



BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON

Wednesday, January 17, 2018
10:00 a.m. - Room 308

BOARD MEETING AGENDA

CALL TO ORDER/FLAG SALUTE

MINUTES:

Minutes, January 10, 2017 Board meeting.
Minutes, January 10, 2017 Staff meeting.

VISITOR COMMENTS - 5 MINUTE LIMIT

HEARING:

- 1) Public Hearing, "In the Matter of Amending Provisions in Section 1803 of the Columbia County Zoning Ordinance Related to "Marijuana Land Uses" in the Unincorporated Areas".

CONSENT AGENDA:

- (A) Ratify the Select to Pay for the week of 01.15.18.
- (B) Approve 5310 Discretionary Grant Application with ODOT for Transit Services.

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (C) Purchase & Sale Agreement with Verum Pulchrum Bonum Domum, LLC, an Oregon Limited Liability Company, Tax Map ID No. 3N2W12-DB-02200 and Tax Account No. 4067 in Scappoose, Oregon.

DISCUSSION ITEMS:

COMMISSIONER MAGRUDER COMMENTS:

COMMISSIONER HEIMULLER COMMENTS:

COMMISSIONER TARDIF COMMENTS:

EXECUTIVE SESSION:

Pursuant to ORS 192.640(1), the Board of County Commissioners reserves the right to consider and discuss, in either open session or Executive Session, additional subjects which may arise after the agenda is published.

COLUMBIA COUNTY BOARD OF COMMISSIONERS

Staff Report
January 10 2018

Zoning Ordinance Text Amendment to provisions in
Section 1803 "Marijuana Land Uses"

FILE NUMBER: TA 17-02

APPLICANT: Columbia County
Land Development Services

HEARING DATE: January 17, 2018

REQUEST: To amend provisions in Section 1803 of the Columbia County Zoning Ordinance specifying additional standards for marijuana production and retailing operations, prohibiting marijuana growing and producing operations in the Rural Residential (RR-5) Zone, and clarifying distinctions between state licensing requirements and Columbia County land use regulatory requirements for authorized marijuana land uses operating in the unincorporated areas of Columbia County

STAFF REPORT CONTENTS:

Pages

Notification Requirements

Columbia County Zoning Ordinance

Section 1606 - Legislative Hearing 3
Section 1611 - Notice of Legislative Hearing 4

Oregon Revised Statute

ORS 215.503 - Measure 56 Notice 5

Oregon Administrative Rule

OAR 660-018-0020 - Post Acknowledgment Amendments 5

Review Criteria & Amendments

Columbia County Zoning Ordinance

Marijuana Land Uses

Section 1803.1 State Licensing and Registration Requirements 6
Section 1803.2 Marijuana Growing or Producing 7
Marijuana Producing in Airport Industrial (AI) Zone 10
Section 1803.4 Marijuana Dispensary and Retailing 12-13

Columbia County Comprehensive Plan

Part I Administrative Procedures 14
Part II Citizen Involvement 14
Part III Planning Coordination 14
Part IV Forest Lands 15

Part VII	Rural Residential	15
Part X	Economy	15
Part XVIII	Air, Land and Water Quality	16
<u>Conclusions and Recommendation</u>		17
<u>Written Comments Received</u>		See Attachment 6

BACKGROUND & SUMMARY:

County Regulation of Marijuana Uses

On November 25, 2015 the Columbia County Board of Commissioners adopted Ordinance No. 2015-4 related to cannabis regulation and set time, place and manner regulations for the growing, processing, and retailing of marijuana operations in the county’s unincorporated areas. This Ordinance added the provisions in Section 1803 for Marijuana Land Use as well as the related amendments to Sections 100, 300, 400, 500, 600, 620, 650, 680, 800, 810, 820, 830, 910, 920, 930, and 940 of the County’s Zoning Ordinance authorized by the Oregon Revised Statutes in ORS Chapter 475B.

Over the last twenty five (25) months since the effective adoption date of County Ordinance No. 2015-4, the County has accepted and processed applications for forty-five (45) Marijuana Operations Permits as follows:

Marijuana Growing/Production Operations

Resource Zone (PF-80/FA-80/PA-80)	Rural Residential (RR-5)	Light Industrial (M-2)
36	4	1

Marijuana Retailing Operations

Existing Commercial (EC) Zone
3

Marijuana Processing/Wholesaling Operations

Heavy Industrial (M-1 Zone)

1

The County has processed only one application for Marijuana Processing/Wholesaling Operations. No Amendments are proposed for the existing provisions in Section 1803.3 related to the Processing and/or Wholesaling of Marijuana Operations. There is no evidence that the present criteria in Section 1803.3 is inadequate. Most proposed amendments deal with inadequacies found in growing and producing of marijuana

Oregon Revised Statutes (ORS) 215.050, allows Columbia County to revise the County’s Zoning Ordinance in order to implement the adopted County Comprehensive Plan. The primary objectives of the Comprehensive Plan are to 1) “prevent or minimize conflicts between incompatible land use activities,” 2) provide a source of information describing the condition and characteristics of the County,” 3) “provide an objective basis for public and private land use decisions,” and 4) “provide a better understanding of specific actions, programs and regulations which may affect the public.”

These proposed amendments in TA 17-02 are based on the experiences of Land Development Services and the Planning Commission in the processing of 45 marijuana operations over the past 25 months. The proposed amendments will support Comprehensive Plan objectives as they establish additional siting and construction regulations specific to proposed marijuana production and retailing operations in order (1) to alleviate issues of incompatibility with nearby different land uses and to (2) clarify the distinctions for operators and the public between obtaining licensing from the State of Oregon and land use authorization from Columbia County.

Planning Commission's initial evidentiary public hearing for TA 17-02:

This matter came before the Columbia County Planning Commission on the direction of the Board of County Commissioners to initiate Amending provisions in Section 1803 of the Columbia County Zoning Ordinance related to Marijuana Land Uses in unincorporated areas that were adopted on November 25, 2015 by the Board of County Commissioners through Ordinance No. 2015-4.

The first public hearing was originally scheduled for August 7, 2017 but was postponed until August 21, where the Planning Commission reviewed the proposed amendments, heard testimony from interested parties and considered written materials including the Staff Report dated July 28, 2017. The Commission expressed interest in considering other amendments (additional) to those presented in TA 17-02 from staff, including increasing minimum size of RR-5 marijuana growing operations to 5-acres, expanding the definition of Sensitive Uses, classifying all indoor marijuana production facilities as commercial facilities, and prohibiting new marijuana operations in the RR-5 Zone. The hearing was then continued until October 2, 2017 and then to November 6, 2017 where they deliberated these proposed additional amendments and voted to prohibit marijuana operations in the Rural Residential (RR-5) Zone, rather than require additional siting regulations.

The County has proceeded with the process of drafting these amendments to its Zoning Ordinance addressing marijuana uses according to the legislative process prescribed by the Comprehensive Plan and Zoning Ordinance.

Proposed Amendments to "1803 Marijuana Uses" within, Article IX (Special Use Standards) (**Attachment 1**) addresses local County standards specific to marijuana production and retailing uses which are in addition to those applicable in individual zoning districts. These standards incorporate State law requirements related to land use and add County reasonable time, place and manner regulations within the meaning of ORS 475B.340 and ORS 475B.500 and address the potential nuisance aspects of marijuana uses. Findings justifying the proposed additional County standards which address related potential adverse effects of marijuana uses are contained in the findings of this Staff Report.

REVIEW CRITERIA AND FINDINGS:

Notification Requirements

Section 1600 of the Zoning Ordinance:

This request is being processed under Sections 1606 (Legislative Hearing) and 1611 (Notice of Legislative Hearing) of the County Zoning Ordinance. The pertinent sections of the ordinance are as follows:

1606 **Legislative Hearing:** Requests to amend the text of the Zoning Ordinance or to change a large area of the Zoning Map of Columbia County in order to bring it into compliance with the Comprehensive Plan are legislative hearings. Legislative hearings shall be conducted in accordance with the following

procedures:

- .1 A legislative amendment to the Zoning Ordinance Text or Map may be initiated at the request of the Board of Commissioners, a majority of the Commission, or the Director, or any citizen of the County may petition the Commission for such a change.
- .2 Notice of a Legislative Hearing shall be published at least twice, 1 week apart in newspapers of general circulation in Columbia County. The last of these notices shall be published no less than 10 calendar days prior to the Legislative Hearing. The mailing of notice to individual property owners is not required but shall be done if ordered by the Board of Commissioners."

