

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the Columbia County)
Zoning Ordinance to Establish Regulations for)
Marijuana-Related Land Uses) ORDINANCE NO. 2015-4

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2015-4.

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035, ORS 203.045, ORS 197.175, Chapter 615, Oregon Laws 2015.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to establish land use regulations for the production, processing, wholesaling, dispensing and retailing of medical and recreational marijuana in the unincorporated areas of Columbia County.

SECTION 4. AMENDMENT AND AUTHORIZATION.

The Columbia County Zoning Ordinance is amended as shown in Exhibit A attached hereto and incorporated herein by this reference.

SECTION 5. FINDINGS.

The Board of County Commissioners adopts Findings of Fact and Conclusions of Law in the Staff Report to the Board of Commissioners, attached hereto as Exhibit B and incorporated herein by this reference.

SECTION 6. SEVERABILITY.

If for any reason any court of competent jurisdiction holds any portion of this Ordinance, including its attachments or any portion therein, to be invalid, and such holding is upheld on any

appeal, such portion shall be deemed a separate, distinct and independent portion. Any such holding shall not affect the validity of the remaining portions.

SECTION 7. SCRIVENER'S ERRORS

Scrivener's errors in any portion of this ordinance may be corrected by order of the Board of County Commissioners.

SECTION 8. EMERGENCY CLAUSE.

This Ordinance, being immediately necessary for the health, safety and welfare of the citizens of Columbia County, an emergency is declared to exist. This Ordinance shall therefore become effective upon adoption.

DATED this 25th day of November, 2015.

Approved as to Form


By: 
Office of County Counsel

Recording Secretary
By: 
Jan Greenhalgh, Recording Secretary

First Reading: 11-25-15
Second Reading: 11-25-15
Effective Date: 11-25-15

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Henry Heimuller, Chair

By: 
Anthony Hyde, Commissioner

By: 
Earl Fisher, Commissioner

**AMENDMENTS TO ZONING CODE
for Marijuana Land Uses**

Added Text: **Bold**

Deleted Text: ~~**Bold-Strikeout**~~

ARTICLE I – GENERAL DEFINITIONS

Section 100 GENERAL DEFINITIONS:

For the purpose of this ordinance, the following terms are hereby defined:

- .16 Building Line: A horizontal line that coincides with the front side of the main building.
 - .17 **Child Care Center: A facility that provides for the care of children, such as a day care center, nursery school, preschool, kindergarten, child play school, before- or after-school care, or child development center, and qualifies under one of the following:**
 - A. **Certified by the State of Oregon to care for thirteen (13) or more children;**
 - B. **Certified by the State of Oregon to care for twelve (12) or fewer children and located in a building constructed as other than a single family dwelling;**
 - C. **A preschool recorded program, as defined by ORS 329A.250(9); or**
 - D. **A school-age recorded program, as defined by ORS 329A.250(13).**
 - ~~.17~~ .18 Commission: The Planning Commission of Columbia County, Oregon
- ...
- [Renummer the subsections which follow]
- ~~.29~~ .30 **Farm Use:** The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops, or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use or animal husbandry, or any combination thereof and includes the preparation and storage of products raised on such land for human use and animal use and disposal by marketing or otherwise. **Marijuana is a crop for the purposes of farm use as defined by ORS 215.203.**

- ~~30~~ .31 Fence, Sight Obscuring: A fence, consisting of wood, metal or masonry, or an evergreen hedge or other evergreen planting, arranged in such a way as to obstruct vision.

....

[Renumber the subsections which follow]

- .45 Home Occupation: An accessory non-residential use conducted within or administered from a portion of a dwelling or its permitted accessory building pursuant to ORS 215.448, except marijuana growing or producing, which is otherwise regulated as a farm use and the processing, wholesaling, dispensing or retailing of marijuana in conjunction with a dwelling.

- ~~44~~ .46 Horticulture: The cultivation of plants, garden crops, trees and/or nursery stock.

[Renumber the subsections which follow]

....

- .62 Marijuana: The plant cannabis family *cannabaceae*, any part of the plant cannabis family *cannabaceae* and the seeds of the plant cannabis family *cannabaceae*. Marijuana does not include industrial hemp as defined in ORS 571.300.

- A. Marijuana Growing or Producing: The manufacture, planting, cultivation, growing, trimming or harvesting of marijuana or the drying of marijuana leaves and flowers at a location registered under ORS 475.304 where medical marijuana is produced for use by an Oregon Health Authority (OHA) registry identification cardholder or produced by a marijuana producer issued a production license by the Oregon Liquor Control Commission (OLCC). It does not include the drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or the cultivation and growing of an immature plant by a marijuana processor, marijuana wholesaler or marijuana retailer, if the marijuana was purchased or otherwise received from a marijuana producer.
- B. Marijuana Processing: The processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts at a marijuana processing site registered with the OHA or licensed by the OLCC. Processing does not include packaging or labeling.
- C. Marijuana Wholesaling: The purchasing of marijuana items in

Oregon for resale to a person other than a consumer at a site licensed by the OLCC.

D. **Marijuana Retailing:** The selling of marijuana items to a consumer at a site registered as a marijuana dispensary by the OHA or licensed as a retail location by the OLCC.

~~60~~ .63 May: as Used in this Ordinance, May Is Permissive and Shall Is Mandatory.

[Renumber the subsections which follow]

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Section 300 PRIMARY AGRICULTURE USE ZONE - 80 PA-80

302 Definitions. For purposes of the PA-80 Zone, the definitions in ORS 215.203, the Statewide Planning Goals, OAR Chapter 660 and the following definitions apply:

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.7 "Farm use" as defined in ORS 215.203 **including marijuana growing or producing subject to standards in Section 1803.**

....

303 Table of Authorized Uses and Development. The following uses, activities and development are authorized in the Primary Agriculture Zone, subject to review and approval under applicable regulatory standards:

Key

HV	High-Value Farm Land
NHV	Other lands, not defined as High-Value Farm Land
P	Permitted
AR	Subject to administrative review and approval process described in Section 1601
CUP/PC	Subject to Planning Commission review and approval for Conditional Use described in Section 1503
NP	Use not permitted

Note: The CCZO Section Column below lists only subsections of authorization and specific criteria of this PA Zone. Other criteria of this ordinance may apply to a proposed use, including but not limited to site design review, conditional use permit review, special use standards, and overlay zoning.

TABLE OF AUTHORIZED USES & DEVELOPMENT			
RESOURCE USES	*HV	*NHV	PA-80 SECTION
Farm Use as Defined in ORS 215.203 subject to standards in Section 1803.	P	P	304.1
Use and Management of Forest Lands	P	P	304.2

<u>TABLE OF AUTHORIZED USES & DEVELOPMENT</u>			
Farm and Forest Accessory Structures	P	P	304.3
Forest Product Primary Processing Facility	AR	AR	305.19, 307, 308
Wetland Creation/Restoration and Enhancement; Fish & Wildlife Habitat Projs.	P	P	304.4
Aquaculture and Insect Cultivation	AR	AR	305.20 307
RESIDENTIAL	HV	NHV	PA - 80 SECTION
New Dwelling in conjunction with a marijuana crop	NP	NP	
Farm Dwelling	AR	AR	305.1, .2, .3, .4, 307, 308
Family Farm Help Dwelling	AR	AR	305.8, 307, 308
Lot of Record Dwelling – High Value Farmland – Not High Value Farmland	AR NA	NA AR	305.5, 307, 308 305.6, 307, 308
Nonfarm Dwelling	NP	AR	305.7, 307, 308
Replacement Dwelling	AR	AR	305.9, 307, 308
Replacement of Historic Dwelling	AR	AR	305.10, 307, 308
Temporary Medical Hardship Manufactured Home	AR	AR	305.12, 307, 308
Accessory Farm Dwelling(s)	AR	AR	305.11, 307, 308
Residential Care/Training/Foster Home or Facility	AR	AR	305.13, 307, 308
Dwellings provided for in ORS 215.799 for wildlife habitat land	AR	AR	305.14, 307, 308
COMMERCIAL	HV	NHV	PA - 80 SECTION
Farm Stands except when used in conjunction with a marijuana crop	AR	AR	305.18, 307, 308
Facilities for the processing of farm crops and related commercial activities or for the production of biofuel as defined in ORS 315.141 that are not permitted under ORS 215.203(2)(b)(L) or ORS 215.283 (1)(u)	AR	AR	305.22, 307, 308
Home Occupations Type I - Type II -	AR CUP/PC	AR CUP/PC	305.21, 307, 308, 306.1, 307, 308,
Kennels	NP	CUP/PC	306.2, 308
Training and Stabling Horses for Profit	P	P	304.1
Destination Resort	NP	CUP/PC	306.3, 307, 308

TABLE OF AUTHORIZED USES & DEVELOPMENT			
Commercial activities that are in conjunction with a farm use and not otherwise permitted under Section 305.22, except commercial activities carried on in conjunction with a marijuana crop.	CUP	CUP/PC	306.4
Winery	AR	AR	305.24, 307
Landscaping Business in conjunction with a Nursery	AR	AR	305.23, 307, 308

....

304 Permitted Uses. The following specific development and uses are permitted in the PA-80 Zone and are subject to compliance with the procedures and criteria under Section 308 Development Standards, the prescriptive standards specified herein, and other applicable state, federal, and local regulations.

- .1 Farm use as defined by ORS 215.203(2) **including marijuana growing and producing subject to standards in section 1803;**
- .2 Propagation or harvesting of a forest products;
- .3 Accessory buildings and structures related to the use and management of farm uses. Roadside stands selling farm products produced on property owned or leased for farm use by the owner of the property on which the roadside stand is located **except when used in conjunction with a marijuana crop;**

....

305 Administrative Review. The following uses are permitted, subject to review and approval under the prescriptive standards specified herein, in Sections 307, 308, & 1550 and as may otherwise be **noted in this section and** indicated by federal, state and local regulations and permits.

SINGLE FAMILY RESIDENCES – 305 AR

The following single family residences may be allowed except for new dwellings used in conjunction with a marijuana crop:

- .1 Dwelling for the Farm Operator on High Value Farmland. A farm dwelling may be authorized on a tract of land classified as High Value Farmland where the tract meets the following criteria

....

COMMERCIAL RESOURCE RELATED USES – 305 AR

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- .18 Farm Stand. Structures that are designed and used for the sale of farm

crops **except when used in conjunction with a marijuana crop** and livestock grown on farms in the local agricultural area may be allowed, including the retail sale of incidental items and fee based activity to promote the sale of farm crops or livestock sold at the stand. Together, these accessory items may account for no more than 25% of the total annual sales of the farm stand. Farm stands do not include structures designed for residential occupancy or to accommodate activities other than the sale of farm crops and livestock, nor do they include processing of farm crops, or structures for banquets, public gatherings or entertainment. Farm crops or livestock includes both fresh and processed farm crops and livestock grown on the farm operation or grown on other farm operations in the local agricultural area. Processed crops and livestock includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items. Local agricultural area includes adjacent counties bordering the property on which the farm stand is located and include adjacent counties in the State of Washington that border the farm stand(s).

....

21 Type I Home Occupations, as defined by and subject to the applicable provisions in Sections 307, 308 and 1507. **Home Occupations do not include commercial activities carried on in conjunction with a marijuana crop.**

.22 **A facility for the processing of farm crops or for the production of biofuel, as defined in ORS 315.141 (biomass production or collection), if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038 (licensing exemption for certain poultry processors). If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment.**

.....

COMMERCIAL ACTIVITIES – 306 CUP

.1 Type II Home Occupations, as defined by and subject to Section 1507, may be allowed pursuant to Sections 307, 308 and 1503 with an associated public hearing. **Home Occupations do not include commercial activities carried on in conjunction with a marijuana crop.**

....

