



Marion County

OREGON

PLANNING COMMISSION MINUTES

PLANNING COMMISSION

George Grabenhorst – Chair
Carla Mikkelsen – Vice Chair
Stanley Birch
Mike Long
Rick Massey
Gary Monders
Dennis Person
(vacant)
(vacant)

DATE: August 16, 2016
TIME: 6:30 p.m.
PLACE: Senator Hearing Room, 555 Court St. NE, Salem

Present: Stanley Birch, Carla Mikkelsen, Mike Long, Rick Massey, Gary Monders and Dennis Person

Absent: George Grabenhorst

Vice-Chair Mikkelsen called the meeting to order:

1. Public Hearing:

To receive testimony on amendments to Marion County Urban and Rural Zone Code Chapters 16 and 17 related to marijuana businesses, if the voters of Marion County overturn the current prohibition during the election scheduled for November 2016.

Joe Fennimore, Principal Planner, reviewed the staff report for the Planning Commission and provided a brief background on the upcoming November election, the outcome of which could necessitate the proposed code amendments. Mr. Fennimore then reviewed the spreadsheet prepared by staff that outlined the current recommended code changes based on Planning Commission discussion to date, as well as options allowed by the state.

Christopher Clark, 7461 Rayona St. SE, Salem, testified that he submitted pictures to staff and has general comments. He then went through the pictures, describing where take, when and the purpose of each. Mr. Fennimore clarified his property is zoned SA (Special Agriculture). Mr. Clark testified the pictures, taken without flash, show how much light comes from the grow operation right next to his house. He's lived there for 10 years and the greenhouses started in March, 2016. There are 13 right now, and each contains four box fans, lights and watering system with extension cords to run the lights. He is 100 feet from the property line and the first greenhouse is about 40 feet from the property line. Light pollution and noise is the issue and he would like regulations to regulate the light, which comes on as soon as it's dark and stays on all night. The pictures tell the story, but feels his situation is unique as most medical grow operations occur indoors.

The Planning Commission discussed the zone of the adjacent property, which also is zoned SA, and that under the current proposed regulations the grow operation would be allowed as farm use. Mr. Fennimore added the state would allow the county to impose restrictions on the lights. Mr. Birch asked about the noise and Mr. Clark responded it comes from box fans that blow all the time. In response to the question, Mr. Fennimore replied noise standards are not listed on the current proposed regulations but the PC could consider adding the.

Mackenzie Zook, 373 14th St. SE, Salem, testified his written testimony submitted the day before contained an error regarding a statute number and he had submitted a corrected version. He would like clarification on amendment for Chapter 17.128 and the reference to marijuana producer and the

definition of farm use. His question is how this would affect growers who are not growing for profit, medical patients that grow for themselves and those that were licensed before the ban? Mr. Fennimore replied his understanding is that medical growers are considered farm use, also. Mr. Zook continued that he would like to request that growers that are pre-registered and not growing for profit be grandfathered. Mr. Fennimore asked him to submit proposed wording and he agreed.

Melinda Nikko, 6334 Shaw Hwy SE, testified she lives in an agricultural area and is a grower and patient. She is legal and has no problem with her neighbors. She is an average, normal person and is also a farmer and has done markets for a long time. She has concerns with the potential cost of additional fees for county permits, when she is just doing what she has been doing for a long time. As a community member she doesn't think she should be penalized for what she is doing and uses less water for marijuana than for her produce. She isn't a vagabond muffin going around causing trouble and wants the PC to listen to her. Mr. Monders asked how many plants she has and Ms. Nicco replied she currently has 18 plants, as allowed, and reports to OMMP on everything she does. She is limited to 18 plants and that isn't a problem. She isn't a big developer who has come in to start a grow operation. She would like to be able to continue to provide to dispensaries.