Finding 1: Notification of the Planning Commission's initial evidentiary public hearing for TA 17-02's proposed Amendments was published in local news media, the *Chronicle* on July 19, 2017 and July 26, 2017 and *The South County Spotlight* on July 21, 2017 and July 28, 2017. On June 27, 2017 notification was sent to all government agencies, the Department of Land Conservation and Development, the five County's Citizen Planning Advisory Committees (CPACs) in accordance with Oregon Revised Statute (ORS) 197.047. In accordance with ORS 215.503(4), notice was sent to affected individual property owners on June 30, 2017, 38 days before the first scheduled hearing on August 7, 2017. The subsequent Board's Public hearing notices were published in the *St. Helens Chronicle* on January 10, 2018 and in the *South County Spotlight* on January 12, 2018. With these notifications, Staff finds this criteria has been met.

Continuing with Section 1611 of the Zoning Ordinance:

1611 **Notice of Legislative Hearing:** The notice of a legislative hearing shall contain the following items:

- .1 Date, time and place of the hearing;
- .2 A description of the area to be rezoned or the changes to the text;
- .3 Copies of the statement for the proposed changes are available in the Planning Department. These proposed changes may be amended at the public hearing;
- .4 Interested parties may appear and be heard;
- .5 Hearings will be held in accordance with the provisions of the Zoning Ordinance.

Finding 2: All of the above information was included for both the Planning Commission's and Board of Commissioners' Notices of Public Hearing published in the *Chronicle* and *Spotlight* newspapers. This criterion is met.

Continuing with Section 1607 of the Zoning Ordinance:

"1607 Consistency with the Comprehensive Plan: All amendments to the Zoning Ordinance Text and Map shall be consistent with the Comprehensive Plan Text and Maps.

- .1 The Commission shall hold a hearing to consider the proposed amendments and shall make a recommendation to the Board of Commissioners with regard to the proposed amendments. The Board of Commissioners shall hold at least one hearing to consider the proposed amendments. Both the Commission and the Board of Commissioners hearings will require notice in the manner outlined in Section 1611."

Finding 3: The Planning Commission held their hearing in August 21, 2017 and continued it to October 6, 2017 and to November 6, 2017 where they deliberated on their final recommendations to the Board as described in the Background & Summary Section. The Board of Commissioner's public hearing will be held January 17, 2018 where they will consider these recommendations in their final decision.

As covered in the Background and Pages 12- 15 of this Report, these Text Amendments are consistent with the provisions in ORS 215.050, which allows Columbia County to revise the County's Zoning Ordinance in order to implement the following primary objectives of the

adopted County Comprehensive Plan:

1. "To prevent or minimize conflicts between incompatible land use activities,
2. To provide a source of information describing the condition and characteristics of the County,
3. To provide an objective basis for public and private land use decisions, and
4. To provide a better understanding of specific actions, programs and regulations which may affect the public."

Staff finds that the proposed amendments are in compliance with #1, 3, and 4 primary objectives of the Comprehensive Plan. Applicable elements of the Comprehensive Plan are examined in Finding 15, page 13 and determines that the proposed amendments are consistent with the Comprehensive Plan.

Following with Oregon Revised Statutes - ORS 215-503 - Measure 56 Notice:

"**215.503** Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions."

...

(4) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone

Finding 4: Notice was sent in accordance with ORS 215.503 by green postcard to affected individual property owners on June 30, 2017, which is **38** days before the first hearing on the proposed amendments held on August 7, 2017. This criterion is satisfied.

Following with Oregon Administrative Rules OAR 660-018-0020:

660-018-0020 Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation

(1) Before a local government adopts a change to an acknowledged comprehensive plan or a land use regulation, unless circumstances described in OAR 660-018-0022 apply, the local government shall submit the proposed change to the department, including the information described in section (2) of this rule. The local government must submit the proposed change to the director at the department's Salem office at least 35 days before holding the first evidentiary hearing on adoption of the proposed change.

(2) The submittal must include applicable forms provided by the department, be in a format acceptable to the department, and include all of the following materials:

(a) The text of the proposed change to the comprehensive plan or land use regulation implementing the plan, as provided in section (3) of this rule

(b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the relevant portion of the map that is created or altered

© A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director and members of the public of the effect of the proposed change

- (d) The date set for the first evidentiary hearing
 - (e) The notice or a draft of the notice required under ORS 197.763 regarding a quasi-judicial land use hearing, if applicable and
 - (f) Any staff report on the proposed change or information that describes when the staff report will be available and how a copy may be obtained.
- (3) The proposed text submitted to comply with subsection (2)(a) of this rule must include all of the proposed wording to be added to or deleted from the acknowledged plan or land use regulations. A general description of the proposal or its purpose, by itself, is not sufficient. For map changes, the material submitted to comply with Subsection (2)(b) must include a graphic depiction of the change a legal description, tax account number, address or similar general description, by itself, is not sufficient. If a goal exception is proposed, the submittal must include the proposed wording of the exception.

Finding 5: Notice and the draft amendments were sent in accordance with OAR 660-018-0020 to DLCDC on June 27, 2017, 41 days before the first evidentiary hearing before the Planning Commission on August 7, 2017. The County will mail a Notice of Adoption to DLCDC when the Board makes their final decision regarding these proposed amendments. This criterion is satisfied.

Review Criteria

Following with Proposed Amendments to Section 1803.1 of the Zoning Ordinance:

1803 MARIJUANA LAND USES

.1 ~~State Issued Marijuana License or Registration Compliance with State Marijuana License and Registration Requirements 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 written documentation from OLCC or OHA as follows: ~~of the issuance of the applicable state issued marijuana license or registration at the time of application for a required land use permit.~~

A . At the time of building permit application for buildings accommodating marijuana land uses, the applicant shall provide written documentation from OLCC or OHA that the proposed marijuana land use complies with applicable State application requirements.

B . Prior to Occupancy of buildings accommodating marijuana land uses the Applicant shall provide a copy of the OLCC licence or OHA registration for the marijuana land use.

C. ~~County 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 submitted at the time.~~

A land use compatibility statement shall not be signed by the Land Development Services Department until any applicable County land use review procedures have been completed and a final land use decision has been made by the

County.

Discussion: In order for the county to coordinate their processing of proposed Marijuana Land Use Permits with the State of Oregon's licensing/registration's process, the current provisions in Section 1803.1 need to be updated.

The amendments in 1803.1(A) will help ensure that all county marijuana operators have been approved for consistency with the applicable State application requirements before the County can release any building permits. Consequently, one condition of building permit issuance for marijuana operations will require the County to receive written confirmation from the State as verification that the applicant has completed the majority of all OLCC's or OHA's Marijuana Production/Processing/Retailing licensing requirements. Typically this State confirmation includes a statement that all licensing requirements are met except for OLCC/OHA Staff's final site inspection(s).

Similarly, the amendments to 1803.1(B) clarify that one condition of occupancy for the marijuana facility will be for the marijuana operator to have met all State licensing requirements, including final site inspection(s). The applicant must provide the County with a copy of the issued OLCC license or OHA registration.

Finally, the amendments to 1803.1 (C) provide clarification to marijuana operators that the County cannot sign a Land Use Compatibility Statement that is included in the State's licensing/registration requirements until the County has reviewed, approved and made a final land use decision for the new marijuana operation. This clarification will help ensure that the new marijuana operation will have met all County land use requirements before the State will be able to issue their license/registration for the marijuana operation.

Finding 6: For these reasons, staff finds the proposed Text Amendments to Section 1803.1 are necessary to coordinate the State of Oregon's and Columbia County's review and approval of new marijuana operations consistent with their respective roles and authorities.

Following with Proposed Amendments to Section 1803.2 of the Zoning Ordinance:

1803 MARIJUANA LAND USES

.2 Marijuana Growing or Producing Uses. The following standards shall apply to marijuana growing or producing uses:

A. Additional Standards for all zones in which marijuana growing and producing is allowed:

- A-
1. Co-location with a Dispensary. Medical grows may not be on the same site as a dispensary.
 2. Glare: No artificial light originating from within a grow building shall be visible from outside of the building at night.
 3. Separation from Certain Sensitive Uses: Marijuana growing and producing uses may not be located within 1,000 feet of a public elementary or secondary school, private or parochial elementary or secondary school, public park or child care center. For the purposes of this section, separation distance shall be measured as the minimum distance between the property line of the grow parcel and the property line of the sensitive use parcel.