.4 **Commercial activities that are in conjunction with farm use except commercial activities carried on in conjunction with a marijuana crop**

and not otherwise permitted under Section 305.22 require a conditional use permit pursuant to Section 1803.

.....

Section 400 FOREST/AGRICULTURE - 80 FA - 80

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404 **Permitted and Conditional Uses:** Permitted and Conditional Uses, partitioning, and development standards will be determined by the Predominant Use Test described in Section 402 above. Notwithstanding the Predominant Use Test, ~~...the rezoning and conversion of abandoned or diminished mill sites on farm or forest land to industrial uses pursuant to ORS 197.719. will be conditionally permitted subject to the applicable provisions of the Zoning Ordinance.~~
The following Permitted and Conditional Uses shall be reviewed, as follows:

...

.1 Uses Subject to Administrative Review. The following uses are permitted, subject to review and approval under prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations using the process in Section 1601:

A. Marijuana Growing or Producing subject to standards in Section 1803.

.2 Conditional Uses: The following uses shall be reviewed pursuant to Section 1803 and other applicable provisions of the Zoning Ordinance:

A. ~~T~~the rezoning and conversion of abandoned or diminished mill sites on farm or forest land to industrial uses pursuant to ORS 197.719. ~~will be conditionally permitted subject to the applicable provisions of the Zoning Ordinance~~

.....

Section 500 PRIMARY FOREST ZONE - 80 PF-80

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502 **Table of Authorized Uses & Development.** The following uses, activities, and development are authorized in the Primary Forest Zone, subject to review and approval under applicable regulatory standards:

Key

-
- P Permitted outright.
 - AR Subject to administrative review pursuant to Section 1601.
 - CUP/PC Subject to Planning Commission review and approval as a conditional use pursuant to

Section 1503.

Note: The CCZO Section Column lists only subsections of authorization and specific criteria of this PF-80 zone. Other criteria may apply to a proposed use such as site design review, overlay zoning, special use standards, or conditional use permits.

TABLE OF AUTHORIZED USES & DEVELOPMENT		
RESOURCE USES	AUTHORIZATION	PF - 80 SECTION
Forest Operations and Practices	P	503.1
Physical Alterations of the Land Auxiliary to Forest Practices	P	503.4
Farm Use as defined in ORS 215.203 except Marijuana Growing and Producing	P	503.2
Marijuana Growing and Producing subject to standards in Section 1803	AR	505.18
Soil, Air and Water Conservation Activities	P	503.5

....

503 Permitted Uses. The following uses are permitted in the Primary Forest Zone:

- .1 Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals, and disposal of slash.
- .2 Farm Uses as defined by ORS 215.203 **except marijuana growing and producing.**

....

504 Uses Subject to Administrative Review. The following uses are permitted, subject to review and approval under prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations using the process contained in Section 1601. All authorized dwellings and permanent structures shall meet the standards listed in Sections 506, 507, 508, 509 and 510 of this Ordinance.

....

.16 Marijuana growing and producing subject to standards in Section 1803.

....

Section 600 RURAL RESIDENTIAL - 5 RR-5

....

602 Permitted Uses:

- .1 Single family detached dwellings.
- .2 Farm use as defined in ORS 215.203(2) **except marijuana growing and**

producing.

~~603~~ ~~Uses Subject to Administrative Review. The following uses are permitted, subject to review and approval under prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations using the process contained in Section 1601.~~

~~603~~ ~~604~~ Conditional Uses:

....

.6 Marijuana growing and producing within an enclosed structure subject to standards in Section 1803.

[Renumber the subsections which follow]

Section 620 RURAL RESIDENTIAL - 2 RR-2

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622 Permitted Uses:

- .1 Single family detached dwellings.
- .2 Farm use as defined in ORS 215.203(2) **except marijuana growing and producing.**

~~623~~ ~~Uses Subject to Administrative Review. The following uses are permitted, subject to review and approval under prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations using the process contained in Section 1601.~~

~~623~~ ~~624~~ Conditional Uses:

....

[Renumber the subsections which follow]

Section 650 RURAL COMMUNITY RC

....

652 Permitted Uses:

- .1 Single family detached dwellings.
- .2 Farm use as defined by ORS 215.203(2) **except marijuana growing and producing.**

653 Conditional Uses: The following uses may be approved in accordance with the conditions noted for each use:

....

.6 The following small-scale, low-impact commercial and industrial uses may

be approved if the proposed use has been determined to be necessary for the continuation of the Rural Community and its surrounding environs, and if approved by the Planning Commission according to Section 1550, Design Review Standards. See Sections 654.8 and 654.9 for area limitations of commercial and industrial uses permitted in the RC zone

....

B. General retail trades, including groceries, bakeries, hardware stores, seed and feed stores, **marijuana retailing subject to standards in Section 1803** and similar uses.

....

J. Industrial uses necessary for the primary processing or manufacture of locally available natural resources, such as timber, minerals and agricultural produce, as per OAR 660-004-0220(3)(a) **except marijuana processing and wholesaling.**

.9 Marijuana growing and producing within an enclosed structure subject to standards in Section 1803.

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Section 670 EXISTING COMMERCIAL EC

....

673 Uses Subject to Administrative Review. The following uses are permitted, subject to review and approval under prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations using the process contained in Section 1601.

.1 Marijuana retailing subject to standards in Section 1803.

...

~~673~~ **674** Conditional Uses:

....

~~674~~ **675** Standards:

.1 The minimum lot or parcel size for uses permitted under Sections 672, ~~673~~ and ~~6734~~ shall be 5 acres.

.2 The minimum lot or parcel size for uses permitted under Sections 672, ~~673~~ and ~~6734~~ shall be 2 acres when it can be shown that:

...

~~675~~ **676** Lots of Record: Lots or parcels lawfully created by a subdivision plat, or by a deed or sales contract, and of record in the County Clerk's office, shall be eligible to receive a building permit for any use permitted by Sections 672, ~~673~~ and ~~6734~~, if such permit would have been issued otherwise but for the lot or parcel width, depth, or area, but subject to all other regulations of this zone.

[Renumber the subsections which follow]

Section 680 RESOURCE INDUSTRIAL - PLANNED DEVELOPMENT RIPD

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682 Permitted Uses:

.1 Farm use as defined by Subsection 2 of ORS 215.203 **except marijuana growing and producing.**

683 Uses Permitted Under Prescribed Conditions: The following uses may be permitted subject to the conditions imposed for each use:

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.5 Home occupations consistent with ORS 215.448. **Home occupations do not include commercial activities carried on in conjunction with a marijuana crop.**

....

684 PROHIBITED USES:

.1 **Marijuana growing and producing.**

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~~684~~ 685 Standards:

[Renumber the subsections which follow]

Section 800 HIGHWAY COMMERCIAL C - 5

....

802 Permitted Uses:

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.10 Retail trade establishment such as a food store, drug store, or gift shop **except marijuana retailing.**

....

803 ~~Uses Permitted Under Prescribed Conditions:~~
Uses Subject to Administrative Review. The following uses are permitted, subject to review and approval under prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations using the process in Section 1601.

....

.3 **Marijuana retailing subject to standards in Section 1803.**

....

804 Conditional Uses

.1 Greenhouses **except for the growing or producing of marijuana;**

....

Section 810 NEIGHBORHOOD COMMERCIAL C - 4

....

812 Permitted Uses:

....

.6 Drug Store **except marijuana retailing**

....

815 Prohibited Uses:

.1 **Marijuana retailing**

815 816 Standards:

[Renumber the subsections which follow]

Section 820 GENERAL COMMERCIAL C - 3

....

822 Permitted Uses:

....

.16 Retail trade establishment such as food store, drug store, gift shop, hardware store, and furniture store **except marijuana retailing.**

823 ~~Uses Permitted Under Prescribed Conditions:~~
Uses Subject to Administrative Review. The following uses are permitted, subject to review and approval under prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations using the process in Section 1601.

....

.3 **Marijuana retailing subject to standards in Section 1803.**

....

Section 830 MARINE COMMERCIAL C - 2

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832 Permitted Uses:

....

.5 Retail sale of sporting goods, groceries, or similar commodities **except marijuana retailing.**

....

835 Prohibited Uses:

.1 **Marijuana retailing**

....
835 836 Standards

....

Section 910 INDUSTRIAL PARK M - 3

....

913 Uses Subject to Administrative Review. The following uses are permitted, subject to review and approval under prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations using the process in Section 1601.

- .1** Marijuana growing and producing within an enclosed building subject to standards in Section 1803.
- .2** Marijuana processing and wholesaling subject to standards in Section 1803.

....

914 Conditional Uses:

- .1** Marijuana retailing subject to standards in Section 1803.

913915 Standards

....

Section 920 LIGHT INDUSTRIAL M - 2

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923 Uses Subject to Administrative Review. The following uses are permitted, subject to review and approval under prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations using the process in Section 1601.

- .1** Marijuana growing and producing within an enclosed building subject to standards in Section 1803.
- .2** Marijuana processing and wholesaling subject to standards in Section 1803.

....

923 924 Conditional Uses:

- .1 Kennels, subject to standards contained in Section 1802.
- .2 Marijuana retailing subject to standards in Section 1803.**

[Renumber the subsections which follow]

Section 930 HEAVY INDUSTRIAL M - 1

....

933 Uses Subject to Administrative Review. The following uses are permitted, subject to review and approval under prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations using the process in Section 1601.

- .1 Marijuana growing and producing within an enclosed building subject to standards in Section 1803.**
- .2 Marijuana processing and wholesaling subject to standards in Section 1803.**

....

933 934 Conditional Uses:

- .1 Kennels, subject to standards contained in Section 1802.
- .2 Marijuana retailing subject to standards in Section 1803.**

[Renumber the subsections which follow]

Section 940 AIRPORT INDUSTRIAL AI

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942 Uses Permitted Outright:

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- .10 Farm uses except marijuana growing and producing.**

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Section 1040 SURFACE MINING SM

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1042 Permitted Uses: The following uses shall be permitted subject to compliance with Section 1044 and all other applicable rules, standards, or statutes governing such uses, including the Columbia County Comprehensive Plan, the Surface Mining and Land Reclamation Ordinance, the Zoning Ordinance of Columbia County, and Oregon Department of Environmental Quality rules governing sewage disposal, air, and water quality:

....

- .4 Agricultural practices **except marijuana growing and producing.**

....

Section 1800 SPECIAL USE STANDARDS

1801 GENERAL PROVISIONS

Special uses are those included in Section 1800. Due to their public convenience and necessity and their effect upon the surrounding area, these uses are subject to conditions and standards that differ from those required of other uses. Special uses shall be subject to the provisions of the section that regulates the specific use and the provisions of the zoning district in which the special use will be located. Special uses are permitted only when specified as a primary, accessory, or conditional use in the subject zoning district. Where a dimensional or development standard for a special use differs from that of the subject zoning district, the standard for the special use shall apply.

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1803 MARIJUANA LAND USES

- .1 **State Issued Marijuana License or Registration Required. All marijuana land uses except for those not required to be licensed by the Oregon Liquor Control Commission (OLCC) or registered by the Oregon Health Authority (OHA), such as home grown or home made marijuana, shall provide to the Land Development Services Department document of the issuance of the applicable state issued marijuana license or registration at the time of application for a required land use permit. Applicants for recreational marijuana land uses including producing, processing, wholesaling, and retailing shall also show evidence of a completed County land use compatibility statement for the use for which the application is being submitted.**
- .2 **Marijuana Growing or Producing Uses. The following standards shall apply to marijuana growing or producing uses:**
- A. **Co-location with a Dispensary. Medical grows may not be on the same site as a dispensary.**
- 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.**
- C. **Additional Setbacks for Indoor Grows in Certain Zones. In the FA-80, 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.

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.