Al Buhr, 5991 Walina Ct. SE, testified he is east of the property next to Chris Clark and his objection is the stench from the grow operation. His issue is the "for profit" operation and the problem with the area transformer going out this year. He continued the smell is quite bad and wonders why, if Costco had to stop using its grinder due to smell, how can a business like the grow operation affect neighbors and yet remain untouchable. Mr. Burr also wondered who is counting the plants coming in by horse trailers and the light pollution. He asked for consideration that growers be reasonable with regard to neighbors.

Chris Oss, 4880 State St., testified he owns the oldest dispensary in Salem and is concerned with regulations on dispensaries carrying over to recreational operations. He discussed the possibility that someone could get a daycare license and start a business next to a dispensary that would then have to move. He stated the City of Salem recently dropped all of its criteria related to daycare and secondary schools, based on the minimal cost to start such a business. He has seen that happen in the past 7 years and that operational costs are very high to then be kicked out. His last issue is regarding licensing and suggested doing 4 cards or 2 cards that would not have to pay a fee. Once you are over 4 cards, it is producing to sell. Less than that the grower is helping cure cancer and doing it for legitimate reasons and really no money is to be made off 2 or 4 cards.

Mr. Fennimore suggested the PC review the information submitted by Mr. Zook as, as he understands, medical growers would not be allowed in the AR zone. There are concerns as to how that would impact people who grow for themselves. The intent is to restrict it in the AR zone but needs further review. For example, would a grower who was growing for themselves and two other patients and registered with OHA prior to the moratorium be grandfathered? These issues should be reviewed and the PC can decide whether to make a recommendation on that issue. He clarified any recommendations made by the PC will be taken to the Board for discussion at a work session and then a public hearing.

Laura Pekarek, Code Enforcement, testified there haven't been many complaints. She added it may be difficult, based on her experience, to limit noise as the fans are required to keep going all the time. Based on questions, Ms. Pekarek indicated the smell complaints have come from small properties that are close together. She and the PC briefly discussed the possibility of requiring filtered fan systems to help with noise. She also mentioned one grow site that has a nice system of black tarping that blocks the lighting at night.

Comments were made regarding the feasibility of requiring these types of fan and light systems, how to enforce those regulations, and that it would not be appropriate in the AR zone with small lot sizes. Mr. Monders stated he was not aware that these regulations would affect existing medical marijuana businesses and that the impacts in the AR zone, for recreational, would be property values, too. Ms. Pekarek replied it is her experience that in the AR zone most of the medical marijuana growers are

indoors. The PC discussed the possibility of limiting the number of plants or size of building and that it must be inside.

Upon request, Ms. Nikko added to her testimony that her operation does not create complaints.

Ms. Mikkelson summarized that it appears small-scale medical marijuana growers are not generating many complaints and differ greatly from the commercial large-scale growers. When asked, Ms. Pekarek responded the majority of the complaints their office receives are smell and the noise and some traffic issues.

Mr. Zook added to his testimony, upon request, that the PC should take a look at his recommendation to include regulations on transitioning established small medical growers to lower micro tiers 1 and 2 recreational market. Additional restrictions could be added such as limited building size, minimum acreage for the grow operation and neighboring properties.

The PC discussed having a work session to review the testimony and work out possible recommendations. Gary Monders made a motion that was seconded, to close the public hearing. The motion passed unanimously, 7-0. The PC discussed having the work session the following Tuesday and who was available.

The PC discussed the parameters set by the state, which agency regulates and/or licenses growers versus medical growers, number of plants allowed by medical growers versus recreational, number of plants at each type of grow operation, mature plants versus young plants, etc. Mr. Fennimore reiterated the county can't limit grow operations in farm zones but can in some other zones and how those limitations, particularly in the AR zone, might impact the existing medical growers. The PC discussed the dilemma of not necessarily wanting to prohibit existing medical marijuana businesses in the AR zone that don't seem to have had much impact but would like to prohibit them in the SA zone, which is allowed by the state. Mr. Fennimore explained the current process for noise violations that must be heard in the adjacent house. The PC commented regarding outdoor noise becoming white noise, the cost of installing a special exhaust system, excessive use of electricity, and including lighting restrictions.

2. Adjournment.

There being no further business, the meeting was adjourned.