Discussion: As stated in the Summary, over the past 25 months, the county has processed 45 marijuana growing/producing operations as follows: 36 in the Resource (Primary Forest, Primary Agriculture or Forest-Agriculture) Zones, 4 in the Rural Residential (RR-5) Zone, and 1 in the Light Industrial Zone. The proposed amendments in Section 1803.2 (A.2) and 18302.(A.3) are intended to help ensure the continuing compatibility of the new marijuana production operations with the existing land uses and authorized activities typically occurring within close proximity to each another.

Pertaining to the prohibition of glare on adjacent properties in 1803.2(A.2), nocturnal light pollution can be disruptive to people as well as wildlife. The majority of the county's authorized marijuana growing operations are occurring in Resource Zones on properties that are also designated as Big Game or Peripheral Big Game Habitat Areas. Wildlife's normal activities could be significantly impeded by large artificially lit and loud commercial marijuana growing facilities operating in these critical environmentally sensitive areas protected by Oregon's Statewide Planning Goal 5. Sporadic artificial lights along rural county roads can also be disruptive for rural residents and outdoor recreationists who may be in relatively close proximity to large commercial marijuana growing operations.

Another amendment to marijuana production operations are listed in Section 1803.2(A.3) and will require a minimum 1,000 foot separation between marijuana production operations and sensitive public parks and educational facilities that are frequented by persons under 21 years old. The county reviewed a proposed indoor marijuana production operation on an ~80 acre resource zoned property that was located directly across the street from a public campground and a K - 12 school. The affected school district questioned the fact that the county would consider authorizing the proposed production of a federally controlled substance (cannabis) in a location which is in close proximity to both of these public places where children are educated and recreate.

This new siting criterion amendment in Section 1803.2(A.3) for marijuana production operations compliments and adds to the county's current siting provisions in Section 1803.4(A) for marijuana retailing operations in Section 1803.4(A). The current provisions require the 1,000 foot separation between properties that have elementary or secondary schools, day cares and public parks and properties where marijuana products are sold. As stated in the Summary, Columbia County has processed 41 new marijuana production operations, 3 retailing operations, and 1 processing operation within the first 25 months of its adoption of Marijuana Land Use Ordinance in November 2015. With the predominance of the county's new marijuana operations being growing and production of marijuana, residents and elected officials of a rural county such as ours have a legitimate interest in developing regulations that more effectively limit the exposure of minors to the growing and production of a drug that remains listed as a Schedule I Substance under the federal government's Controlled Substance Act, and which has a range of other potential adverse effects discussed in this report.

Finding 7: Staff finds the amendment to 1803.2(A.2) will help to ensure that rural commercial producers of marijuana will minimize or limit the impact that their indoor artificially lit structures will have on nearby residents, properties, and wildlife. This amendment will not only help minimize potentially disruptive light pollution on rural properties and will also help preserve the county's remaining natural areas for outdoor recreation/enjoyment and wildlife habitat.

Finding 8: Staff finds the proposed amendment to 1803.2(A.3) will help to prevent or minimize contact between persons under 21 years old who are attending school or day care or recreating in public parks that may be near properties that contain facilities for the production and/or retailing of cannabis products that are listed as Schedule I substances under the federal Controlled Substance Act.

Continuing with Proposed Amendments to Section 1803.2 of the Zoning Ordinance:

1803.2 B. ~~Within an Enclosed Building in Certain Zones. Growing and producing must be~~

within an enclosed building in the RR-5, RC, M-3, M-2 and M-1 zones. For the purposes of growing and producing, an enclosed building includes an enclosed greenhouse. Additional Standards in the RR-5, RC, M-3, M-2 and M-1 Zones:

1. Growing and producing must be within an enclosed building. For the purposes of growing and producing, an enclosed building includes an enclosed greenhouse.

2. Grow buildings shall be equipped with an air filtration system designed and approved by an Oregon registered mechanical engineer to minimize odors perceptible outside of the building.

- C. Additional Setbacks for Indoor Grows in Certain Zones. In the FA-80 and PF-80 and RR-5 zoning districts, minimum front, side and rear yard setbacks for buildings accommodating marijuana growing and producing shall be increased by 50 feet.

Discussion - Prohibiting marijuana operations in RR-5 zone: The Zoning Text Amendment to 1803.2(B.1) is TA 17-02's first reference to the proposed prohibition of new Marijuana Production Operations in the RR-5 Zone. This Recommendation was partially based on the Planning Commission's testimony received at hearings over the past 2 years from neighbors living adjacent to commercial marijuana operations in the RR-5 Zone. These residents testified that odor and noises emanating from larger warehouse structures used for commercial marijuana operations have detrimentally impacted and changed their rural residential neighborhood's characteristics and quality of life. The Planning Commission also found that currently marijuana operations are already permitted in the unincorporated areas of the county zoned for Primary Forest, Forest-Agriculture, Primary Agriculture, Rural Community, and Urban Industrial land uses which, in turn, encompass approximately 90% (400,000 acres) of the County's total land area. The Planning Commission also determined that the proposed prohibition of new marijuana operations in the RR-5 zone's approximate 22,000 acres (5% of total land) would not be an unreasonable hardship for commercial marijuana growers. Excluding rural residential zoning districts from commercial marijuana growing and production operations would be a reasonable time, place and manner regulation within the meaning of ORS 475B.340 and ORS 475B.500.

A second factor of the Planning Commission's recommendation was based on the 2016 Decision of the Land Use Board of Appeals (LUBA) on 9/13/2016 for Sandra Diesel, Petitioner vs. Jackson County, Respondent. Subsequently, this decision was appealed to and affirmed by the Oregon Court of Appeals on 12/9/2016. Both of these Decisions are attached to this Staff Report.

Specifically, beginning on Page 17 Line 24 of LUBA's affirmation of Jackson County's prohibition of marijuana production in the RR zone, identifies similarities between Jackson and Columbia County as follows:

"Given that the county allows marijuana production in the EFU (Exclusive Farm Use) zone and on lands zoned farm and forest, which together comprise more than a million acres in the county, and on industrial zoned land, the concerns stated by that legislator about the reasonableness of zoning regulations do not appear to be present in this case. Accordingly, petitioner has not established that the amendments to the (Jackson County) Land Development Ordinance (LDO) to prohibit marijuana production in the RR zone are not "reasonable regulations" within the meaning of ORS 475B.340 and 475B.500 or that the county acted unreasonably when it decided to allow marijuana production in some, but not all, county zones."

Another factor for the Planning Commission's recommendation was related to the potential increase in land use incompatibilities occurring between commercial marijuana production facilities operating within or in close proximity to well established rural residential neighborhoods. First of all,

marijuana production operations are prohibited by State law from (1) discharging any process water into septic systems (OAR 340-071-0130(4) and (2) irrigating marijuana from domestic wells is not exempt from the Commercial Marijuana Producer Water Use requirements in OAR 845-025-1030(4) g)(D). Consequently, these commercial operations are required to establish completely separate irrigation and process water disposal systems on a single RR-5 property in ways that will not compromise the site's existing and separate residence's potable water and onsite wastewater treatment systems. In addition, and depending on the size and nature of the new marijuana production, the County Roadmaster and Fire District may also require the site's residential access be improved to commercial standards related to the size of the commercial marijuana production operation.

The final factor for the Planning Commission's recommendation is related to the purpose of the RR-5 Zone as defined in the Zoning Ordinance. The RR-5 Zone *is designed for rural areas where parcels at the time of initial zoning designation are committed to non-resource uses and are characterized with predominantly residential uses that are served by rural levels of public services i.e. domestic water from private wells, sewage disposal using on-site systems, adequate fire and emergency service by fire districts, and access to county roads consistent with the County Transportation Plan and specifications in The County Road Standards Ordinance.*

Allowing new facilities and related site improvements for commercial marijuana production operations to be constructed in already established RR-5 neighborhoods can also be considered as intrusive and obstructive, rather than complimentary to, the predominant rural- residential characteristics of the affected area and residents. Consequently, the prohibition of commercial marijuana operations in the RR-5 zone will help to encourage these already established RR-5 neighborhoods to sustain their predominantly rural residential land uses and development patterns until such time that urban levels of services (sanitary sewer, fire hydrants, commercial/industrial roads, public water etc.) are available to support these more intensive and commercial land uses.