.3 Marijuana Processing and Wholesaling Uses. The following standards shall apply to marijuana processing and wholesaling uses:

- A. **Within an Enclosed Building.** Marijuana processing and wholesaling uses in the M-3, M-2, and M-1 zones shall be within an enclosed building. For the purposes of processing and wholesaling, a greenhouse does not qualify as an enclosed building.
- B. **Wholesaling and Extract Processing in Residential Zones:** Marijuana wholesaling and extract processing is prohibited in residential zoning districts.

.4 Marijuana Dispensary and Retailing Uses: The following standards shall apply to marijuana dispensary and retailing uses:

- A. **Separation from Certain 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.
- 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.
- C. **Prohibited in Residential Zoning Districts:** Marijuana dispensaries and retailing uses are prohibited in residential zoning districts.

ATTACHMENT 1

COLUMBIA COUNTY BOARD OF COMMISSIONERS

Staff Report
October 16, 2015

Zoning Ordinance Text Amendments
Marijuana Uses, Pertaining to Where, How
and By What Standards They are Permitted

FILE NUMBER: TA 16-01

APPLICANT: Columbia County
Land Development Services

HEARING DATE: October 5, 2015

REQUEST: To amend the following Sections of the Columbia County Zoning Ordinance to specify marijuana uses that are allowed, in which zoning districts, by what review process and according to what standards:

Section 100	General Definitions	
Section 300	Primary Agriculture Use	
	Zone-80-	PA-80
Section 400	Forest/Agriculture-80	FA-80
Section 500	Primary Forest Zone-80	PF-80
Section 600	Rural Residential - 5	RR-5
Section 620	Rural Residential - 2	RR-2
Section 650	Rural Community	RC
Section 670	Existing Commercial	EC
Section 680	Resource Industrial-	
	Planned Development	RIPD
Section 800	Highway Commercial	C-5
Section 820	General Commercial	C-3
Section 830	Marine Commercial	C-2
Section 910	Industrial Park	M-3
Section 920	Light Industrial	M-2
Section 930	Heavy Industrial	M-1
Section 941	Airport Industrial	AI
Section 1040	Surface Mining	SM
Section 1803	New Section - Special Use Standards-Marijuana Uses	

APPLICABLE REVIEW CRITERIA:

Pages

Notification Requirements

Columbia County Zoning Ordinance

Section 1606 - Legislative Hearing	7
Section 1611 - Notice of Legislative Hearing	7

Oregon Revised Statute

ORS 215.503 - Measure 56 Notice	8
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Oregon Administrative Rule

OAR 660-018-0020 - Post Acknowledgment Amendments	8
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Review Criteria

Columbia County Zoning Ordinance

Resource Districts

Section 300	Primary Agriculture - 80	9
Section 400	Forest Agriculture - 80	10
Section 500	Primary Forest- 80	11

Rural Development Districts

Section 600	Rural Residential - 5	12
Section 620	Rural Residential - 2	12
Section 650	Rural Community-RC	13
Section 670	Existing Commercial-EC	13
Section 680	Resource Industrial Planned Development-RIPD	13

Suburban Districts:

Section 800	Highway Commercial	14
Section 810	Neighborhood Commercial	14
Section 820	General Commercial	14
Section 830	Marine Commercial	14
Section 910	Industrial Park	15
Section 920	Light Industrial	15
Section 930	Heavy Industrial	15
Section 940	Airport Industrial	15

Special Districts, Overlay Districts and Special Provisions

Section 1040	Surface Mining	SM	16
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Comments Received See **Attachment 4**

BACKGROUND & SUMMARY:

Legalization of Marijuana in Oregon/County Moratoria on Siting of Marijuana Uses

On November, 3, 1998, Oregon voters approved Oregon Medical Marijuana Act(OMMA), Ballot Measure 67. (Oregon Revised Statutes 475.300 et seq). The result of the "yes" vote allowed medical use of marijuana in Oregon within specified limits. It also established a state-controlled permit system. In December 1998, the Oregon Legislature passed Measure 67 into law. The OMMA provides legal protections for qualified patients; requires a physician-written statement of the patient’s qualifying debilitating medical condition and allows for a caregiver to provide assistance. In 2013, HB 3460 was enacted which allowed for medical dispensaries. Medical marijuana grows, processors and dispensaries must be registered and licensed by the Oregon Health Authority(OHA) who was charged with administration of the OMMA

In March 2014, by SB 1531-C, the Oregon legislature approved amendments to the OMMA allowing the County to adopt a temporary moratorium on the operation of medical marijuana dispensaries. On April 9, 2014, by Ordinance 2014-5, the County adopted a moratorium on new or expanded medical marijuana dispensaries until May 1, 2015.

On November 4, 2014, Oregon voters approved the Oregon Legalized Marijuana Initiative, Measure 91(Section 5, Chapter 1, Oregon Laws 2015) legalizing recreational marijuana for people ages 21 and older, allowing adults over this age to possess up to eight ounces of "dried" marijuana and up to four plants. Additionally, the measure tasked the Oregon Liquor Control Commission(OLCC) with regulating the retail production, processing, wholesaling and retailing of recreational marijuana. Generally speaking, Measure 91 is to go into effect in two stages: (1) in July 2015 for personal use and growing, (2) in October 2015 for temporary “early start” recreational marijuana sales of excess medical marijuana product from medical marijuana dispensaries; and (3) on January 4, 2016 for licensing to produce and sell. The OLCC is currently developing rules to implement Measure 91, and those rules will likely be adopted before January 4, 2016.

On April 29, 2015, by Ordinance 2015-3, Columbia County expanded and extended the first moratorium on medical marijuana dispensaries to include new or expanded outdoor areas used for growing medical or recreational marijuana and any facility that dispenses marijuana pursuant to ORS 475.314 or any other provision of Oregon law in unincorporated Columbia County until August 24, 2015. The County based its decision to adopt this extended and expanded moratorium on the finding that additional time is needed for the County to develop local land use regulations governing both medical and recreational uses which take into consideration and incorporate pending State Legislative amendments to the OMMA and Measure 91 as well as yet to be developed rules for recreational marijuana to be promulgated by the OLCC. Ordinance 2015-3 anticipated that a six months extension would be necessary to complete the public hearing and adoption process for new County marijuana use amendments to the Zoning Ordinance or until February 2016 .

On June 24, 2015, the Oregon State House of Representatives and on June 30, 2015, the Oregon State Senate, passed an omnibus bill(House Bill 3400A) which substantially amended both the Oregon Medical Marijuana Act and Measure 91, the recreational marijuana law. The law has since been signed into law by the Governor.

On August 25, 2015, after a public hearing, by Board Order 44- 2015, Columbia County extended the moratorium imposed by Ordinance 2015-5 until February 27, 2016 to allow additional time to complete the required public hearing process to consider draft Columbia County Zoning Ordinance amendments governing marijuana uses. In September 2015 LUBA invalidated the County’s moratorium ordinance on appeal by Ken Kovash a local medical marijuana grower finding the County failed to demonstrate a compelling need.

County Regulation of Marijuana Uses

Presently, the Columbia County Zoning Ordinance neither references nor specifically regulates marijuana growing, processing, wholesaling or dispensing/retailing facilities. However, these marijuana land uses may have unique impacts as evidenced by the special regulatory framework established by the State. Although State law governing medical and recreational marijuana uses provides for the registration and/or licensing of marijuana uses and sets some restrictions on the location of such uses, the ultimate authorization for the siting of marijuana uses rests with the County.

Proposed Zoning Ordinance amendments must prescribe in which zoning districts marijuana uses may be located in unincorporated Columbia County, by what review process and according to what standards. For the purposes of these amendments, marijuana uses include the following:

“Marijuana” as defined by Section 5, Chapter 1, Oregon Laws 2015 (14)(a) &(b) and ORS 475.302(11)(a) &(b).

Medical Marijuana: Medical marijuana uses licensed by the Oregon Health Authority(OHA) including:

- Growing** as defined in ORS 475.302(12) & (20)
- Processing** as defined in ORS 475.302(13) & (19)
- Dispensaries** defined in ORS 475.302(16).

Recreational Marijuana: Recreational marijuana uses licensed by the Oregon Liquor Control Commission(OLCC) including:

- Production** as defined by Section 5, Chapter 1, Oregon Laws 2015 (26)(a).
- Processing** as defined by Section 5, Chapter 1, Oregon Laws 2015 (25)(a) & (b).
- Wholesaling**
- Retailing**

As a part of the proposed amendments to the Columbia County Zoning Ordinance contained in **Attachment 1**, State definitions related to marijuana land uses have been added to Section 100 “General Definitions”.

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.” Proposed amendments will support Comprehensive Plan objectives as they establish clear regulations specific to marijuana uses, alleviating issues of incompatibility and confusion for the public. Therefore, the County must decide how it will proceed with siting of marijuana uses authorized by the State consistent with the Comprehensive Plan as well as other applicable Zoning Ordinance provisions not being considered for amendment. The County has proceeded with the process of drafting amendments to its Zoning Ordinance addressing marijuana uses according to the legislative process prescribed by the Comprehensive Plan and Zoning Ordinance.

Marijuana Advisory Committee

As a first step in the development of Zoning Ordinance amendments and to study the issues surrounding marijuana uses, the Board directed Staff to solicit interested persons to serve on a Marijuana Advisory Committee to provide information and advice to Staff in drafting marijuana use amendments. Twelve citizens representing various perspectives on the issue met on June 4, June 11 and June 25 to systematically review how the current Zoning Ordinance would regulate marijuana uses and options for amendments to the Zoning Ordinance to accommodate such uses(see Roster and Meeting Notes in **Attachment 3**).The Committee had broad based ideologic differences, with member opinions reflecting two distinct groups: those affiliated with or served by the marijuana industry uses and those not affiliated with marijuana uses. For this reason, it was not the intention of the group to reach a consensus on specific written changes to the Zoning Ordinance, but rather to provide Staff with a discussion of issues, options and relevant information helpful in drafting of the proposed amendments.

Planning Commission Review:

The Planning Commission received oral testimony from twenty persons at a public hearing on October 5, 2015. Written testimony to date has been provided to the Board as a part of the record of the proceedings. The Planning Commission deliberated on October 12, 2015 and recommended the proposed amendments in **Attachment 1** choosing to modify the initial staff recommended amendments relating to the review process in several zones, setbacks for indoor and outdoor grows and the prohibition of marijuana grows in the RR-2 zoning district. Planning Commission meeting minutes are in Attachment 2.

A new Section, “1803 Marijuana Uses” within, Article IX (Special Use Standards) is proposed to be added to the Zoning Ordinance as part of this amendment. Section 1803 addresses State and local County standards specific to marijuana uses which are in addition to those applicable in individual zoning districts in which those uses are allowed. These standards incorporate State law requirements related to land use and add County reasonable time, place and manner regulations of the nuisance aspects of medical and recreational marijuana uses. Findings justifying the proposed additional County standards in terms of the need to address related potential adverse effects of marijuana uses are contained in the findings of this report.

A summary of State standards to be included in Section 1803 and proposed additional local special use standards are summarized in the **Table 1** below:

TABLE 1**PROPOSED SECTION 1803
SPECIAL USE STANDARDS FOR MARIJUANA USES**

In addition to the standards of the Zoning District in which they are located, or any other applicable Zoning Ordinance standards, the following additional Special Use Standards apply to marijuana uses.

State Standard(County Must Comply): Small Case
PROPOSED COUNTY SPECIAL USE STANDARD: ALL CAPS

ALL MARIJUANA USES

POTENTIAL ADVERSE IMPACT	STANDARDS IN ZONES IN WHICH THE USE IS ALLOWED
Unlicensed or Unregistered Marijuana Uses	MUST PROVIDE DOCUMENTATION OF STATE LICENSE OR REGISTRATION AT TIME OF ANY REQUIRED APPLICATION FOR LAND USE APPROVAL.

