

COLUMBIA COUNTY PLANNING COMMISSION MEETING

September 11, 2017

Meeting Minutes

Planning Commission Members Present: Claudia Frace, Linda Hooper, Alta Lynch, Bill DeJager

Staff Present: Glen Higgins, Hayden Richardson and Kay Clay

Others: Kathleen & Stan Johnson, Bill Cumby, Jeff Trass, Ryan Murphy, Craig & Teresa Bergerson, Michael Griffin, ShellyTrass, Fonda Jackson, Chiyomi Ingram, Don & Sonya Karow and Myron & Genet Smiens

Linda Hooper, Vice Chairman, called the meeting to order at 6:30pm

Hayden Richardson read the pre hearing statement.

CU 18-03 Conditional Use for Myron & Genet Smiens

no ex parte declared

REQUEST: Conditional Use Permit that will allow the applicants to operate a decorative concrete work construction company that is run from their home with materials stored in the garages and accessory shop building.

Background:

The applicants, Myron and Genet Smiens, reside at 56602 Old Portland Road and have submitted an application to the County to operate a decorative concrete contracting company from their home as a Type II Home Occupation on their 7.5 acres in the Rural Residential (RR-5) Zone. The property is served by Warren Water Association, a septic system and accesses off of Old Portland Road. The applicants describe the proposal as follows:

“Re-establishing our office in our home and break room/office in garage. Material storage and equipment will be held in garage that will be used to conduct work for our small business named Hardcore Construction, LLC. Hardcore Construction is a traditional and decorative concrete contractor CCB #154208 providing homeowners and

general contractors with beautiful concrete flat work, sidewalks, patios, etc. at their homes or businesses. We have been conducting business in Columbia County since 1999 and have been licensed to conduct business from our home and shop in St. Helens since that time. We recently built a home on Old Portland Road and have been preparing the property to move our business to this site for over a year.”

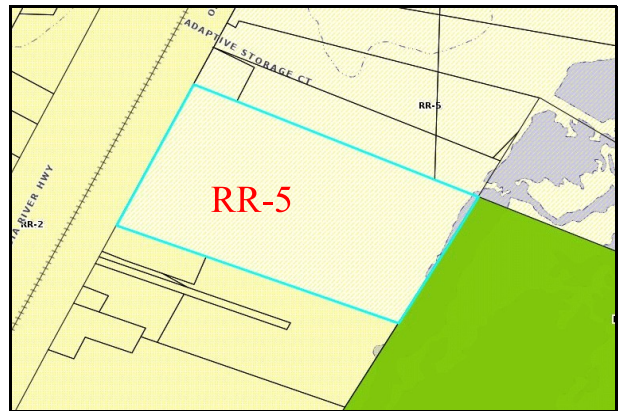
As shown below, the subject and adjoining properties along Old Portland Road are zoned primarily for RR-5 and RR-2 uses.

Although the eastern ~ 2 acres of the property is located within the 100 year floodplain according to FEMA FIRM # 41009CO453D, all of the development on the property, including the home, detached garage, and storage shop that will be used in this home occupation, are located at least 200 feet from the flood plain. The Project Planner’s site visit on 8/8/17 confirmed that these environmentally sensitive areas will not be compromised from this Home Occupation. Emergency services are provided to the site by Columbia River Fire and Rescue and the County Sheriff.

2009 Aerial Map With Flood Plain



Zoning Map



Type II Home Occupations are permissible on the RR-5 zoned property, subject to prescriptive standards established in Section 603.3 and 1503 of the Zoning Ordinance provided the Planning Commission’s review and approval of a Conditional Use Permit. Accessory structures, like the applicant’s detached garage and storage shop that will be used for the clerical, administrative and storage needs of their equipment for their decorative concrete company, are also permitted uses in the RR-5 Zone provided they comply with the minimum property line setback requirements in Section 602.4 (B and C) as follows: 30' from the front property line and 5' from the side and rear property lines. The detached shop that will be used for storage of equipment was originally permitted as an agricultural building, but is in the process of changing the occupancy to a storage shop, for non-agricultural use, through BLD 2018-00040.

Staff finds that the location of the detached workshop and the garage/break room as presented in the submitted site plan complies with the minimum property line setbacks in Section 602.4.