The proposed amendments to 1803.2(B) and 1803.2C) will not only prohibit new marijuana production operations in the RR-5 zone, but will also require all indoor marijuana production operations, regardless of zoning, to install air filtration systems designed and approved by an Oregon registered mechanical engineer in order to minimize odors perceptible outside of the building in the more densely populated areas of our county. The Rural Community (RC) Zone was designated with the intention of sustaining existing rural and predominantly residential communities in close proximity to and complemented by residences, small farm/forest uses as well as low-impact commercial and/or industrial uses. Since indoor marijuana production operations in the RC zone will remain conditionally permitted in these more populated rural areas, requiring air filtration systems and light-obscuring construction features for these new facilities will also help to sustain these areas' rural residential character in ways that balance the needs of the residents with those of their small-scale and low- impact commercial and industrial users. Likewise, the Heavy Industrial, Light Industrial, and Industrial Park Zones tend to be located in close proximity to more densely populated suburban/urban areas whose residents' residential enjoyment need not be superceded by nearby commercial marijuana production's offensive odors.

Finding 9: For the above mentioned reasons, Staff finds that the amendment to Section 1803.2(B and C) to prohibit marijuana operations in the RR-5 zone will further strengthen the related amendments to Sections 1803.2(A. 2 and A.3) (Finding 7 & 8) aimed at protecting residents and their properties in close proximity to commercial marijuana production operations from offensive odors and artificial nocturnal lighting emanating from them.

Comments or Letters Received concerning Airport Industrial Zone

Discussion - Request to allow marijuana operations in the Airport Industrial(AI) Zone: On

October 17, 2017 Mark A. Gordon, P.C. and representing Tim Bero, delivered the attached request to the Columbia County Board of Commissioners and Planning Commission to remove the current prohibition of marijuana growing and producing operations in the Airport Industrial (AI) Zone. This request states that Mr. Bero seeks to grow, harvest and process cannabis from his approximate 72-acre property, 27 acres of which is zoned for AI uses. This request essentially asks the county to consider the land uses associated with cannabis operations as another kind of agricultural operation and allow them to occur in the AI Zone.

Although this request states that Mr. Bero's property is zoned Primary Agriculture (PA-80), the county's official records verify it has actually been zoned for Primary Forest (PF-80) since 1985 as shown below on Page 11.

The Board of Commissioner's approved of Mr. Bero's 2008 requests for Comprehensive and Zoning Map Amendments (PA 8-02 and ZC 08-02), and the southern 27-acres of the PF-80 subject property was rezoned for AI uses and development.

Zoning of Tim Bero's 72-acres property associated with Tax Map ID # 4501-000-00300



Section 941 of the County's Zoning Ordinance states the purpose of the AI Zone. *"It is intended to recognize those areas devoted to or most suitable for the immediate operational facilities necessary for commercial and noncommercial aviation. It is also intended to provide areas for those activities directly supporting or dependent upon aircraft or air transportation when such activities, in order to function, require a location within or immediately adjacent to primary flight operations and passenger or cargo service facilities. It is further intended to provide appropriate locations for airport related light industrial uses that are compatible with and dependent upon air transportation."*

The provisions in Sections 942 and 943 moreover, identify industrial and commercial uses that are permitted outright or under prescribed conditions in the AI Zone all of which are either related to operational facilities necessary for commercial or noncommercial aviation, are dependent on aircraft transportation, or are intended to serve air service patrons. Although Section 952.10 outright permits farm uses in the AI Zone, the related provisions in Section 946.2 - 4 specify limitations on uses in the AI Zone where air emissions (smoke, fumes, flying ash dust, vapor gases) and exterior lighting, and the storage of animal, vegetable, or other waste which attract insects, rodents or birds are prohibited since these activities may interfere with present or planned aircraft operations.

Cannabis is classified as a Schedule I drug under the federal Controlled Substances Act (CSA), and its manufacture, distribution, and possession remain prohibited under federal law. The County's review of marijuana operations permits moreover, are approved for consistency with state and local laws; this approval provides no immunity from federal prosecution for violation of the CSA. *The provisions in ORS 475 B.005.2 (c) further that "...The People of the State of Oregon intend that the provisions of ORS 475B.010) to 475B.395, together with other provisions of state law will.... Prevent the diversion of marijuana from this state to other states."*

Finding 10: Staff finds that the majority (approximately 46 acres) of the 72 acre subject property is zoned for PF-80 uses. The existing provisions in Section 504.16 of the Zoning Ordinance authorize the county to administratively review new PF-80 zoned marijuana production operations subject to standards in Section 1803. Although the PF-80 portion of this site already contains a residence addressed at 15165 Airport Way, there are no provisions in Section 1803 or 504 that prohibit the establishment of an accessory marijuana production operation to its existing residential use in the PF-80 Zone.

Finding 11: Staff finds that the applicant has not submitted any evidence demonstrating that marijuana operations are similar to other authorized AI land uses in that they will directly support or be dependent upon aircraft or air transportation. Additional air and light pollution that could emanate from marijuana operations also would potentially interfere with aircraft operations which are discouraged from locating in the AI Zone pursuant to provisions in Section 946. Furthermore, locating these federally Controlled Substance related activities immediately adjacent to the existing Vernonia airport would also contradict one purpose of ORS 475 B: to prevent the diversion of marijuana from Oregon to other states.

Finding 12: For these reasons and without any additional evidence Staff finds that the request to amend Section 942.10 of the Zoning Ordinance to remove the exception for marijuana growing and producing as an outright permitted use in the AI Zone is not consistent with the existing aviation purposes of the zone, and is not consistent with regulatory requirements of the applicable federal, state and local laws governing marijuana operations in Columbia County.

Continuing with Proposed Amendments to Section 1803.2 of the Zoning Ordinance:

- ~~1803.2 D. Additional Standards in the RR-5 Zone:~~
- ~~1. Growing and producing uses shall be operated by a resident or employee of a resident of the property on which the uses are located.~~
 - ~~2. The growing and producing use shall employ on the site no more than five full-time or part-time persons.~~
 - ~~3. No more than one State issued growing or producing registration or licence is allowed for each parcel of record.~~

1803.2 D Prohibited in Residential Zoning Districts: Marijuana growing and producing uses are prohibited in residential zoning districts.

Finding 13: With the proposed prohibition of new marijuana operations in the RR-5 Zone as evaluated during the Discussion for Finding 9, these amended provisions will provide clarification that marijuana production is prohibited in all residential zones, including both RR-2 and RR-5 zones.

Following with Proposed Amendments to Section 1803.4 of the Zoning Ordinance:

- .4 **Marijuana Dispensary and Retailing Uses:** The following standards shall apply to marijuana dispensary and retailing uses:
- A. **Separation from Certain Sensitive Uses:** Marijuana dispensary and retailing uses may not be located within 1,000 feet of a public elementary or secondary school, private or parochial elementary or secondary school, public park or child care center. For the purposes of this section, separation distance shall be measured as the minimum distance between the property line of the dispensary or retail use parcel and the property line of the sensitive use parcel.
 - B. **Separation from Each Other:** Marijuana dispensary and retailing uses may not be located within 1,000 feet of another marijuana dispensary or retailing use. For the purposes of this section, separation distance shall be measured as the minimum distance between the property line of the dispensary parcel and the property line of the sensitive use parcel.
 - C. **Prohibited in Residential Zoning Districts:** Marijuana dispensaries and retailing uses are prohibited in residential zoning districts.

Finding 14: These amendments to Sections 1803.4 (A & B) will specify to the public and future marijuana operators how the county will measure distances between properties proposed for new marijuana retailing operations and nearby properties containing these specific sensitive land uses where minors are educated or participating in outdoor recreational activities. This clarification specifies that the minimum separation is measured between the affected property's boundaries, not between the property's structures. Staff finds this clarification will provide the county, the public and marijuana producers with a more accurate way to measure and enforce the minimum separation between properties where marijuana products are sold from other such properties as well as from the properties in the general vicinity where persons under 21 years old regularly attend indoor or outdoor educational and/or recreational activities.

Following with Section 1607 of the Zoning Ordinance

1607 **Consistency with the Comprehensive Plan:** All amendments to the Zoning Ordinance Text and Map shall be consistent with the Comprehensive Plan Text and Maps.

- .1 The Commission shall hold a hearing to consider the proposed amendments and shall make a recommendation to the Board of Commissioners with regard to the proposed amendments. The Board of Commissioners shall hold at least one hearing to consider the proposed amendments. Both the Commission and the Board of Commissioners hearings will require notice in the manner outlined in Section 1611.