ALL RECREATIONAL MARIJUANA USES

POTENTIAL ADVERSE IMPACT	STANDARDS IN ZONES IN WHICH THE USE IS ALLOWED
State Law: State Licensed Uses Not Compatible with County Plan or ordinance.	A land use compatibility statement(LUCS) must be completed for all recreational marijuana uses in all Zoning Districts in which they are permitted outright or by conditional use permit.

MARIJUANA GROWS/PRODUCTION

POTENTIAL ADVERSE IMPACT	STANDARDS IN ZONES IN WHICH THE USE IS ALLOWED
State Law-Co-location W/grow	Medical Grow May Not Be on Same Site as a Dispensary.
State Law- Justification for Farm Dwelling	No new farm dwelling in conjunction with a marijuana use is allowed in the PA-80 Zoning District.(Note: Included in PA-80 District Regulations Not Section 1803)
State Law-Certain Commercial Marijuana Activities Prohibited	No commercial activities in conjunction with a marijuana crop including but not limited to farm stands except crop processing
Security Impacts on minors Odor Pollen	MUST BE GROWN/PRODUCED WITHIN AN ENCLOSED BUILDING. MAY INCLUDE A GREENHOUSE. (Note: Included in Both Applicable Zoning District Regulations and in Section 1803. Not required in PA-80, FA-80 nor PF-80 zones).
	MINIMUM FRONT, SIDE AND REAR SETBACKS IN RR-2, RR-5, PF-80, FA-80 ZONES FOR BUILDINGS HOUSING MARIJUANA GROWING AND PRODUCING USE SHALL BE INCREASED BY 50 FEET. (Note: additional setbacks not required in PA-80 zone.)

MARIJUANA PROCESSING/WHOLESALE

POTENTIAL ADVERSE IMPACT	STANDARDS IN ZONES IN WHICH THE USE IS ALLOWED
State Law: Hazardous extraction processes	No marijuana extract processing in residential zones.

MARIJUANA DISPENSARIES/RETAIL STORES

POTENTIAL ADVERSE IMPACT	STANDARDS IN ZONES IN WHICH THE USE IS ALLOWED
State Law-Co-location W/grow or Another Dispensary Concentration of Marijuana Uses	Medical Dispensary May Not Be on Same Site as Grow or a Site with Another Licensed Medical Marijuana Dispensary. Medical dispensary may not be closer than 1,000 feet of another medical dispensary. County may not require that a recreational retailing site be more than 1,000 feet from another recreational retailing site. A MARIJUANA DISPENSARY OR RETAILING SITE MAY NOT BE WITHIN 1,000 FEET OF ANOTHER MARIJUANA DISPENSARY OR RETAILING SITE.
State Law-Impacts on minors County Std: Add Child Care Centers	Medical Dispensary May Not Be Within 1000 Ft of Elementary, Secondary School or a Private or Parochial School. A Marijuana dispensary or RETAILING Site May Not Be Within 1000 Feet of an Elementary, Secondary School, a Private or Parochial School, PUBLIC PARK OR CHILD CARE CENTER.
State Law-Retail impacts on residential areas	Medical dispensaries are prohibited in residential zones

REVIEW CRITERIA AND FINDINGS:

BEGINNING WITH 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: The Board of Commissioners imposed a moratorium on new or expanded marijuana uses for the purpose of completing amendments to the Zoning Ordinance to address marijuana uses and thereby directed that the amendment process be initiated. The Board further directed that a Marijuana Advisory Committee be formed to provide information and advise to the Staff in preparation of the amendments. Public hearing notices were published in the *St. Helens Chronicle* on September 9, 2015 and September 23, 2015; in the *South County Spotlight* and *Clatskanie Chief* on September 11, 2015 and September 25, 2015, the last of which are more than 10 days prior to the Planning Commission hearing date of October 5, 2015. Public hearing notices and a preliminary draft of the proposed amendments were mailed to all members of the Columbia County's five (5) CPACs and the Marijuana Advisory Committee on August 26, 2015. A Notice of the proposed zone amendment was mailed to all property owners in affected Zoning Districts on September 9, 2015 because the proposal will prescribe uses and impose standards in the affected Zoning Districts. Finally, notice of the Board hearing date, scheduled for November 4, 2015, was published in the *Spotlight* on October 16, 2015 and October 23, 2015 and in the *Chronicle* on October 21, 2015 and October 28, 2015. The Planning Commission finds that this criterion is 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 in the Notice of Public Hearing published twice in the *Chronicle*, *Chief* and *Spotlight* newspapers. Additional Notice will be published for the Board of Commissioners' hearing containing the above language. See Finding 1 for related publication dates and information. The Planning Commission finds that this criterion is met.

CONTINUING WITH THE 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 a public hearing on October 5, 2015. They closed the hearing and continued their deliberations to October 12, 2015. On that date, they voted to recommend staff's proposed amendments with revisions. The Board of Commissioners will hold a public hearing on November 4, 2015 to consider the Planning Commission's recommendation.

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 September 9, 2015, which is **25** days before the first hearing on the proposed amendments held on October 5, 2015. The Planning Commission finds that this criterion is met.

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 rules
 - (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
 - (c) 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 heading
 - (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 DLCD on August 25, 2015, 39 days before the first evidentiary hearing before the Planning Commission on October 5, 2015. The County will mail a Notice of Adoption to DLCD if the Board approves the amendment. The Planning Commission finds that this criterion is met.

FOLLOWING WITH SECTION 300 OF THE ZONING ORDINANCE:

Section 300 Primary Agriculture - 80

301 **Purpose:** This district is intended to preserve, enhance, and stabilize those prime agricultural lands and farm use areas within the County which are being used, and offer the greatest potential, for food and fiber production.

Agricultural land is comprised of predominantly Class I-IV soils as identified in the Soil Capability Classification System of the Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, and accepted farming practices. Agricultural lands shall also include other classes which are necessary to permit farm practices to be undertaken on adjacent lands.

Finding 6: The State of Oregon regulates specific uses permitted in agricultural districts. The purpose of the agricultural district, as defined by Statewide Planning Goal 3 (Agricultural Lands) and Columbia County's Comprehensive Plan and Zoning Ordinance is to preserve prime agricultural lands for farm use. State law defines marijuana as a "farm use" (Section 34(1), HB 3400A). Therefore, in the County's exclusive farm use zone, PA-80, proposed amendments designate marijuana growing and producing uses which have been registered or licensed by the State as outright permitted uses subject to applicable State standards included in a new subsection Chapter 1803 with Section 1800, "Special Use Standards".

State law further stipulates that a new farm dwelling, a farm stand and a commercial activity carried on in conjunction with a marijuana crop are not permitted in an exclusive farm use zone, PA-80(Section 34(2), HB 3400). However, as noted by the Department of Land Conservation(DLCD) in their comments addressed below, the prohibition of commercial activities in conjunction with a marijuana crop does not include the processing of marijuana as a farm crop pursuant to ORS 215.283(1)(r) in exclusive farm use zones(PA-80). Consistent with State law prohibiting retailing of medical marijuana in exclusive farm use zones, all marijuana dispensaries/retail uses shall not be treated in PA-80 zones as Home Occupations in conjunction with a dwelling otherwise permitted in the PA-80 zone and other resources zones. Because marijuana production is defined as a farm use in State Law and farm use is otherwise allowed in the PF-80 and other resource zones, marijuana uses must be distinguished from home occupations in other zones in which home occupations are allowed. Furthermore, the standard for home occupations requiring that they be operated "substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located" is inconsistent with normal farming operations. Therefore, the proposed amendments exclude marijuana growing and production and other marijuana uses from the definition of home occupation and do not require that marijuana growing and producing uses be conducted indoors. The definitions of "farm use", "home occupation" and "marijuana" specifying the various types types of marijuana uses to be referenced in the Zoning Ordinance have been amended in or added to Section 100 of the Zoning Ordinance to be consistent with State Law.

Proposed amendments to Section 100, "General Definitions" and Section 300, "Primary Agriculture Use Zone-80" district regulations consistent with the above findings are contained in **Attachment 1, pages 1-7**, "Proposed Marijuana Use Zoning Ordinance Amendments". A proposed new subsection 1803 to the Special Use Standards chapter applicable to marijuana growing and producing in the PA-80 zone is contained in **Attachment 1, page 13**. The proposed amendments incorporate and are otherwise consistent with State Law. The Planning Commission finds that this criterion is met.

DLCD COMMENTS: In their 9/17/15 email (Attachment 4), DLCD commented: "While commercial activities

in conjunction with the growing of marijuana is a prohibited use in HB 3400, the bill's intended reference is to the ORS 215.283(2)(a) commercial activities authorization and not the processing authorization in ORS 215.283(1)(r). I recall this distinction from testimony during the bill hearings and a conversation with Representative Helm. The County's confusion might be because the local code defines this latter use to include "related commercial activities," while statute and rule do not. At any rate, processing under ORS 215.283(1)(r) is an allowable use for all farm crops, including recreational marijuana".

Staff Response: Proposed amendment language in Section 305.22, page 8 of Attachment 1 has been changed to reflect current State Statutory language in ORS 215.283(1)(r) allowing farm crop processing in exclusive farm zones including marijuana crop processing and deleting the phrase "and related commercial activities" A new subsection 306.4 has been added to incorporate State Statutory language at 215.283(2)(a) allowing commercial activities not otherwise allowed by ORS 215.283(1)(r) by conditional use permit with the exception of commercial uses in conjunction with a marijuana crop prohibited by Section 34(1)(c) HB 3400-A.

CONTINUING WITH SECTION 400 OF THE ZONING ORDINANCE:

Forest Agriculture - 80

401 Purpose: The purpose of this zone is to protect and promote farm and forest uses on lands which have resource value, but which are not suited for either the Farm (PA-38) or Forest (PF-76) zone because of smaller parcel size, conflicting adjacent uses, adverse physical features, or limiting factors.

Finding 7: The Forest Agriculture (FA-80) Zone is regulated by Oregon Administrative Rule. As per OAR 660-006-0050 (Uses Authorized in Agriculture/Forest Zones) (2) "uses authorized in Exclusive Farm Use Zones in ORS Chapter 215, and in [Forest Zones] OAR 660-006-0025 and 660-006-0027, subject to the requirements of the applicable section, may be allowed in any agricultural/forest zone..." Uses permitted in the Forest Agriculture Zone are generally subject to a predominant use determination and regulated based on the predominant use determined by either OAR Chapter 660, Division 6 (Forest) or 33 (Agriculture). Furthermore, as discussed in Finding 6 above, marijuana growing or production is defined by State Law as a "farm use" and is therefore not a home occupation otherwise conditionally permitted in conjunction with a farm or forest dwelling.

However, whether the predominant use is forest or agricultural use, the proposed amendments treat the growing and producing of marijuana anywhere within the FA-80 zone as a farm use requiring administrative review. State Law(Section 34(3), HB 3400A) gives the County discretion as to how regulate the growing or producing of marijuana on land zoned for farm or forest use provided any such additional regulations are reasonable and necessary to address adverse effects of the use including noise and glare from indoor grows and pollen, odor and security concerns from outdoor grows. Marijuana growing or producing is potentially incompatible with uses in the FA-80 zone. As the above referenced Comprehensive Plan purpose statement for the FA-80 zone states, the average size of existing parcels is considerably smaller than the average parcel size in the PA-80(exclusive agricultural use) zone, in predominate forest use areas there is a higher number and concentration of dwellings(forest dwellings) than are found in the PA-80 zone(farm dwellings) and there is the presence of adjacent conflicting uses. Smaller parcels and a higher concentration of dwellings in the FA-80 zone create a greater potential for negative impacts of marijuana growing on uses permitted in the FA-80 zone.

