



Marion County

OREGON

PLANNING COMMISSION MINUTES

PLANNING COMMISSION

George Grabenhorst - Chair
Mike Fischer - Vice Chair
Paulette Alexandria
Stanley Birch
Glenn Holum
Mike Long
Carla Mikkelson
Gary Monders
Dennis Person

DATE: January 15, 2013
TIME: 6:30 p.m.
PLACE: Marion County Board of Commissioners Hearing Room

Present: Stanley Birch, Paulette Alexandria, George Grabenhorst, Dennis Person and Gary Monders

Absent: Mike Fischer, Mike Long, Glenn Holum and Carla Mikkelson

Chair Grabenhorst called the meeting to order.

1. Public hearing to receive testimony on proposed amendments to the Marion County Rural Zone Code. Proposed amendments cover recent changes in state law and amendments proposed by interested parties and staff.

Joe Fennimore, Principal Planner, briefly explained the general purpose behind the staff proposed changes. Other changes are based on changes in state law, some reorganization, solar array regulations, and a single agri-tourism event permit that was not included with the other agri-tourism provisions adopted last year. Mr. Fennimore continued that House Bill 4170 was passed regarding dog training and classes, certain number of dogs and testing trials allowed in the farm zones that need to be included in the Zone Code, whereas HB4170 took greyhounds out of definition. Changes in the floodplain regulations are minor and mostly housekeeping and an update in definitions for building in the floodplain was included. The last item is a proposal to allow events in the AR zone, proposed by a citizen.

Deputy Jeffrey Stutrud, Sheriff's Office, appeared to answer questions from the PC on enforcement of events in the AR zone, mostly noise regulations and responding to complaints. Deputy Stutrud indicated they will respond to a complaint by contacting the property owner to advise them of the issue. Sometimes they have to come back, but most respond to the initial visit. He referred to the Jefferson rave that occurred the past summer, which was a very large event that they were not able to adequately respond to due to the number of attendees. Mr. Monders stated he feels this proposed ordinance cannot be enforced by the SO as they would not have enough staff or equipment to monitor noise. Deputy Stutrud responded they do not have the units to read noise, but added there is also a "clearly audible" regulation that they currently use. The members

discussed this regulation and how loud it would be to be heard in a neighboring house. Mr. Birch related his own situation having called the SO about a neighbor that holds parties on a regular basis. He added there are not enough deputies to go out for these types of complaints. Deputy Stutrud added they do not generally respond to complaints on small and private gatherings and Mr. Fennimore confirmed those are usually handled by Code Enforcement, another section of the SO. Deputy Stutrud clarified they will go out for noise complaints at night and some fall under disturbing the peace and they will enforce those. Ms. Alexandria commented the noise ordinance is very poor and the provision that allows noise at a conversation level ends up being very loud if it is loud enough to carry, at that level, to a neighboring property. She added the SO does not keep records on properties that receive noise complaints – they are kept based on the address of the call and not what happened, making it difficult to establish a pattern of problems with a certain property and events. Deputy Stutrud clarified there are ways to track it but it generally appears under the address of the complainant. Mr. Person briefly referenced the noise ordinance and how it is regulated and asked the Deputy how many noise complaints are received? Deputy Stutrud replied not many during the day and a few nighttime during the weekends. The group discussed how the ordinance allows two property owners to file their own complaint that goes to a hearings officer for review.

Mr. Fennimore reviewed the maps prepared for the PC on AR-zoned land throughout the county and indicated there are about 6500 total AR-zoned parcels. The maps start at those properties 1.5 acres and larger, etc. He also included a copy of the Hood River event ordinance and spoke with staff there that indicated that ordinance covers wedding related events and wineries and appears to have been adopted to cover those already occurring. Hood River has not had many new ones since adoption. Mr. Fennimore added he is looking for a recommendation from the PC and suggestions and comments on the amendments to pass along to the Board.