It appears that the applicants have met all the criteria necessary for this operation of this home occupation. Staff recommends approval with conditions of CU 18-03.

In Favor:

Genet & Myron Smiens. This is a business that we have had for many years but previously ran it out of their home in St Helens. They are ok with the conditions set forth in the staff report.

Opposition: None

Bill DeJager made a motion to approve CU 18-03 with conditions. Alta Lynch seconded. All in favor motion carried.

MO 18-02 and CU 18-04

No ex parte declared.

Hayden Richardson presented the staff report.

REQUEST: To obtain a Conditional Use Permit to conduct a Marijuana Growing Operation in an existing 35' x 40' in the RR-5 Zone provided for in Sections 603.6 and 1803 of the Columbia County Zoning Ordinance

Background:

On November 25, 2015 the Columbia County Board of Commissioners adopted Ordinance No. 2015-4 related to cannabis regulation in Columbia County, Oregon. The State of Oregon regulates cannabis by provisions in the Oregon Revised Statutes in ORS Chapter 475B. County Ordinance No. 2015-4 amends the Columbia County Zoning Ordinance and sets time, place and manner regulations for the growing, processing, and retailing of marijuana operations in the county's unincorporated areas.

The applicant, William Cumby, is requesting a Conditional Use Permit and a Marijuana Operations Permit. The applicant proposes to grow cannabis inside a 1400 sq ft detached barn structure, which was originally permitted via BLD 2006-00121. In order to authorize this detached shop for the marijuana operation as provided in Sections 603.6 and 1803 of the Zoning Ordinance, the County must review and approve the applicants' Conditional Use Permit and the Marijuana Operations Permit and the applicant must be issued a Marijuana

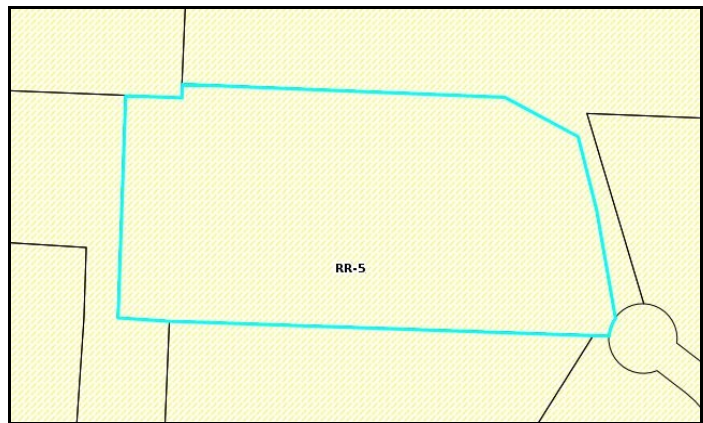
Growing License from the State of Oregon Liquor Control Commission (OLCC) or the Oregon Health Authority (OHA). Once approved, the applicant must apply for a change of occupancy for the existing 1400 sq ft detached structure.

The subject site is already developed with an existing dwelling, driveway, well, septic tank, drain field, and two shop structures. The dwelling and proposed grow will use Grandview Drive as an access. Grandview Drive is a public road that runs directly into the property and is utilized by approximately 7 other property owners.

According to the FEMA Flood Insurance Rate Map No. 41009CO180 D, there are no flood hazard areas on the subject property. The site does not contain any wetlands or waterways, according to the National Wetlands Inventory Map. The subject property does contain some steep slopes, approximately 25% grade, that are located on the west side of the property. The property does not contain any sort of sensitive animal habitat according to the Rainier BEAK Map. Emergency services are provided to the site by Scappoose RFPD and the County Sheriff.

Subject Property Aerial Map

Zoning Map



On 12/29/16 the applicant attended a pre-application conference at the county, where the proposed marijuana grow operation was reviewed and the land use approval process discussed. On 7/13/17 the applicant submitted an application and paid the fees for the marijuana operation permit and the conditional use permit. The application materials included a site plan, a narrative of the proposal, and documentation, in the form of County Assessor records, that proves that the applicant is the owner of the property. As a condition of approval, the applicant must submit a copy of a valid Oregon Drivers License to show that he currently resides at the subject property. Staff finds the applicants will comply with the applicable provisions in ORS 475B for licensed Growing Operations. In addition, a condition of approval for MO 18-02 and CU 18-04 should require the applicant to submit written confirmation on an annual basis to LDS verifying that the marijuana growing operation has a current license registered with the State of Oregon.