New special use standards proposed in Section 1803 applicable to marijuana growing and producing uses in the FA-80 zone, incorporate applicable State law and an additional setback standards for indoor grows(increase existing setbacks by 50 feet). The proposed additional setback standard is consistent with the Section 33(1)(g) and Section 89(1)(d) of HB3400A which allow the County to adopt reasonable limitations on the location of marijuana grow and production sites to address potential adverse impacts. Based on the characteristics of the zone and site, the proposed standards set forth in Section 1803 (addressing applicable State law requirements and additional setbacks for indoor marijuana growing or producing), when applied in an administrative review process will address potential adverse effects of marijuana growing or producing uses on other uses allowed in the FA-80 zone and adjacent conflicting uses.

In summary, Staff and Planning Commission find that the proposed amendments should review marijuana

growing or producing in the FA-80 zone using the administrative review process in Section 1601 of the Zoning Ordinance as farm use subject to State and local standards. Proposed amendments to Section 400, "Forest Agriculture Zone-80" district regulations consistent with the above findings are contained in **Attachment 1, page 7**, "Proposed Marijuana Use Zoning Ordinance Amendments". A proposed new subsection 1803 to the Special Use Standards chapter applicable to marijuana growing and producing in the FA-80 zone, is contained in **Attachment 1, page 13**. The proposed amendments incorporate and are otherwise consistent with State Law. The Planning Commission finds that this criterion is met.

DLCD COMMENTS: Marijuana as a farm crop in mixed farm-forest zones (FA-80 and forest zones (PF-80)) In their 9/17/15 email (**Attachment 4**), DLCDC commented: "Because the forest rule at OAR 660-006-0025(3)(b) allows farm use as defined at ORS 215.203, and because HB 3400 defines marijuana crops to be a farm use under ORS 215.203, the growing of marijuana is also an authorized use in forest and mixed farm-forest zones."

Staff Response: Staff agrees that farm use is authorized in the PF-80 and FA-80 zones, but disagrees if the implications is that marijuana growing and producing as farm crop must be treated as an outright permitted use without conditional use review. A finding has been made above that Section 34(3) of HB 3400 grants discretion to the County as to how marijuana growing and producing uses are reviewed and according to what standards in the farm-forest and forest zones. The language in Section 34(3) reads "A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones...(Staff emphasis added). Findings (Findings 7 and 8) have been made in this report supporting the use of a conditional use processes to assure conformance with State law and a reasonable local standard requiring special setbacks for outdoor and indoor grows in the FA-80 and PF-80 zones.

CONTINUING WITH SECTION 500 OF THE ZONING ORDINANCE:

Primary Forest - 80

- 501.1 The purpose of this zone is to retain forest land for forest use and to encourage the management of forest land for the growing, harvesting, and processing of forest crops consistent with the Oregon Forest Practices Act. And to provide for other forest uses including watershed protection, soil protection, maintenance of clean air and water, wildlife and fisheries habitat, outdoor recreation activities, open space and scenic preservation, and agricultural activities free from the encroachment of conflicting non-forest uses and influences.

Finding 8: Like the PA-80 and FA-80 zones, uses allowed in the Primary Forest (PF-80) Zone have been established by the State of Oregon through Oregon Administrative Rule and Oregon Revised Statute. OAR 660-006-0025 identifies uses authorized in forest zones, but does not specifically address marijuana uses. OAR 660-006-0025(s) does, however, allow Home Occupations as defined in ORS 215.448 in forest zones. However, as noted in Findings 6 and 7 above, marijuana uses should not be treated as Home Occupations. As discussed in Finding 7, although marijuana production is a farm use as defined by State law and farm use is allowed in PF-80 zone, farm use is not the primary purpose of the PF-80 zone. Marijuana production activities may have unique impacts on forest uses or on properties within abutting zoning districts in which residential uses are allowed outright. These impacts may include noise and glare from indoor operations or odor, pollen and security concerns from outdoor operations within the PF-80 zone. In addition, as a high value crop marijuana growing and producing has the potential to supplant forest uses and detract from forest management which is the primary purpose of the PF-80 zoning district. Therefore, the proposed amendments prescribe an administrative review procedure contained in Section 1601 of the Zoning Ordinance for marijuana growing and producing uses. This process would apply the proposed additional set back standard for indoor grows as well as applicable State standards for grows. The proposed additional setback standard is consistent with the Section 33(1)(g) and Section 89(1)(d) of HB3400A which allow the County to adopt reasonable limitations on the location of marijuana grow and production sites.

For the above stated reasons, Staff and the Planning Commission find that marijuana growing or producing uses in the PF-80 zone should be reviewed the administrative review procedure. Proposed amendments to Section 100, "General Definitions" and Section 500, "Primary Forest Use Zone-80" district regulations consistent with the above findings are contained in **Attachment 2, pages 7-8**, "Proposed Marijuana Use Zoning Ordinance

Amendments”. A proposed new subsection 1803 to the Special Use Standards chapter applicable to marijuana growing and producing in the PF-80 zone, is contained in **Attachment 1, page 14**. The proposed amendments incorporate and are otherwise consistent with State Law. The Planning Commission finds that this criterion is met.

RESPONSE TO DLCD COMMENTS: Marijuana as a farm crop in mixed farm-forest zones(FA-80 and forest zones(PF-80)

Staff Response: See Staff’s response to DLCD’s comments under Finding 7 above.

CONTINUING WITH SECTION 600 AND 620 OF THE ZONING ORDINANCE:

Section 600 Rural Residential - 5

601 **Purpose:** This district is designed for rural areas where parcels at the time of initial zoning designation are committed to non-resource uses consistent with County acknowledged exception areas. Uses in this zoning district are anticipated to be predominantly residential with a rural level 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 road access consistent with the Transportation Plan and County Road Standards. Other uses shall be those customary to such areas, including farm and forest uses, churches and home occupations of a rural character.

Section 620 Rural Residential - 2

621 **Purpose:** This district is designed for rural areas where lot sizes at the time of initial zoning are predominantly two acres or less. The intent is to recognize existing areas, not to create substantially new two acre parcel areas. Uses in this zoning district will be predominantly residential with a rural level of public services; i.e., domestic water from water districts, sewage disposal using on-site systems, adequate fire and emergency service by fire districts, and rural road standards per County plans and regulations. Other uses will be those customary to such areas, including farm and forest uses, churches and home occupations of a rural character.

Finding 9: The Rural Residential Districts (RR-5 and RR-2) were established in Columbia County to recognize rural areas, that at the time of zoning, were committed to non-resource uses. Said areas were, are, and will continue to be predominantly residential. The RR-5 zone has a minimum lot size requirement of five acres and consists primarily of lots five acres in size and smaller. The RR-2 zone has a minimum lot size requirement of two acres and consists mostly of lots two acres in size and smaller. Uses permitted outright in the RR-5 and RR-2 zones include single-family detached dwellings, farm uses as defined in ORS 215.203(2) as amended by HB3400A to include marijuana growing and producing, the propagation and harvesting of forest products and structures accessory to permitted uses.

As residential zoning districts, the RR-5 and RR-2 zones do not allow commercial marijuana uses such as processing, wholesaling, dispensing or retailing. Marijuana growing or production is regarded as a farm use by State law. For reasons discussed in Findings 6-8 above, marijuana growing and production is not a home occupation and proposed amendments include a definition of home occupation which excludes marijuana uses. Farm use is currently allowed in both the RR-5 and RR-2 zones. However, due to potential adverse effects related to noise, odor, pollen, access by minors, and security concerns for this high value crop and the need to confirm compliance with applicable State regulations, the proposed amendments prescribe an administrative review procedure contained in Section 1601 of the Zoning Ordinance for marijuana growing and producing uses in the RR-2 and RR-5 zones. Staff and the Planning Commission find that this is the most appropriate review procedure to confirm compliance with proposed County standards including the requirement that they be indoors and that indoor grow buildings be subject to an additional 50 foot setback.

Staff does not concur with the Planning Commission’s finding and recommendation that commercial indoor marijuana grows are appropriate uses in the RR-2 zoning district. Staff therefore proposes that marijuana growing and producing be prohibited in the RR-2 zone because the RR-2 zone has a pattern of residential uses on significantly smaller lots(two acre minimum lot sizes) with greater residential densities of development. The basis of this proposed limitation is the difficulty in adequately addressing the above referenced adverse effects for marijuana growing and producing in an area of higher density residential development with the likelihood of such uses to unreasonably interfere with residential uses permitted outright and thereby undermine the area’s residential character.

Proposed amendments Section 600, “Rural Residential -5” district and Section 620 “Rural Residential -2” district

regulations consistent with the above Planning Commission findings are contained in **Attachment 1, page 8**, “Proposed Marijuana Use Zoning Ordinance Amendments”. A proposed new subsection 1803 to the Special Use Standards chapter applicable to marijuana growing and producing in the RR-5 zone, is contained in **Attachment 1, page 14**. The proposed amendments incorporate and are otherwise consistent with State Law. The Planning Commission finds that these criteria are met.

CONTINUING WITH SECTION 650 OF THE ZONING ORDINANCE:

Section 650 Rural Community - RC

651 **Purpose:** The Rural Community zone is intended to sustain existing unincorporated rural communities in the County without changing their essential rural character, by permitting, under certain circumstances, residential development at greater densities than on Rural Residential zoned lands surrounding the communities, plus small low-impact commercial uses intended to serve the community or surrounding areas, small low-impact industrial uses dependent on local resources, and institutional, utility and recreation facilities.

Finding 10: The Rural Community zone currently provides for single family development at greater densities than on Rural Residential zoned lands, farm use and small scale, low impact commercial and industrial uses. The purpose of allowed uses is to sustain existing rural communities without changing their essential character. The proposed amendments treat marijuana growing and producing as a farm use, but it is limited to indoors subject to review using the conditional use process to assure that its unique impacts as noted in Finding 10 are addressed in relation to potential adverse impacts from such uses on proposed sites and that applicable State requirements are met. The proposed amendments would except marijuana processing and wholesaling uses from industrial uses otherwise permitted in the zone for the reason that such uses are not intended to serve just the rural community or surrounding areas as is stated in the purpose of the zone in Section 651. Small low-impact commercial uses require conditional use review under existing Section 653.6. Consistent with treatment of these uses under current provisions of the zone and the purpose of the RC zone in Section 651, marijuana dispensing and retailing uses should be allowed subject to conditional use review to assure that their unique impacts on adjoining properties are evaluated for each proposed site and the applicable State requirements are met.

Proposed amendments to RC zone provisions are contained in **Attachment 1, page 9** and Special Use Standards have been added for dispensing and retailing uses in **Attachment 1, page 15** to incorporate State land use related standards applicable to Marijuana dispensing and retailing. The Planning Commission finds that these criteria are met.

CONTINUING WITH SECTION 670 OF THE ZONING ORDINANCE:

Section 670 Existing Commercial - EC

671 **Purpose:** This District is intended to assure the continuation and limited expansion of all lawful commercial activities occurring on the date of this Ordinance, regardless of type or location. This zone will be used to implement the Existing Commercial plan designation.

This zoning designation is intended to recognize the legitimacy of the existing commercial use of a parcel while not directly implying that commercial activities are appropriate for a specific area.

Finding 11: The Existing Commercial zone permits uses allowed in the Neighborhood Commercial zone outright. However for reasons stated in Finding 13 below, marijuana dispensing and retailing uses are not appropriate in the Neighborhood Commercial zone and should not be allowed outright in the Existing Commercial Zone. However, staff and the Planning Commission find that dispensing and retailing of marijuana may be appropriate for specific sites which are similar previously developed commercial uses which existed on the effective date of the Zoning Ordinance as stated in Section 671 and 673.6. These uses are currently permitted using a conditional use review process. Proposed amendments to EC zone provisions designating marijuana dispensing and retailing as conditional uses are contained in **Attachment 1, page 10** and Special Use Standards have been added for dispensing and retailing uses in **Attachment 1, page 15** to incorporate State land use related standards applicable to marijuana dispensing and retailing and to add parks and child care centers to the list of sensitive uses that are to be separated by at least 1,000 feet from marijuana dispensing and retailing uses. The Planning Commission finds that these criteria are met.