Finding 15: The Planning Commission's recommendation for the proposed Zoning Ordinance Amendments proposed for TA 17-02 will be heard by the Board of Commissioners at their public hearing scheduled for January 17, 2018. See pages 13 - 16 for discussion of consistency with the Comprehensive Plan. This criterion will be satisfied when the Board holds a hearing and can determine that the proposed amendments are consistent with the Comprehensive Plan.

THE FOLLOWING POLICIES OF THE COUNTY'S COMPREHENSIVE PLAN APPLY TO THE PROPOSED AMENDMENTS (THOSE NOT LISTED ARE NOT APPLICABLE)

The Columbia County Comprehensive Plan has twenty-one (21) Parts, each with a set of general Goals and related Policies that are, in turn, implemented by the Zoning Ordinance, which identifies how land can be used and developed in the County's unincorporated areas. The parts of the

Comprehensive Plan applicable to the proposed text amendment are: Part I (Administrative Procedures), Part II (Citizen Involvement), Part III (Planning Coordination), Part IV (Forest Lands), Part VII (Rural Residential), Part X (Economy and Part XVIII (Air, Land and Water Quality)). Parts of the Comprehensive Plan not addressed in this report are not applicable to the request.

Beginning with Part I - Administrative Procedures for Revising and Amending the Comprehensive Plan:

Part I (Administrative Procedures): This section provides a framework by which the Comprehensive Plan and its implementing ordinances (such as the Zoning Ordinance) may be reviewed, revised and amended. Policy 5.A allows amendments to be initiated by the Board of Commissioners, the Planning Commission, the Planning Director, or the owners of an affected property. Policy 5.C requires amendments to follow a process for adoption: CPAC review, Planning Commission public hearing and recommendation, and Board hearing and adoption of revisions or amendments. Policy 5.D addresses legislative amendments and requires notice of the public hearing and that a copy of the proposed amendments be mailed to all Citizen Planning Advisory Committees and interested parties ten days prior to the first public hearing.

As discussed in Finding 1 of this report, the Board of County Commissioners initiated the process for the Zoning Text Amendments to Section 1803 and directed Staff to prepare amendments addressing additional land use requirements for the proposed marijuana uses. Proposed amendments are legislative amendments and have been noticed in accordance with this Plan and applicable Oregon Revised Statutes (ORS 215.060 and ORS 197.610). Notification of proposed amendments were sent to the Department of Land Conservation and Development (DLCD), all County CPACs, affected property owners and other interested parties for their review. In accordance with ORS 197.610, which requires notice of proposed amendments to be mailed to DLCD 35 days prior to the first evidentiary hearing, a copy of the proposed amendments was mailed to DLCD on June 27, 2017. On June 30, 2017, notification of the amendments was mailed to all County CPAC members and other interested agencies. Measure 56 notices were mailed to all affected properties on June 30, 2017. Public notices of the meetings (twice at least 10 days prior to the initial public hearing) were published accordingly.

The first public hearing by the Planning Commission was scheduled for August 7, 2017 and held on August 21, 2017. The Planning Commission's recommendation to the Board of County Commissioners is included in this Staff Report for TA 17-02 and dated January 10, 2018. The Board will then hold a public hearing on January 17, 2018 to consider the Planning Commission's recommendation and public testimony prior to making a decision on the adoption of proposed amendments.

Finally, Policy 8 requires all land use approvals to be consistent with the Comprehensive Plan. The proposed amendments' consistency with the Comprehensive Plan are discussed as follows:

Continuing with Part II of the Comprehensive Plan - Citizen Involvement:

Part II (Citizen Involvement): requires opportunity for citizens to be involved in all phases of the planning process. Generally, Part II is satisfied when a local government follows the public involvement procedures set out in State statutes and in its acknowledged Comprehensive Plan and land use regulations, which has been completed for this application. This is explained further under Part I and Part III of the Comprehensive Plan discussions.

Continuing with Part III of the Comprehensive Plan: Planning Coordination:

Part III (Planning Coordination): This section requires coordination with affected governments and agencies. In accordance with Section 1603 of Columbia County's Zoning Ordinance, ORS 215.060 and ORS 197.610, the County provided notice of the hearing with the opportunity for comments to DLCD, all County CPAC members, affected property owners. Any and all comments, received as

of the date of this report, are discussed under “ Comments Received” below.

Additionally, Zoning Ordinance Text Amendments are subject to the Legislative public hearing process and are heard by the Planning Commission (for a recommendation) and by the Board of County Commissioners (for a decision). These hearings are advertised and open to the public and provide additional opportunity for public comment. The Planning Commission hearing was scheduled for August 7, 2017 which will be followed by a hearing of the Board of County Commissioners on January 17, 2018. All of these requirements have and will be satisfied through the public notice process.

Continuing with Part IV of the Comprehensive Plan - Forest Lands:

Part IV (Forest Lands): The goal of the Forest Lands section of the Comprehensive Plan is to conserve forest lands for forest uses. The State has defined marijuana growing and producing in the definition of farm use(Section 34, HB 3400A). State law also provides that the County may, but is not required to, regulate marijuana as a farm use in the same manner it is regulated in the PA-80 zone as an outright permitted use(Section 34(3), HB 3400A). As discussed during Findings 7 & 8, the proposed text amendments for marijuana production operations in the forest zone will (1) prohibit artificial lighting from within a marijuana growing structure being visible from outside of the building at night and (2) require marijuana growing operations on forested properties be separated by a minimum of 1,000 feet from nearby properties containing sensitive elementary and secondary schools, day cares and/or public parks which are regularly frequented by persons under 21 years old. By updating the construction and siting requirements for marijuana production operations in the forest zone, Staff finds the proposed amendments are consistent with Part IV of the Comprehensive Plan.

Continuing with Part VII of the Comprehensive Plan - Rural Residential:

Part VII (Rural Residential): Rural residential land consists of lands that were “Built and Committed” to non-resource uses at the time of the Comprehensive Plan’s initial adoption of the Zoning Ordinance in 1984. The density of these areas varies with averages of one unit per five acres or less being common. Over 23,000 acres of land in Columbia County are designated Rural Residential and are characterized by two distinct development patterns: five acre densities and two acre densities. It is the goal of the Rural Residential section of the Comprehensive Plan to provide for the continuation and needed expansion of Rural Residential uses on those resource lands where a valid exception can be, or has been shown to be, justified. Marijuana growing and producing has been defined by the State as a farm use and farm use is currently permitted outright in the RR-2 and RR-5 zones. The Board’s adoption of Board Ordinance 2015-4 prohibited marijuana production operations in the RR-2 Zone due to their smaller parcels and more dense residential land use pattern, and allowed them in the RR-5 Zone.

As covered for Finding 9, the Zoning Text Amendments proposed for TA 17-02 are designed to assure that the growing and production of marijuana in all rural residential zoned areas does not unreasonably compromise or interfere with, and should not occur at the expense of the intended “continuation and expansion” of existing well established RR-5 neighborhoods and communities as stated as one goal of the Rural Residential lands. For these reasons, Staff finds the proposed amendments to prohibit new marijuana growing and producing operations in the RR-5 zone are consistent with Part VII of the Comprehensive Plan.

Continuing with Part X of the Comprehensive Plan - Economy:

Part X (Economy): This section generally regards economic strength and diversity in the County through the creation of a stable and diversified economy and the creation of new and continuous employment opportunities. Policy 9 further encourages the establishment and operations of service sectors to insure greater revenue spending locally. The Zoning Text Amendments proposed for TA 17-02 do not amend any existing provisions for marijuana retailing or processing operations. These

amendments however, do allow for the continued marijuana production operations in the PF-80, FA-80, Urban Industrial and Rural Community zones with additional construction and siting requirements intended to reduce nuisances (i.e. light pollution and offensive odors) on adjacent properties. Appropriately sited commercial marijuana production opportunities should provide county residents and property owners participating in the marijuana industry with additional revenue to spend locally that will, in turn, increase the county's tax base. The proposed prohibition of marijuana production operations in the 22,000 acres (~ 5% of the county's land area) zoned for RR-5 uses moreover, will still allow marijuana to be produced in ~ 400,000 acres or 90% of total county land zoned for PA-80 PF-80, FA-80, PA-80, Urban Industrial and Rural Community. These 400,000 acres should still provide commercial marijuana operations with sufficient land to lawfully conduct these activities without interfering with well established rural residential communities and neighborhoods nearby. For these reasons, Staff finds the proposed text amendments are consistent with Part X of the Comprehensive Plan.