Mark Shipman, 250 Church St. SE, testified he appreciated the PC reviewing this request and that he represents a couple with a unique AR-zoned property and have hosted wedding events there, but would like to continue to do so within the code. He continued that this request initially came before the PC about 2 years ago and went to the Board. The Board requested he work with staff to make modifications to address concerns raised. He requested the PC recommend approval to the Board to allow events in the AR zone and had taken many of the regulations from the Hood River ordinance, but this version is much improved. Mr. Shipman indicated he is not “married” to it but feels it is a pretty good ordinance with respect to allowing private events in the AR zone. He does not feel it should be restricted to just allowing weddings, but the PC could make that recommendation. He explained there are already several intense uses allowed as Conditional Use permits in the AR zone such as schools, home occupations and churches. He further commented these are not ag-related and, in fact, the churches could hold weddings without further review. Setting up events as a Conditional Use will require review, notice to neighbors, and a commitment by the property owner before such an undertaking. Mr. Shipman testified that he understands and agrees that not all AR-zoned areas of the county would be appropriate for this type of use, but there are sparsely populated areas that could hold certain events, after review, without causing problems. If allowed, a request would be submitted to Planning for review and possible conditions. He believes the Code should allow for flexibility and allow uses that could be compatible within certain areas. If a use works then it should be allowed. Mr. Shipman stated he understands the concerns raised with noise and any permits approved could be pulled if an owner-operator is found in violation and this is allowed under the current code. The permit could be voided, which is a “big stick” for staff and Code Enforcement and keeps the property owners and applicants in line and to take it seriously. Mr. Shipman concluded he has worked on this with staff for several years and the current version should work for his clients and the County.

Ms. Alexandria asked why people couldn't be allowed to do this under the "winery bill" and Mr. Fennimore explained that bill applied only in the farm zones. Mr. Shipman added the code could be amended to allow some other more acceptable use that weddings could fit under and then be held. He reiterated that churches allowed in the AR zone can currently hold events. A property owner could file as a church and then hold weddings, but his clients wanted to go through appropriate channels. Mr. Monders asked about the owners changing zoning of the property and Mr. Fennimore replied it was possible but very unusual and could still, under a Public zone, require a Conditional Use. Several PC members commented that might be better than "opening Pandora's box" and Mr. Shipman added spot zoning is usually frowned upon. Mr. Monders asked about the last church approved in an AR zone and Mr. Fennimore replied it was approximately 10 years ago. Mr. Person commented when people move out to the country for the peace and quiet they take into consideration the uses where they purchase property. It would be unfair to these people to now allow other property owners to start holding events. He feels, to respect these other existing property owners, if this were approved it would have to be very restrictive. The way it's written is too loose for him to consider approving. Perhaps just allowing weddings and, if there are any problems the approval would be voided. He took a poll of neighbors and none of them were in favor of the idea and he has to respect that.

Chair Grabenhorst asked if there are any teeth to enforcement besides the approval being pulled and Mr. Fennimore replied only if a citation were to go to a judge then there may be civil penalties. Ms. Alexandria asked how many have been pulled and Mr. Fennimore replied he could think of only 2-3 in the last 5 years, which can be appealed to a hearings officer. She asked what caused the revocation and Mr. Fennimore replied violation of conditions, such as a property owner refusing to move outdoor storage indoors as required in an approval. Gary Monders stated he does not feel the county has the resources to enforce or send someone out over the weekend to count cars or respond to noise complaints. He agrees there may not be many people that take advantage of the regulation, but then why do it? He lives on 4 acres in the AR zone while all of his surrounding neighbors are on 1.5 acres. If he were to start holding events, all of them would be very upset. Mr. Monders asked where Mr. Shipman's clients live and he replied Byers Lane and they have not had any complaints. Mr. Monders replied it is so broad, yet the PC is being asked to do it for just one owner and he's not not sure how to narrow it down. Mr. Person responded it could be narrowed down but do they want to even do that? He added once it is approved, there is a concern that it could be made more board and opened up to anyone for anything. For him to approve events in the AR zone, the regulations would have to be very restrictive. Mr. Birch asked about the review that would occur and Mr. Shipman replied the application is reviewed by staff and the neighbors would be notified of the decision and the group asked about pre-notice being included. Mr. Fennimore replied it could be and the group discussed the distance and cost to the county for notice. Mr. Person added stipulations could be included in the ordinance that the property owner pay for notice.

The PC then discussed current provisions for home occupations, which is how it is written for Hood River and how to incorporate noise limitations. Mr. Person stated home occupations are allowed in the current Code but under tight restrictions for a reason and to make them fit in within neighborhoods. He suggested a work session to take a closer look at the proposed ordinance to see if it could be made more restrictive; enough to make it viable.

There being no further testimony, a motion was made to close the public hearing. The motion passed unanimously, 6-0. The Chair scheduled a work session to discuss and deliberate the amendments with

the other members, for February 5, 2013. Mr. Fennimore asked the PC members to review the information and bring any suggestions to the work session. Mr. Person added he came up with a possible idea to allow events on a scale – so many attendees based on size of parcel and something to consider at the work session.

2. Adjournment.

There being no further business, the Chair adjourned the meeting.