CONTINUING WITH SECTION 680 OF THE ZONING ORDINANCE:

Section 680 Resource Industrial-Planned Development - RIPD

681 **Purpose:** The purpose of this district is to implement the policies of the Comprehensive Plan for Rural Industrial Areas. These provisions are intended to accommodate rural and natural resource related industries wh

- .1 Are not generally labor intensive;
- .2 Are land extensive
- .3 Require a rural location in order to take advantage of adequate rail and/or vehicle and/or deep water port and/or airstrip access;
- .4 Complement the character and development of the surrounding rural area;
- .5 Are consistent with the rural facilities and services existing and/or planned for the area; and,
- .6 Will not require facility and/or service improvements at significant public expense.

The uses contemplated for this district are not appropriate for location within Urban Growth Boundaries due to their relationship with the site specific resources noted in the Plan and/or due to their hazardous nature.

Finding 12: Staff and the Planning Commission find that marijuana growing, producing, processing, wholesaling, dispensing and retailing are not appropriate in the RIPD zone due to the fact that such uses do not require a rural location in order to take advantage of rail, vehicle, deep water port or airstrip access(Section 681.3) and that such uses, with the exception of growing or producing, are appropriate for location within Urban Growth Boundaries. Therefore, proposed amendments in **Attachment 1, page 10** prohibit marijuana uses in the RIPD zone. The Planning Commission finds that these criteria are met.

CONTINUING WITH SECTION 800, 810, 820 AND 830 OF THE ZONING ORDINANCE:

Section 800 - 5 Highway Commercial - C-5

801 **Purpose:** The purpose of this district is to provide for the orderly development of retail and personal service establishments along major arterials and thoroughfares in suburban areas. In general, such districts shall be planned to maintain high standards of traffic safety for the continued protection and welfare of the general public. Highway Commercial Districts shall be permitted for such properties abutting only those sections of major arterials or thoroughfares which have an existing dedicated right-of-way of not less than 60 feet.

Section 810 - Neighborhood Commercial - C-4

811 **Purpose:** The commercial uses permitted in this District are intended to serve those residential uses within the suburban areas.

Section 820 - General Commercial - C-3

821 **Purpose:** The General Commercial District is intended to provide for the broad range of commercial operations and services required for the proper and convenient functioning of Commercial Centers serving broad suburban areas. Uses permitted are intended to include all retail and service operations that may be appropriately located within a shopping district and that are normally required to sustain a community.

Section 830 - Marine Commercial - C-2

831 **Purpose:** The Marine Commercial District is intended to encourage a wide range of water-related activities both commercial and residential, including off-shore Water Dependent Construction Activities (WDCAs) which cannot be located on land.

Finding 13: The Highway Commercial (C-5), Neighborhood Commercial (C-4) and General Commercial (C-3) Zones are Suburban Districts found throughout the County within its cities' Urban Growth Boundaries. The Marine Commercial District accommodates water dependent uses in the suburban areas of the County. As described above, the purposes of these districts are to provide for a variety of commercial operations and

services to support surrounding residential communities. Lot sizes in the commercial zones vary in size, but do not typically consist of large acreages. The Highway Commercial Zone allows lots to be as small as 7,500 square feet in size. The Neighborhood Commercial and General Commercial Zones, have no set minimum lot size, but have a maximum lot or parcel size of 40,000 square feet. The Marine Commercial zone is intended only for water dependent uses.

Staff and the Planning Commission find that marijuana dispensing and retailing within the Highway Commercial and General Commercial Zones is appropriate consistent with the stated purposes of these zones to provide for retail and service uses along major transportation corridors(Highway Commercial) and commercial operations and services to serve a broad suburban area(General Commercial). Due to special standards required by State law governing marijuana dispensaries and retail uses should be subject to the administrative review procedure contained in Section 1601. Staff and the Planning Commission further find that marijuana dispensing and retailing are not appropriate for the Neighborhood Commercial zone due its location near or within residential neighborhoods and related sensitive uses such as schools, parks and child care centers. Marijuana dispensaries and retailing uses which currently rely primarily on cash transactions create special security challenges which can create special security impacts in and near residential neighborhoods and related sensitive uses. Likewise, such uses are not appropriate for the Marine Commercial zone which is restricted to water dependent uses. State law (Section 86 (3)(d) HB 3400) has recognized the need to regulate the proximity of dispensing and retailing uses to these uses by imposing separation standards from sensitive uses and has given the County the authority to impose additional reasonable regulations as to where dispensing and retailing uses may be located(Section 33(1)(g) and Section 89(1)(d) of HB3400A). Staff and the Planning Commission find that child care centers and parks are similar to and should be added to the list of sensitive uses within State law that require a separation from dispensing and retailing uses of at least 1,000 feet. These uses involve the presence of minors for whom there is a legitimate interest in protecting from the sale and or use of marijuana. These uses have been added to the list of uses requiring the separation in State law in the proposed new Section 1803.4A, "Special Use Standards" [TODD: findings on commercial zones is an odd place to put your findings for sensitive use restrictions. I recommend this go in your Section 1800 findings.]

In summary, proposed amendments add marijuana dispensing and retailing as permitted uses subject to the administrative review procedure contained in Section 1601 within the Highway Commercial and General Commercial zones and prohibit such uses in the Neighborhood Commercial and Marine Commercial zones. The amendments subject marijuana dispensing and retailing uses in the Highway Commercial and General Commercial Zones to special use standards which incorporate applicable State standards and add parks and child care centers to list of sensitive uses subject to the 1,000 foot separation requirement. Proposed commercial zone provisions are contained in **Attachment 1, pages 11-12** and Special Use Standards are contained in **Attachment 2, page 15**. The Planning Commission finds that these criteria are met.

CONTINUING WITH SECTION 920 AND 930 OF THE ZONING ORDINANCE:

Section 910-Industrial Park - M-3

911 **Purpose:** The Comprehensive Plan Light Industrial designation is intended to encourage the development of industrial uses which have minimal impact upon adjoining properties. Two districts are used in implementing these designations. These are: Industrial Park (M-3) and Light Industrial (M-2). The purpose of the M-3 District is to allow the development of uses which may have some impact on adjoining properties, but ones which do not generate large amounts of dust, odor, or noise.

Section 920-Light Industrial - M-2

921 **Purpose:** The Light Industrial District is intended to provide for those manufacturing, warehousing, and sales operations which basically do not create objectionable amounts of noise, odor, dust, glare vibration or truck or rail traffic.

Section 930-Heavy Industrial - M-1

931 **Purpose:** The Heavy Industrial District is intended to provide for those industrial operations which generate noise, odor, dust, glare, vibration, or truck and rail traffic in such amounts as to be objectionable to adjacent land uses.

Section 940-Airport Industrial - A1

941 **Purpose:** The Airport Industrial District 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.

Finding 14: The Industrial Park(M-3), Light Industrial (M-2) and Heavy Industrial (M-1) zones are intended to accommodate uses in suburban locations that may be land extensive or otherwise incompatible with locations with more concentrated urban populations and related uses. Staff and the Planning Commission find that marijuana processing and wholesaling uses are similar to or otherwise can be sited using the administrative review procedure in Section 1601 in a way that is compatible with other uses allowed in the Industrial Park, Light Industrial, Heavy Industrial zones if conducted indoors, separated from sensitive uses and reviewed for compliance with applicable State standards. Staff and the Planning Commission find that marijuana growing and producing and dispensaries and retail uses can be appropriate to the Industrial Park and Light Industrial zoning districts if reviewed using the conditional use procedure, but are not appropriate for the Heavy Industrial zone in which sites need to be reserved for heavy industrial uses. The proposed amendments subject marijuana uses in the M-1, M-2, and M-3 zones to special use standards which incorporate applicable State standards and add requirements that the uses be conducted indoors and that the minimum 1000 foot separation requirement for dispensaries and retailing uses from certain sensitive uses imposed by the State also include parks and child care centers where minors are typically present. The Airport Industrial zone is intended for uses related to airport operations or needing a location adjacent to an airport. Staff finds that marijuana uses do not require a location adjacent to an airport and are therefore should be prohibited in this zoning district.

Proposed industrial zone provisions are contained in **Attachment 1, pages 12-13** and Special Use Standards are contained in **Attachment 1, pages 13-15**. The Planning Commission finds that these criteria are met.

CONTINUING WITH SECTION 1040 OF THE ZONING ORDINANCE:

Section 1040 Surface Mining - SM

1041 **Purpose:**

- .1 To provide for development and utilization of deposits of aggregate and resource materials.
- .2 To provide for the protection and utilization of these resources in a manner which does not conflict with other land uses.
- .3 To assure economy in handling and transportation costs by locating removal, processing, and storage activities in as close proximity to the point of end use as feasible.

....

1042 **Permitted Uses:** The following uses shall be permitted subject to compliance with Section 1044 and all other applicable rules, standards, or statutes governing such uses, including the Columbia County Comprehensive Plan, the Surface Mining and Land Reclamation Ordinance, the Zoning Ordinance of Columbia County, and Oregon Department of Environmental Quality rules governing sewage disposal, air, and water quality:

....

- .4 Agricultural practices.

...

Finding 15: The Surface Mining zone is intended for uses related to utilization of aggregate and other natural resource materials. "Agricultural practices" are currently allowed in the zone. As noted in findings related to the resource zones(PA-80, PF-80 and FA-80), the State has included marijuana production in the definition of farm use. However, staff finds that marijuana growing and producing is not related to surface mining and is better accommodated in other zones in which allow farm use. Therefore, the proposed amendments except marijuana growing and producing from agricultural practices allowed in the zone. This exception is included in amendments in **Attachment 1, page 13**. This criterion is met.

CONTINUING WITH SECTIONS 1503, 1507, 1601, 1800 OF THE ZONING ORDINANCE:

1503 Conditional Uses

- .1 **Status:** Approval of a conditional use shall not constitute a change of zoning classification and shall be granted only for the specific use requested; subject to such reasonable modifications, conditions, and restrictions as may be deemed appropriate by the Commission, or as specifically provided herein.
- .2 **Conditions:** The Commission may attach conditions and restrictions to any conditional use approved. The setbacks and limitations of the underlying district shall be applied to the conditional use. Conditions and restrictions may include a specific limitation of uses, landscaping requirements, off-street parking, performance standards, performance bonds, and other reasonable conditions, restrictions, or safeguards that would uphold the intent of the Comprehensive Plan and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use being allowed.
- .3 **Conditional Use Permit:** A Conditional Use Permit shall be obtained for each conditional use before development of the use. The permit shall stipulate any modifications, conditions, and restrictions imposed by the Commission, in addition to those specifically set forth in this ordinance. On its own motion, or pursuant to a formal written complaint filed with the Planning Department, upon proper notice and hearing as provided by Sections 1603 and 1608 of this ordinance, the Commission, (or Board on appeal) may, but is not required to, amend, add to or delete some or all of the conditions applied to Conditional Use Permits issued by the Planning Commission or Board of Commissioners. The power granted by this subsection may only be exercised upon a finding such amendment, addition or deletion is reasonably necessary to satisfy the criteria established by Section 1503.5 below.

1507 Home Occupations...

- .3 The following criteria shall apply to all home occupations:
 - A. A home occupation shall be operated substantially in:
 1. The dwelling; or,
 2. Other buildings normally associated with uses permitted in the zone in which the property is located.
 - B. A home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

1601 **Staff Approval:** As provided elsewhere in this ordinance, the Director or his designate may approve requested actions which are in conformance with the provisions of this ordinance. Farm and forest management plans, minor variances, expansions or changes of non-conforming uses, temporary permits for the establishment of a temporary residence, care of a relative, or emergency shelter may be approved by the Director using the following procedures.