Continuing with Part XVIII of the Comprehensive Plan - Air, Land and Water Quality:

Part XVIII (Air, Land and Water Quality): Applicable provisions of this part of the Comprehensive Plan pertain to air emissions, noise, sewage disposal, solid waste removal and surface and ground water protection treatment. Goals of this section aim to “control and limit the adverse impacts of noise, light pollution and air emissions” and “maintain and improve land resources and the quality of the air and water of the County.”

In regard to noise, the Noise Goal of the Comprehensive Plan is to “control and limit the adverse impacts of noise.” Policy 4 further states that “provisions will be included in the Zoning Ordinance to prohibit encroachment of noise pollution sources into noise sensitive areas and to prohibit the encroachment of noise sensitive uses into recognized noise pollution areas.” Marijuana growing and producing typically involves the use of ventilation equipment and artificial lighting that must be used during significant portions of each day and/or night to ventilate and light plants that can emit sounds and light perceptible to nearby properties. In addition, during their final four weeks of maturity, marijuana plants emit a distinct odor and pollen which can be offensive to persons with sensitivities

As discussed in Findings 7 & 8 the proposed amendments include the installation of engineered air filtration systems and light blocking mechanisms for indoor marijuana production operations in the RC, M-3, M-2 and M-1 zoned properties. Indoor production and growing operations on PF-80 and FA-80 properties however will be required to utilize nocturnal light blocking mechanisms but will not be required to install air filtration systems since these are traditionally larger sized properties and are not located near the more densely populated areas of the county. The prohibition of marijuana production operations in the RR-5 Zone will also preserve the rural residential characteristics of RR-5 established neighborhoods by eliminating potentially offense odors, noises, and nocturnal lighting emanating from commercial marijuana operations nearby.

The proposed regulations as applied to traditionally more populated residentially developed areas directly support Policy 4 by limiting the encroachment of a noise, smell, and light pollution sources into those areas that are more sensitive to these off site impacts. For these reasons, Staff finds the proposed text amendments are consistent with Part XVIII of the Comprehensive Plan.

COMMENTS:

The following comments have been received as of January 10, 2018 and were submitted for the Planning Commission's public hearing.

Vernonia Fire District: Has reviewed the proposed text amendments and have no objection to their approval as submitted.

Scappoose- Spitzenberg CPAC: Has reviewed the proposed text amendments and have no objection to their approval as submitted.

City of Scappoose: Has reviewed the proposed text amendments and have no objection to their approval as submitted.

City of Clatskanie: Has reviewed the proposed text amendments and have no objection to their approval as submitted.

Saint Helens School District: Has reviewed the proposed text amendments and have no objection to their approval as submitted.

Other Written Comments: As of the January 10, 2018, Land Development Services has not received any other written comments concerning the proposed Zoning Ordinance Text Amendments other than the October 16, 2017 hand delivered request from Mark Gordon as covered for Finding 9.

Phone Contacts: As of the date of this Report, Land Development Services has received approximately 20 phone calls in response to the the Measure 56 notice mailed to the affected unincorporated area property owners. All of these contacts have been in favor of these proposed amendments as they relate to their properties.

CONCLUSION AND RECOMMENDATION:

Based upon Discussion and related Findings in this Staff Report, the Planning Commission and Staff recommends **APPROVAL** of TA 17-02, the legislative amendments to the text of the Columbia County Zoning Ordinance that will prohibit marijuana operations in the RR-5 zone, specify additional standards for marijuana production and retailing operations and clarify distinctions between state licensing requirements and Columbia County land use regulatory requirements for authorized marijuana land uses operating in the unincorporated areas of Columbia County. The amendments are included as **Attachment 1** to this report.

ATTACHMENTS:

1. Proposed Marijuana Land Use Amendments to Section 1803 of the Zoning Ordinance
2. Application for TA 17-02
3. Oregon Land Use Board of Appeals - Sandra Diesel vs. Jackson County LUBA Nos. 2016-039-055 Affirmed 09/13/2016 -Oregon Court of Appeals - Sandra Diesel vs. Jackson County, Affirmed 12/09/2016
4. Mark A, Gordon's request to Planning Commission and Board of Commissioners to allow marijuana operations in the Airport Industrial (AI) Zone.
5. Section 940 of the Zoning Ordinance - Airport Industrial (AI) Zone
6. Written Comments received and Planning commission draft August 21, 2017 Minutes

PURCHASE AND SALE AGREEMENT

BETWEEN **COLUMBIA COUNTY**, a political subdivision
of the State of Oregon (“Seller” or “County”)

AND Verum Pulchrum Bonum Domum, LLC
an Oregon Limited Liability Company (“Buyer”)

Collectively, the “Parties.”

RECITALS

WHEREAS, on January 3, 2014, nunc pro tunc October 3, 2013, the Circuit Court of the State of Oregon for the County of Columbia entered of record the General Judgment in *Columbia County v. 2305 Columbia Building, LLC, et. al.*, Case No. 13-CV05366; and

WHEREAS, pursuant to that General Judgment, Seller acquired certain foreclosed real property, including property having Tax Map ID No. 3N2W12-DB-02200 and Tax Account No. 4067 in Scappoose, Oregon, (the “Property”) by deed recorded as document number 2015-008939 in the Columbia County deed records; and

WHEREAS, the Property is depicted on Exhibit A hereto, and is more specifically described in the draft quitclaim deed attached as Exhibit B hereto (the “Quitclaim Deed”), which is incorporated by reference herein; and

WHEREAS, the County offered the Property for sale at auction on August 17, 2016, and no offers were received; and

WHEREAS, pursuant to ORS 275.200(2), the County may sell and convey the Property without further public notice; and

WHEREAS, the County has contracted with Robert J. Braud (“County Realtor”) to act as a broker/agent on behalf of the County as to the Property; and

WHEREAS, Buyer has offered to purchase the Property for \$35,000.00 (“Purchase Price”); and

WHEREAS, County policy provides that Buyers of tax foreclosed properties shall pay a \$145.00 administrative fee (the “Administrative Fee”) in addition to the agreed upon purchase price; and

WHEREAS, Seller intends to sell the Property to Buyer on the terms and conditions set forth herein.

AGREEMENT

In consideration of the terms and conditions hereinafter stated, Buyer agrees to buy, and Seller agrees to sell, the Property on the following terms:

1. Purchase Price. The total Purchase Price plus the Administrative Fee shall be \$35,145.00.
2. Agreement and Purchase Deposit Delivery. On or before December 13, 2017, Buyer will deliver a signed Agreement to the County at the address provided herein, along with \$3,500.00 whichever is greater, in the form of cash, cashier's check or money order made payable to Columbia County (the "Deposit"). Upon signature of the Agreement by the Seller, Buyer will have thirty (30) calendar days (the "Due Diligence Period") to perform reasonable due diligence investigations in accordance with Section 5 herein.
3. Condition of Property and Title.
 - A. Buyer shall acquire the Property "AS IS" with all faults, without covenants or warranties.
 - B. Seller shall convey the Property without warranty through a Quitclaim Deed substantially in the same form as Exhibit B;
 - C. The sale of the Property is subject to any municipal liens, easements and encumbrances of record.
 - D. The Quitclaim Deed will reserve to Seller:
 - i. The mineral and associated rights specifically provided for in Exhibit B; and
 - ii. If applicable, all rights to any County, public, forest C.C.C. roads; and
 - E. Buyer shall rely on the results of inspections and investigations completed by Buyer, and not upon any representation made by the Seller and the Seller's Agent.
4. Seller's Conditions to Closing. Seller's obligation to sell the Property is conditioned upon the following occurring not later than the Closing Date defined herein, unless otherwise specified or waived by Seller:
 - A. The County Board of Commissioners will adopt an Order authorizing the sale of the Property to Buyer in accordance with terms and conditions substantially the same as those provided for in this Agreement.
 - B. Buyer will pay the Purchase Price and the Administrative Fee, less the Deposit, in one payment by cash, money order or cashier's check within five (5) business days of Seller notifying Buyer in writing that a sale order has been adopted by the County Board of Commissioners. The sale order will be adopted by the County only after the end of the Due Diligence Period.
 - C. BUYER AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS SELLER, ITS OFFICERS, AGENTS (INCLUDING COUNTY REALTOR) AND EMPLOYEES, SUCCESSORS AND ASSIGNS FROM ALL CLAIMS, SUITS, ACTIONS, LIABILITY, DAMAGE, LOSS, COST OR EXPENSE, INCLUDING ATTORNEY'S FEES, ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PROPERTY OR USE OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO: (1) ANY DAMAGE TO OR DESTRUCTION OF ANY PROPERTY THAT SELLER MAY OWN OR IN WHICH IT MAY HAVE AN INTEREST; (2) ANY DAMAGE TO OR DESTRUCTION OF ANY PROPERTY BELONGING TO ANY OTHER PERSON, FIRM OR CORPORATION; (3) INJURY TO

