of signage they would have.

David Potter replied that for an example “no minors on premises”, this is also a requirement from OLCC.

Alta Lynch clarified that no minors are allowed in the secured area.

Opposition:

Jill Griffin is a property owner in the area and a school counselor. Jill is asking that the planning commission deny this application. She knows that it will be hard to deny it because of the laws that govern this occupation. For security reasons for the surrounding property owners she feels there will be issues for them, maybe they will be the target. Water needs are tremendous for this business. It will definitely change the quality of life in that area. Do we really have to be marijuana friendly and is it really a revenue producer? Can't we do better than that. Also what about the odors?

Roger Martin property owner, his property butts up to the bottom of the property being reviewed. Appreciates the applicant moving away from his site of view.

Kathy Moore, property owner. She is a two year resident and moved to the property because of the low population. She works from home and has concerns about upcoming security issues surrounding this business. Security cameras do not work real well and they do not have supportive law enforcement in the area.

Rebuttal

David Potter, points out that the odor will only last a month or two and that security requirements will be better because of OLCC requirements. There is some consideration of also putting a video camera on the gate at the entrance of the property.

Jeff VanNatta restated that there would not be any business signs to attract people.

Rod Lloyd wanted to know what would be the power supply for the security and David noted that it would be a lap top in the security trailer and the power is at the site.

Closed the public hearing.

Jeff VanNatta wanted to point out that these issues are difficult and the commissioners do not take their duty lightly.

Alta Lynch reviewed that the applicant is meeting all the rules and laws. She made motion to approve MP 16-06 with conditions and the addition of counsels comments.

Claudia Frace seconded.

All in favor motion passed.

CU 16-06 John Ryan

No ex parte declared.

Deborah Jacob presented the staff report.

Background

The applicant, John Ryan Neil, requests a Conditional Use Permit that will allow him to operate *Bonsai Mirai's* educational workshops as a Type II Home Occupation from his existing residence located in the Rural Residential (RR-5) Zone. The subject property contains approximately 4.96 acres, is addressed at 33335 Blaha Road, is served by a private well and septic system, and is surrounded on all sides by other RR-5 zoned properties. It also shares approximately 50 feet with a 45-acre Forest-Agriculture (FA-80) property to the west. The subject property is located in the Columbia River Fire & Rescue (CRF&R) service area and is located at the end of Blaha Road which is predominantly developed with single family residences and small-scale forestry and/or agricultural uses.

The proposal requested for CU 16-06, if approved, will allow the applicant to conduct educational workshops in conjunction with the fully operational Bonsai Nursery and Garden he has established from his home in the (RR-5 Zone. The land use provisions in Section 602.2 of the County's Zoning Ordinance outright permit farm use as defined in ORS 215.203(2) including *"the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops..... or horticultural uses."* Additionally, land use provisions in 602.3 permit RR-5 property owners to propagate and harvest forest products. The applicant has been developing his Bonsai Nursery and Garden over the past six years.

The applicant's bonsai cultivation has been successful and now the applicant has expanded this authorized horticultural use by conducting weekend workshops onsite . He

has consequently been holding these workshops in the existing detached 3,000 sq ft shop that was permitted by LDS through the issuance of BLD 2013-00100. Because educational workshops are not specifically included in the definitions of “farm uses” or “home occupations” in ORS 215.203(2) and ORS 215.448, respectively, the Planning Commission is required to review and approve these weekend workshops in conjunction with the County’s approval of the Change of Occupancy Building Permit of the 3,000 sq ft shop to be used for the Home Occupation.

Daily operations on the subject property consist of bonsai cultivation including propagation, harvesting and the selling of various conifer and juniper species. The proposed home occupation employs the applicant/ resident and only one other full-time non-resident employee as authorized by the provisions in Section 1507.2(A0 of the Zoning Ordinance.

Deb Jacob stated that the applicant wants less impact on the roads as possible and has asked his clients to car pool if possible. This business has been there for about six years with no complaints. This business does not alter the character of the land and there are no hazardous materials being used. There is one additional employee working there.

There has be code violations on the property but they have been closed because the applicant is taking care of the permits. The staff does have the right to review the application and premises at any time. Staff recommends approval with conditions.

Alta Lynch asked if it was a requirement to car pool to the home. **Deb** said it was not, the applicant suggest it for less impacts.

Open to Public for comment

In Favor

John Ryan Neil, owner. Operates a Bonsai business from his home. There has been work done and he did not know permits were needed. He is in the process of getting the drawings to have the permits issued, also get this process completed to be able to have a home occupation. The process has been completed for the septic. The new deck will be permitted. There will be no advertising signs and few people at one time on site. This business also supports other local businesses in the county.

Alta Lynch wanted clarification on car pooling.

John stated they request that the clients carpool if possible but it is not required, less traffic is better for the road.

Chelsea Neil, Wants to add four support letters and a economic impact analysis to the record. Letters from Oscar Eisenschmidt, Ansley & Shaun Semsch, William Knight and Jan Rentenaar. There are no concerns with any of the neighbors, clients come by appointment only. They will do what they need to bring things up to code.

Public Hearing closed.

Alta Lynch moved to approve CU 16-06 with conditions, **Bill DeJager** seconded. All in favor motion passed.

Other Business:

approval of 6/6/16 minutes

Meeting adjourned 7:40pm