- .1 The applicant shall submit an application and any necessary supplemental information as required by this ordinance to the Planning Department. This application will be reviewed for completeness and the applicant will be informed if the application is incomplete.
- .2 The Director will mail a notice of the proposed action to all adjacent property owners within 250 feet of the subject property and to the members of the CPAC for the specific area. These people who have been notified by mail will have 10 calendar days in which to either submit their comments and objections to the proposed action or request a public hearing on the matter before the Planning Commission or Hearings Officer.
- .3 If no public hearing has been requested, the Director will review the application and all submitted comments and objections to the proposal. Based upon the review of the facts in the case and this ordinance, the Director may approve, deny, or refer the application to the Planning Commission. The Director shall inform the applicant and any affected party who responded as to the nature of his decision. This notice shall be in writing and shall contain the findings of fact which support the Director's decision.
- .4 The Director may attach reasonable conditions to the approval of any application under these provisions.

1800 Special Use Standards

1801 General Provisions

Special uses are those included in Section 1800. Due to their public convenience and necessity and their effect upon the surrounding area, these uses are subject to conditions and standards that differ from those required of other uses. Special uses shall be subject to the provisions of the section that regulates the specific use and the provisions of the zoning district in which the special use will be located. Special uses are permitted only when specified as a primary, accessory, or conditional use in the subject zoning district. Where a dimensional or development standard for a special use differs from that of the subject zoning district, the standard for the special use shall apply

Finding 16: Columbia County's Zoning Ordinance is silent on where how, where and by what standards marijuana uses may be sited. Currently, in zoning districts which allow residential use, the only land use mechanism afforded by the Zoning Ordinance for considering the unique impacts of marijuana uses is the Home Occupation/ Conditional Use Permit. However, in many of the zones which allow home occupations in conjunction with residential use, marijuana uses do not meet the criteria of Section 1507.3 (CCZO). Section 1507.3(B) specifically requires that home occupations not unreasonably interfere with other uses permitted in the zone in which the property is located. Furthermore, for reasons discussed in Findings 6-9 home occupation permits are not appropriate for regulation of marijuana uses in these zoning districts.

The Zoning Ordinance classifies uses allowed in zoning districts in several ways depending on the nature and extent of review required and the standards to be applied in order assure that the uses are consistent with the purpose of the district and compatible with other uses permitted in the district. These classifications include outright permitted uses, uses subject to administrative(staff) review, uses subject to a conditional use procedure, and prohibited uses. Findings have been included in this report as to which classification and related review procedure is most appropriate for marijuana uses in each zoning district in which they are proposed to be allowed. Based on those findings the following is a summary of review procedures recommended by the Staff and Planning Commission.

Review of Marijuana Growing and Producing Uses:

Consistent with State law, marijuana growing and producing is an outright permitted farm use in the PA-80 zone. The Planning Commission finds that the administrative review procedure in Section 1601 is most appropriate for growing and producing uses in the FA-80, PF-80, RR-5, and RR-2 zoning districts. Staff would modify this recommendation by not allowing growing and producing in the RR-2 zoning district and reviewing these uses in the RR-5 zoning district using the conditional use permit review process in Section 1503. The Staff and Planning Commission find that the conditional use permit procedure in Section 1503 is the most appropriate procedure for review of these uses in the RC, M-1, M-2 and M-3 zoning districts.

Review of Marijuana Processing and Wholesaling Uses

The Staff and Planning Commission find that the administrative review procedure in Section 1601 is most appropriate for processing and wholesaling uses in the M-1, M-2 and M-3 zoning districts.

Review of Marijuana Dispensing and Retailing Uses

The Staff and Planning Commission find that the administrative review procedure in Section 1601 is most appropriate for dispensary and retailing uses in the EC, C-3 and C-5 zoning districts. Staff and the Planning Commission further find that the conditional use review procedure in Section 1503 is most appropriate for processing and wholesaling uses in the M-1, M-2 and M-3 zoning districts.

As previously noted, State law provides specific land use related standards for some marijuana uses. Special use standards such as those anticipated by Section 1801 above are needed to address the unique impacts of marijuana uses in certain zoning districts. In addition to land use related standards contained in State law that have been incorporated into the proposed amendments in a new proposed Section 1803, Staff and the Planning

Commission are proposing to add several local standards related to uses in each zoning district in which they are proposed to be allowed. These standards are addressed elsewhere in the report in relation to each zoning district in which marijuana uses are allowed consistent with the requirement that the standards meet the reasonableness test in State law. Special use standards proposed to be added to a new Section 1803 within Chapter 1800, "Special Use Standards" of the Zoning Ordinance are in **Attachment 1, pages 13-15.**

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 17: The Planning Commission is holding a public hearing on October 5, 2015 and the Board will schedule a public hearing at a later date to consider the proposed amendments. The Planning Commission does not make a final decision on this matter, but rather makes a recommendation to the Board of Commissioners for the final decision. See pages 20-27 for discussion of consistency with the Comprehensive Plan and Statewide Planning Goals. This criterion will be satisfied when the Board holds a hearing and can determine that the proposed amendments are consistent with the Comprehensive Plan and all applicable State criteria.

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 V (Agriculture), Part VII (Rural Residential), Part X (Economy), and Part XII (Industrial Siting). 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.

The amendments were initiated by the Board of Commissioners. Finding 1 of this report, includes a description of all actions taken in compliance with applicable State and local review procedures and notice requirements.

Further, 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 DLCDC, 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 held on October 5, 2015 after which recommendations were forwarded to the Board of County Commissioners for a hearing on November 4, 2015. All of these requirements have or 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. Policy 7 of this part allows dwellings on forest lands, but limits dwellings to sites that are generally unsuitable for forest uses and that will not significantly impact forest uses on adjacent and nearby forest lands. Dwellings may only be permitted on forest lands if approved through a Conditional Use Permit. 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). The subject text amendments propose allowing marijuana growing and producing uses on forest lands as farm uses reviewed using the administrative review procedure to apply State land use related standards and special use standards added to Section 1800, “Special Use Standards”, to address the unique impacts of this use as further discussed in Findings 6-8 in this report. Therefore, although the allowance of marijuana growing or producing on forest lands does not directly support the Forest Lands goal, a process (administrative review) has been established and special standards have been proposed to ensure that, if sited in a forest zone, this use will not be detrimental to the achievement of said goal. By allowing marijuana growing and producing using this approach, the Staff and Planning Commission find that the proposed amendments are consistent with Part IV of the Comprehensive Plan.

CONTINUING WITH PART V OF THE COMPREHENSIVE PLAN - AGRICULTURE:

Part V (Agriculture): The goal of the Agriculture section of the Comprehensive Plan is to preserve agricultural land for agricultural uses. As previously discussed in Finding 6, the State has defined marijuana growing and producing as “farm use”(Section 34, HB 3400A). The proposed amendments treat marijuana growing and producing as an outright permitted farm use in the PA-80, exclusive farm use zone. The proposed amendments treat marijuana growing and producing as a farm use reviewed and approved using an administrative review process in the FA-80 zoning district(see Findings 7) The administrative review process and the addition of special use standards as proposed in Section 1803 for marijuana growing and producing is needed to assure that the unique impacts of the use on other non-agricultural uses permitted in the FA-80 zone are addressed consistent with State law. Staff and the Planning Commission find that the proposed amendments regarding marijuana growing and producing on agricultural lands in the PA-80 and FA-80 zone are consistent with Part V 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 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. As previously discussed 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. However, for reasons discussed in Finding 9, the text amendments proposed by the Planning Commission would allow marijuana growing and producing using the administrative review process in Section 1601 in the RR-2 and RR-5 zones with the addition of proposed special use standards in Section 1803. The proposed text amendments are designed to assure that marijuana growing and producing does not unreasonably interfere with the “continuation and expansion” of rural residential use in these zones as stated in the Rural Residential goal.

As noted in Finding 9, Staff does not concur with allowing marijuana growing and producing in the RR-2 zone and recommend that the conditional use review process be used for marijuana growing and producing uses in the RR-5 zone. Staff finds that marijuana growing and producing are incompatible with in the RR-2 zone, due to the zone’s smaller parcels and more dense residential land use pattern.

The Planning Commission finds that proposed amendments allowing marijuana growing and producing uses using an administrative review procedure in Section 1601 and the application of special use standards to said uses in the RR-2 and RR-5 zone is 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. In a rural county, such as Columbia County, it remains to be seen whether marijuana uses will play a valuable role in generating income for residents and generally benefitting the County’s rural economy. However, a report issued by the State of Colorado, which legalized recreational marijuana in 2012 and opened recreational marijuana retail stores in January of 2014, noted that dispensaries have made an estimated 295 million dollars in sales and produced 51 million dollars in tax revenue in 2014 (Colorado Marijuana Policy Group, 2014). Columbia County has not opted to impose a local tax on marijuana sales but could stand to benefit from State tax revenue as well as the increased land and improvements value and jobs related to growth in the marijuana industry. Commercial marijuana uses other than growing or producing, are best suited for locations within incorporated Cities where services are provided at levels required for processing, wholesaling and retailing of product and adequate access is provided for customers and suppliers. Marijuana uses sited according to review procedures and standards proposed in the subject amendments will both protect impacted land uses and provide for the economic benefits of the marijuana industry. The proposed text amendments are consistent with Part X of the Comprehensive Plan.

CONTINUING WITH PART XII OF THE COMPREHENSIVE PLAN - INDUSTRIAL SITING:

Part XII (Industrial Siting): The first Goal of the Industrial Development section of the Comprehensive Plan is to strengthen and diversify the economy of Columbia County and insure stable economic growth. Policies 1 and 2 encourage the creation of new and continuous employment opportunities and encourage a stable and diversified economy. Policy 11 directs industries that are either land extensive, resource related, marine related, and/or incompatible with urban populations to those sites which are appropriate to the use and currently zoned for that use. As discussed under the Economy section of the Comprehensive Plan, commercial marijuana uses may create new employment opportunities and do contribute to a diversified economy if sited appropriately. Policy 11 specifically suggests industrial lands for uses that may be incompatible with urban populations. Except for growing and producing in the PA-80 zone and as noted in Findings 6-8 above, marijuana uses have unique impacts such as noise, glare, odor, security considerations and impacts on minors which must be considered in siting decisions using an Administrative Review process and the imposition of reasonable standards as proposed in Section 1803. The Planning Commission finds that, with the possible exception of the RR-2 and RR-5 zones, marijuana growing and producing are generally not appropriate in residential zones. Marijuana retailing is compatible with a few commercial zoning districts where they are not sited in close proximity to residential areas and related sensitive uses. As discussed in Finding 14, and in accordance with Policy 11 (of this section), indoor marijuana growing, producing, wholesaling, processing and retailing may be appropriately sited in most industrial

districts. Proposed text amendments recommend allowing these uses on industrial lands (Industrial Park, Light Industrial and Heavy Industrial Zones) if approved through the Administrative Review process. Staff and the Planning Commission find that the use of the proposed review procedures and the application of special use standards proposed in Section 1803 are consistent with Part XII 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 noise, sewage disposal, solid waste removal and surface water treatment. Goals of this section aim to “control and limit the adverse impacts of noise” 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 that must be used during significant portions of each day to ventilate plants and can emit sounds 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 Finding 9, residential zones are intended for residential use and as such are categorized as noise and odor sensitive. The Planning Commission proposes amendments include additional setback standards for buildings housing marijuana grows in the RR-2 and RR-5 zones and recommend an Administrative Review process assure compliance with applicable standards. Staff has recommended that the amendments prohibit marijuana growing and producing in the RR-2 zone due to the smaller parcel sizes and density of residential development and recommend use of the conditional use process for growing and producing uses in the RR-5 zone. The proposed regulations as applied to residential zones directly supports Policy 4 by limiting or prohibiting the encroachment of a noise pollution source into noise sensitive areas. The Planning Commission finds that the proposed text amendments are consistent with Part XVIII of the Comprehensive Plan.