OR DEATH OF ANY PERSON OR PERSONS AS A RESULT OF ANY ERRORS OR OMISSIONS OR OTHER NEGLIGENT, RECKLESS OR INTENTIONALLY WRONGFUL ACTS OF BUYER, THEIR HEIRS, SUCCESSORS, ASSIGNS AND/OR INVITED GUESTS ARISING IN ANY MANNER OUT OF BUYER'S USE OR POSSESSION OF THE PROPERTY, AND (4) ENVIRONMENTAL LIABILITY ARISING FROM THE PROPERTY. THIS CONDITION SHALL SURVIVE CLOSING AND SHALL NOT MERGE WITH THE QUITCLAIM DEED.

THESE CONDITIONS ARE SOLELY FOR SELLER'S BENEFIT AND MAY BE WAIVED ONLY BY SELLER IN ITS SOLE DISCRETION.

5. Buyer's Conditions to Closing. Buyer's obligation to accept the Property is conditioned upon the following, unless otherwise specified or waived by Buyer in its sole discretion:
- A. Buyer may conduct a public records search and/or other due diligence inspections of the Property during the Due Diligence Period provided for in Section 2 herein, with said inspections to be paid for by Buyer.
 - B. It shall be a condition to Closing that the results of such due diligence efforts are acceptable to Buyer in its sole discretion. Buyer may engage consultants or engineers of Buyer's choosing to conduct site studies of the Property(ies) as Buyer deems necessary.
 - C. Buyer and its agents shall have the right to enter the Property(ies) at reasonable times during the Due Diligence Period to complete reasonable due diligence inspections of the Property, with said inspections to be non-invasive unless agreed otherwise in writing by the Parties.
 - D. Buyer shall provide evidence of acceptable liability insurance coverage prior to entering upon the Property(ies) upon request of the County.
 - E. Buyer shall indemnify and hold Seller, its officers, employees and agents (including County Realtor) from any loss, damage, lien, or claims arising out of due diligence efforts completed on the Property. The foregoing indemnity and hold harmless obligation shall survive Closing or termination of this Agreement, and shall not merge with the Quitclaim Deed. However, Buyer shall have no obligation to indemnify County related to any existing condition discovered during an inspection. This condition shall survive Closing and shall not merge with the Quitclaim Deed.
 - F. Buyer shall provide County with copies of all reports produced pursuant to this Section.
 - G. In the event that Buyer elects not to purchase the Property as a result of Buyer's completed due diligence efforts, said election shall be communicated in writing to Seller or the County Realtor before the end of the Due Diligence Period.
Buyer's activities under this Section 5, and those of Buyer's contractors and agents, will be coordinated with the Seller's representative provided for in Section 11.C.
6. Failure of Conditions at Closing.
- A. In the event that any of the conditions set forth in Section 4 and 5 above are not timely satisfied or waived by the Closing Date, for a reason other than the default of the Buyer or the Seller under this Agreement, this Agreement and the rights and obligations of the Buyer and the Seller shall terminate. In the event of said termination, Buyer's agreements provided for in Section 4.C. and 5.E. above shall survive termination.
 - B. In the event that Buyer notifies Seller in writing prior to the expiration of the Due Diligence Period that the condition of the Property is unacceptable to the Buyer, Seller shall refund the

Deposit to Buyer in full within a reasonable period of time.

- C. In the event Buyer does not notify Seller in writing prior to the expiration of the Due Diligence Period that the condition of the Property is unacceptable to the Buyer, and Buyer, through no fault of Seller, fails to purchase the Property by the Closing Date provided for in Section 8 herein, the Deposit shall be forfeited to Seller.
7. Seller's Obligation to Close. Nothing in this Agreement is intended to require Seller to close the sale. Seller shall be entitled to decline to close at any time before the closing documents are signed. In the event that Seller elects to not sell the Property to Buyer through no fault of Buyer, the Deposit shall be returned to Buyer in its entirety.
8. Closing of Sale. Buyer and Seller intend to close the sale on or before close of business on January 31, 2017 (the "Closing Date"), with the actual time of Closing Date to be set by Seller. Notwithstanding this intention, Seller, at its sole discretion, may elect to extend the Closing Date by a reasonable period of time necessary to complete administrative actions required by the County. The sale shall be "Closed" when the Purchase Price has been paid in full and the Quitclaim Deed is recorded by the County.
9. Closing Costs; Prorates. Reserved.
10. Possession. Buyer shall be entitled to exclusive possession of the Property at the time the sale is Closed in accordance with Section 8 above.
11. General Provisions.
- A. Notices. Unless otherwise specified, any notice required or permitted in, or related to this Agreement, must be in writing and signed by the party to be bound. Any notice or payment will be deemed given when personally delivered, delivered by facsimile transmission with electronic confirmation of delivery, via electronic mail, or will be deemed given on the day following delivery of the notice by reputable overnight courier or through mailing in the U.S. mail, postage prepaid, by the applicable party to the address of the other party shown in this Agreement, unless that day is a Saturday, Sunday, or legal holiday, in which event it will be deemed delivered on the next following business day. If the deadline under this Agreement for delivery of a notice or payment is a Saturday, Sunday, or legal holiday, such last day will be deemed extended to the next following business day.
- B. The notice addresses are as follows:

FOR SELLER:
Board of County Commissioners
c/o Board Office Administrator
230 Strand, Room 330
St. Helens, OR 97051
Phone No: 503-397-3839

FOR BUYER:
Verum Pulchrum Bonum Domum, LLC
Aidan Willis, Manager
33354 Adam Ct.
Scappoose, OR 97053
Phone No: 503-957-0966
Email: awillis@wacproperties.com

C. County Realtor.

i. Unless otherwise directed by the Seller, Buyer will coordinate its due diligence work with the County Realtor, who can be contacted at 503-397-3023 (phone), or bob@brokerbob.biz (email). The County Realtor will be notified in advance of all due diligence work to be completed on the Property. If Buyer requires entry to the buildings on the Property, the County Realtor will arrange for said entry, subject to reasonable advance notice of the required entry.

ii. The County Realtor will receive a five percent (5%) commission if the sale is Closed as provided for herein. N/A% of said commission is hereby assigned on net proceeds to N/A, the Buyer's Broker. The Seller will pay said commission fees directly to the County Realtor within a reasonable time period after the sale is Closed. The County Realtor is responsible for paying commission to Buyer's Broker, if any.

D. Assignment. This Agreement is not assignable by the Parties.

E. Attorney's Fees. In the event a suit, action, arbitration or other proceeding of any nature whatsoever to enforce or interpret this Agreement, the Parties shall be responsible for their respective costs and expenses, including attorney's fees. This paragraph shall survive Closing and shall not merge with the Quitclaim Deed.

F. Exhibits. The following Exhibits are attached to this Agreement and incorporated within this Agreement: Exhibit A, Map; and Exhibit B, Quitclaim Deed.

G. Buyer Representations and Warranties. Buyer representations and warranties shall survive Closing and shall not merge with the deed.

i. The Buyer has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transactions contemplated herein.

ii. All requisite action (corporate, trust, partnership, or otherwise) have been taken by the Buyer in connection with entering into this Agreement and the instruments referred to herein and the consummation of the transactions contemplated herein. No further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority, or other party is required.

iii. The person(s) executing this Agreement and the instruments referred to herein on behalf of the Buyer (has/have) the legal power, right, and actual authority to bind the Buyer in accordance with their terms.

iv. Neither the execution and delivery of this Agreement and the documents referred to herein, nor the incurring of the obligations set forth herein, nor the consummation of the transactions contemplated, nor compliance with the terms of this Agreement and the documents referred to herein conflicts with or results in the material breach of any terms, conditions, or provisions of or constitute a default under any bond, note or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which the Buyer is a party.