THE FOLLOWING OREGON STATEWIDE PLANNING GOALS (ORS 197) APPLY TO THIS PROPOSAL (THOSE NOT LISTED ARE NOT APPLICABLE):

Note: Columbia County’s Comprehensive Plan contains provisions consistent with and in support of Oregon Statewide Planning Goals. Therefore, the proposed amendments’ consistency with the Statewide Planning Goals are addressed in the discussions of the proposal’s consistency with the Comprehensive Plan. Most findings in this section will reference previously discussed sections of this Staff Report.

Goal 1 (Citizen Involvement): Goal 1 requires opportunity for citizens to be involved in all phases of the planning process. Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in State statute and in its acknowledged Comprehensive Plan and land use regulations.

For Legislative Zoning Ordinance Text Amendments, the County’s land use regulations, ORS 215.060 and ORS 197.610 require notice to the public and to the Department of Land Conservation and Development (DLCD) and public hearings before the County Planning Commission and Board of Commissioners. Finding 1 describes County actions in compliance with legislative review and notice procedures and requirements. By complying with these regulations and statutes, Staff and the Planning Commission find that the County complies with Goal 1.

Goal 2 (Land Use Planning), Part I: Goal 2, Part 1 requires that decisions and actions related to land use be consistent with acknowledged Comprehensive plans of affected cities and counties and based on adequate factual information. Factual information supporting this application is addressed throughout the staff report through an analysis of both County and State laws and the proposal’s consistency with these laws. The text amendment’s consistency with the Columbia County Comprehensive Plan is specifically addressed above.

Goal 2, Part I further requires coordination with affected governments and agencies. As stated under Goal 1 above, any affected agencies have been notified of the request. Staff and the Planning Commission find that the requirements of Goal 2, Part I have been satisfied.

EXHIBIT B

Goal 3 (Agricultural Lands): The intent of Goal 3 is to preserve and maintain agricultural lands. As discussed in Finding 6 and under Part V(Agriculture) of the County Comprehensive Plan above, the State has defined marijuana growing and producing as a farm use which is outright permitted and has restricted other commercial marijuana related activities in the PA-80 zone. The proposed amendments would incorporate State marijuana law provisions into the County Zoning Ordinance. Therefore, Staff and the Planning Commission find that the requirements of Goal 3 have been satisfied.

Goal 4 (Forest Lands): The intent of Goal 4 is “to conserve forest lands by maintaining the forest land base and protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture.” Proposed amendments treat marijuana growing and producing as a farm use requiring administrative use review in the FA-80 and PF-80 zone according to discretion granted to Counties by State law (See Finding 7 and 8). By incorporating State law provisions into the County zoning code, using the administrative review process and applying reasonable standards to marijuana growing and producing in the FA-80 and PF-80 zone, the requirements of Goal 4 have been satisfied.

Goal 6 (Air, Water and Land Resources Quality): Goal 6 prohibits waste and process discharges (defined as solid waste, thermal, noise, atmospheric or water pollutants, contaminants, or products therefrom), created by existing and future development, from violating state or federal environmental quality statutes, rules and/or standards. As discussed in Part XVIII (Air, Land and Water Quality) of the Columbia County Comprehensive Plan (above), marijuana growing and producing uses can have noise and odor impacts on adjacent residential land uses. The proposed amendments address these impacts by requiring an administrative review process, incorporating State land use related standards and adding special use standards(ie additional setbacks from indoor grows). Furthermore, where marijuana uses have been proposed to be permitted in Commercial or Industrial Zones, Site Design Review shall is required and may further address these issues. The Planning Commission finds that the requirements of Goal 6 have been satisfied.

Goal 9 (Economic Development): The intent of Statewide Planning Goal 9 is “to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.” The goal further requires Comprehensive plans and policies to contribute to a stable and healthy economy. The proposed amendments allow for marijuana uses in appropriate zoning districts , according to additional review procedures as necessary to address potential adverse effect and apply some additional standards to assure that the uses are compatible with adjacent uses. By allowing marijuana use in this responsible and responsive manner, such uses may successfully operate in Columbia County and in turn provide economic opportunities for County residents and contribute to the vitality and diversity of the local economy. As noted in the discussion of Part X (Economy) of the County Comprehensive Plan, marijuana related economic activity including tax receipts, jobs and investment has been significant in states such as Colorado which had authorized recreational marijuana before Oregon. Increased employment increases spending locally and further contributes to economic development of the area. The allowance of marijuana uses on resource, commercial and industrial lands as proposed in the amendments supports small business development and contributes to the overall health of the economy. Staff and the Planning Commission find that the requirements of Goal 9 have been satisfied.

CONTINUING WITH OREGON REVISED STATUTES AND OREGON ADMINISTRATIVE RULE (AGRICULTURAL ZONES):

ORS 215.283

Agricultural Zones

215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties; rules. (1) The following uses may be established in any area zoned for exclusive farm use:___

...

1) The following uses may be established in any area zoned for exclusive farm use:...

(d) A dwelling on real property used for farm use...

(e) Subject to ORS 215.279 (Farm income standard for dwelling in conjunction with farm use), primary or accessory dwellings and other buildings customarily provided in conjunction with farm use....

(o) Farm stands ...

® A facility for the processing of farm crops...

2) The following nonfarm uses may be established

(a) Commercial activities that are in conjunction with farm use....

(l) Home occupations as provided in ORS 215.448 (Home occupations)....

ORS 215.296

215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards. (1) A use allowed under ORS 215.213 (2) or 215.283 (2) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(2) An applicant for a use allowed under ORS 215.213 (2) or 215.283 (2) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

660-033-0090 Uses on High-Value and Non High-Value Farmland

(1) Uses on land identified as high-value farmland and uses on land not identified as high-value farmland shall be limited to those specified in OAR 660-033-0120. Except as provided for in section (2) of this rule, counties shall apply zones that qualify as exclusive farm use zones under ORS chapter 215 to "agricultural land" as identified under OAR 660-033-0030 which includes land identified as high-value farmland and land not identified as high-value farmland.

660-033-0120 Uses Authorized on Agricultural Lands

The specific development and uses listed in the following table are permitted in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

(1) A -- Use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(2) R -- Use may be approved, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(3) * -- Use not permitted.

(4) # -- Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

HV	All	<u>USES</u>
<u>Farm</u>	<u>Other</u>	
		Farm/Forest/ Resource
A	A	Farm use as defined in ORS 215.203

A	A	Other buildings customarily provided in conjunction with farm use.
....		
		Commercial
R5	R5	Commercial activities in conjunction with a farm use....
R5, 14	R5, 14	Home Occupations as provided in 215.448

660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

- (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - (b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
- (18)(a) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.

Finding 18: Oregon Revised Statutes and Oregon Administrative Rules allow marijuana growing and producing as an outright permitted farm use in agricultural zones. The proposed amendments treat marijuana growing and producing as a permitted farm use and, consistent with marijuana law(Section 34(2), HB3400A) prohibit commercial processing, wholesaling and retailing including farm stands in the PA-80 zone. Similarly, as discussed in Findings 6-8, marijuana uses should not be considered as home occupations. Consistent with OAR 660-033-0120, the proposed amendments prescribe additional limitations and requirements within the FA-80 and PF-80 zones when marijuana growing and producing uses are proposed in order to meet local concerns as authorized by 660-033-120 (1) (2). The Staff and Planning Commission find that these criteria are met.

CONTINUING WITH OREGON REVISED STATUTES AND OREGON ADMINISTRATIVE RULE (FOREST ZONES AND HOME OCCUPATIONS):

660-006-0025 Uses Authorized in Forest Zones

...

- (3) The following uses may be allowed outright on forest lands: ...
 - (b) Farm use as defined in ORS 215.203; ...
- (4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule...
 - (s) Home occupations as defined in ORS 215.448; ...

Finding 18: Oregon Revised Statutes and Oregon Administrative Rules allow farm use as an outright permitted in Forest zones. Section 34, HB3400A defines marijuana production as a farm use. In the FA-80 and PF-80 zones, the proposed amendments allow marijuana growing and producing as farm uses using an administrative review procedure in Section 1601 to address due to the unique impacts they may create. Use of this review procedure is appropriate for marijuana growing and producing uses in zones intended for forest use due to the need to protect the primary purposes of the forest use zone, assure that applicable State land use related standards are complied with and that the unique impacts of such uses are addressed. As discussed in Finding 8, additional setbacks are prescribed for indoor growing and producing buildings in zones intended for forest use. Local discretion to provide this additional review and apply reasonable standards to marijuana growing and producing in farm/forest and forest zones is granted by State marijuana law at Section 34(3) of HB3400A.(See Findings 6-8). Staff and the Planning Commission find that these criteria are met.

CONTINUING WITH THE OREGON MEDICAL MARIJUANA ACT AND MEASURE 91(RECREATIONAL MARIJUANA ACT) AS AMENDED BY HB 3400-A

As discussed in the “Background/Summary”, the State of Oregon recently adopted comprehensive amendments to the Oregon Medical Marijuana Act(OMMA) enacted by votes on November. 3, 1998, by Ballot Measure 67. (Oregon Revised Statutes 475.300 et seq) and the Oregon Legalized Recreational Marijuana Initiative, Measure 91(Section 5, Chapter 1, Oregon Laws 2015) approved by voters on November 4, 2014. The proposed amendments to the Columbia County Zoning Ordinance addressing marijuana uses authorized by State Law must be consistent with the land use related provisions of HB 3400-A.

Finding 19: Staff has reviewed and incorporated land use related provision of State law into the proposed amendments to achieve consistency. More detailed findings addressing the consistency of specific provisions of HB 3400-A and proposed amendments are addressed in the various findings of this report.

It should be noted that the responsibility for implementing the Medical Marijuana Act lies with the Oregon Health Authority(OHA). The OHA has adopted administrative rules and is in the process of amending and updating them. Likewise, th Oregon Liquor Control Commission is charged with implementing the Recreational Marijuana Act and, as of date of this report, has not adopted the rules in final form. To the extent that either the OHA or OLCC rules relate to land use, Columbia County will be a partner in carrying out the requirements. Staff and the Planning Commission find that the proposed amendments are consistent with applicable provisions of the State medical and recreational marijuana laws as amended.

COMMENTS:

The following comments have been received as of **October 21, 2015** . :

Department of Land Conservation and Development: Comments from Katherine Daniels, Farm and Forest Lands Specialist with DLCD was received by email on September 17, 2015. Substantive comments are addressed in report findings.

Other Written Comments: As of October 21, 2015, Land Development Services has received written comments concerning the proposed Zoning Ordinance Text Amendments in **Attachment 4**.

CONCLUSION AND RECOMMENDATION:

Based upon facts and findings herein, the Planning Commission recommends **APPROVAL** of TA 16-01, the legislative amendment to the text of the Columbia County Zoning Ordinance to specify zoning districts in which marijuana uses are allowed, by what review processes and according to what standards. The recommended amendments are included as **Attachment 1** to this report.

As noted herein, Staff concurs with the Planning Commission’s recommendation with the following exceptions:

1. Marijuana growing and producing be prohibited in the RR-2.
2. Marijuana growing and producing in the RR-5 zone be reviewed using the Conditional Use Review procedure which includes both notice to adjacent land owners and a public hearing before the Planning Commission.

ATTACHMENTS:

1. Planning Commission Recommended Marijuana Zoning Ordinance Text Amendments
2. Planning Commission Minutes: October 5, 2015 Public Hearing & October 12, 2015 Deliberations
3. Marijuana Advisory Committee Roster/Meeting Notes
4. Written Comments received as October 21, 2015