- H. Governing Law. This Agreement is made and executed under and in all respects shall be governed and construed by the laws of the State of Oregon.
- I. Venue. Venue related to this Agreement shall be in the Circuit Court of the State of Oregon for Columbia County, in St. Helens, Oregon.
- J. No Third Party Rights. This Agreement is solely for the benefit of the Parties to this Agreement. Rights and obligations established under this Agreement are not intended to benefit any person or entity not a signatory hereto.
- K. Miscellaneous. Time is of the essence of this Agreement. The electronic mail delivery or facsimile transmission of any signed document including this Agreement shall be the same as delivery of an original. At the request of either party, the party delivering a document by electronic mail or facsimile will confirm facsimile transmission by signing and delivering a duplicate original document. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same Agreement. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successor and assigns. The Parties represent, covenant and warrant that the person signing this Agreement on their behalf has full right and authority to bind the party for whom such person signs to the terms and provisions of this Agreement. Furthermore, the Parties represent and warrant that they have taken all steps necessary to bind themselves to this Agreement.
- L. INTEGRATION, MODIFICATIONS, OR AMENDMENTS. THIS AGREEMENT, INCLUDING ITS EXHIBITS, CONTAINS THE ENTIRE AGREEMENT OF THE PARTIES WITH RESPECT TO THE PROPERTY AND SUPERSEDES ALL PRIOR WRITTEN AND ORAL NEGOTIATIONS AND AGREEMENTS WITH RESPECT TO THE PROPERTY. THE PARTIES TO THE AGREEMENT MUST APPROVE ANY MODIFICATIONS, CHANGES, ADDITIONS, OR DELETIONS TO THE AGREEMENT IN WRITING.
- M. STATUTORY DISCLAIMERS. "THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

"BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE

SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010."

"IF THE PROPERTY IS SUBJECT TO ORS 358.505 THE PROPERTY DESCRIBED IN THIS INSTRUMENT IS SUBJECT TO SPECIAL ASSESSMENT UNDER ORS 358.505."

APPROVALS

FOR BUYER

VERUM PULCHRUM BONUM DOMUM, LLC,
an Oregon Limited Liability Company

By: 
Aidan Willis
Its: Manager

Dated: 12/13/2017

Approved as to form:

By: _____

FOR COUNTY

BOARD OF COUNTY COMMISSIONERS FOR
COLUMBIA COUNTY, OREGON

By: _____
Henry Heimuller, Chair

By: _____
Margaret Magruder, Commissioner

By: _____
Alex Tardif, Commissioner

Dated: _____

EXHIBIT A
Tax Account No. 4067
Map

4067Map

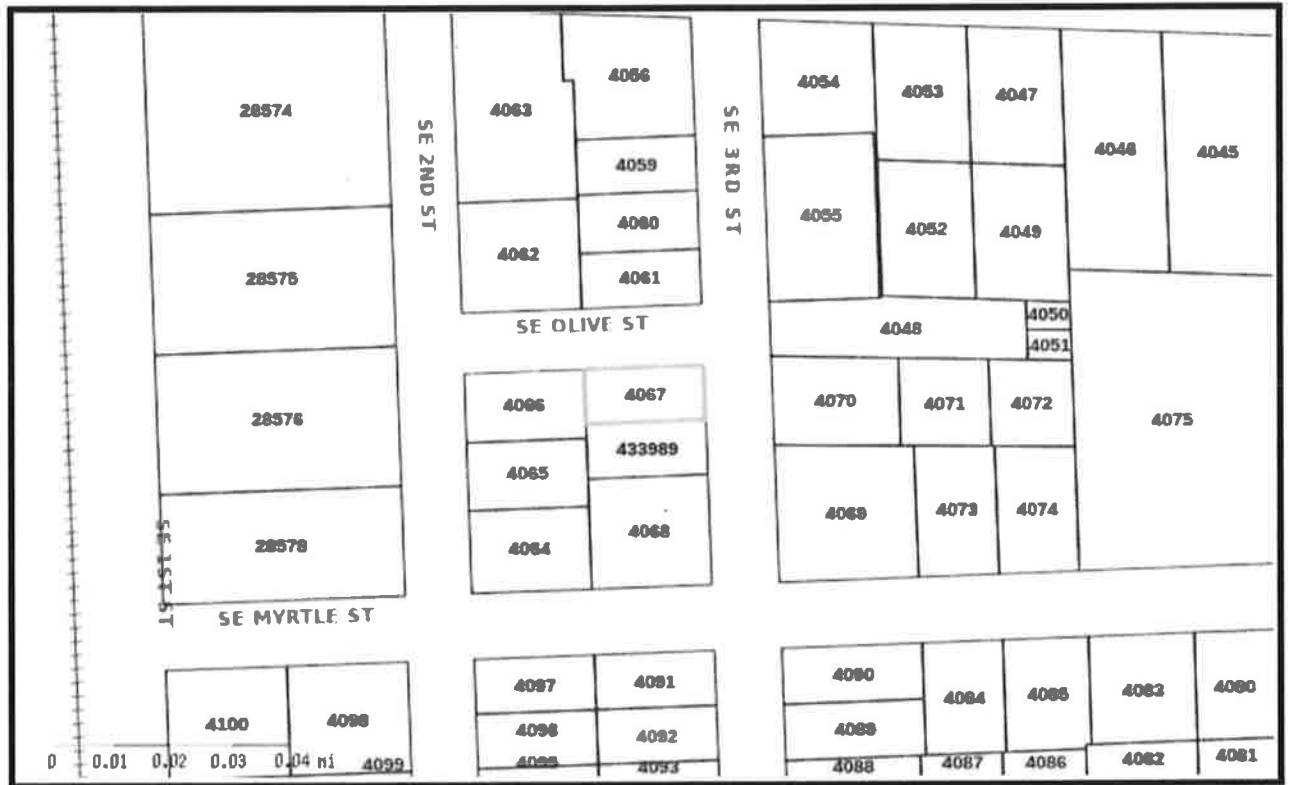


EXHIBIT B

AFTER RECORDING, RETURN TO GRANTEE:

Verum Pulchrum Bonum Domum, LLC
Attn: Aidan Willis, Manager
33354 Adam Ct.
Scappoose, OR 97056

Until a change is requested, all tax statements shall be sent to Grantee at the above address.

QUITCLAIM DEED

The **COUNTY OF COLUMBIA**, a political subdivision of the State of Oregon, hereinafter called Grantor, for the consideration hereinafter stated, does hereby release and quitclaim unto Verum Pulchrum Bonum Domum, LLC, hereinafter called Grantee, all right, title and interest in and to that certain parcel of real property identified in Columbia County records as Map ID No. 3N2W12-DB-02200 and Tax Account No. 4067, and more particularly described on Exhibit A hereto.

The true and actual consideration for this conveyance is \$35,145.00.

This conveyance is subject to the following exceptions, reservations and conditions:

- 1) This property is conveyed AS-IS without covenants or warranties, subject to any municipal liens, easements and encumbrances of record.
- 2) All rights to any County, public, forest or Civilian Conservation Corps roads are hereby reserved for the benefit of Columbia County, Oregon.
- 3) All rights to any minerals, mineral rights, ore, metals, metallic clay, aggregate, oil, gas or hydrocarbon substances in, on or under said property, if any, including underground storage rights, surface mining, and also including the use of such water from springs, creeks, lakes or wells to be drilled or dug upon the premises as may be necessary or convenient for such exploration or mining operations, as well as the conducting of operations related to underground storage and production of gaseous substances on the property, are specifically excepted, reserved and retained for the benefit of Columbia County, Oregon, together with the right of ingress and egress thereto for the purpose of exercising the rights hereby excepted, reserved and retained.

This conveyance is made pursuant to Board of County Commissioners Order No. _____ adopted on the ____ day of _____, 20__, and filed in Commissioners Journal at Book ____, Page ____.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the Grantor has executed this instrument this _____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: _____
Henry Heimuller, Chair

By: _____
Office of County Counsel

STATE OF OREGON)
)
County of Columbia)

ss.

ACKNOWLEDGMENT

This instrument was acknowledged before me on the _____ day of _____, 20__, by Henry Heimuller, Chair, Board of County Commissioners of Columbia County, Oregon, on behalf of which the instrument was executed.

Notary Public for Oregon

EXHIBIT A
Legal Description for Map ID No 3N2W12-DB-02200
Tax Account No. 4067

13-083

Lot 1, Block 2, Greenwood Addition to the City of Scappoose, in the City of Scappoose,
Columbia County, Oregon.