MO 18-02 is proposed to be conducted inside one existing, enclosed barn structure inside a partitioned 32' x 32' area. This area will have four staggered growing zones that are 8' x 32' each. The regular setbacks for accessory structures in an RR-5 zone are 30 feet from the front property line and 5 feet from the rear and side property lines. With the additional 50 feet added for the marijuana grow, the setbacks become 80 feet from the front, and 55 feet from the rear and side property lines. The barn structure that will be used in this marijuana grow appears to meet these additional setbacks. It is located approximately 80 feet from the closest side or rear property line and approximately 450 feet from the front property line. The Project Planner's 8/8/17 site visit verified these approximate distances. In addition, the applicant stated that all activities related to this marijuana grow will take place within the enclosed structure that is being proposed for MO 18-02.

The subject proposal is limited to no more than five employees. As stated in the application, the operation will be run by the applicant and one employee. To ensure that MO 18-02 continues to comply with 1803.2(D)(2) staff recommends that a condition of approval state that the operation shall be limited to five (5) employees including the residents/owners

Compliance with all conditions and applicable standards will be required to ensure that the marijuana grow operation remains harmonious with surrounding properties. Any departure from these conditions of approval and the approved plans constitutes a violation of this ordinance.

In the application, the applicant states that he will contract a water company, Water Supply, LLC, to provide 3000 gallons of water per delivery. The applicant does not state how frequent these deliveries will be or where he will store the water once it is delivered to the property. Also, the applicant submitted a signature from a Tralee Friedlein under the statement, "Water Supply, LLC understands and approves that the water will be used in the process of growing marijuana". This statement doesn't not indicate that Tralee Friedlein is associated with Water Supply, LLC in any way and cannot be considered a contract of sales. As a condition of approval, and prior to the issuance of any building permits, the applicant shall provide the county with a contract which states that Water Supply, LLC is willing and able to supply this marijuana grow with water. This contract shall discuss the frequency of the deliveries and shall indicate the title of the signee.

The applicant stated that there will be no impact on the roads, ground water, electrical utilities, sewage, and solid waste disposal to any adjacent property. He also states that the plant needs are met inside this sealed room with the aid of LED lights, CO2 burners, air conditioners, dehumidifiers, and the aeroponic grow system which recycles water back into the reservoirs. Although, in the submitted "Supplemental Questionnaire Building and Fire Code Compliance" information, the applicant states that there will not be any CO2 burners used in this marijuana operation . Due to the possible harmful nature of CO2, if the applicant plans on utilizing CO2 for this proposal, Staff recommends a possible condition of approval

of this marijuana grow to be that the applicant work with Columbia River Fire and Rescue prior to the utilization of any CO2 burners in this accessory structure.

Based on the findings and conditions in the staff report, staff recommends approval of this application.

Discussion:

Linda Hooper inquired about the smell and wanted to know what would be done to control that and Claudia Frace wanted to know if it would be a condition.

Hayden responded that the applicant would be using air purifiers and that is pretty much a standard in the industry.

In favor:

William Cumby. Owner/applicant

Mr Cumby is a 13 year contractor and a chemical engineer, He says he did a proto type of what the building would be and the system works. The smell in the building will stay in the building and he will be using a carbon filter system.

Linda Hooper asked if he would be using a CO2 burner? Mr Cumby said he would be using a inline water heater which is the same. CO2 is not combustible, it is more scientific, no bugs. Its overall better for the grow. Mr Cumby is ok with the staff report and conditions.

Opposition:

Craig Bergerson, neighbor. This is in a family subdivision and they have CCR's that state there is no industrial use or businesses that can cause an annoyance to the neighborhood. As far as the water trucks go they have to go up an 11% grade to get to his location, its not safe. This is a private maintained road. The fact that there are scrubbers and increased electric use supports commercial use.

Jeff Trass, neighbor. There are CCR's and no commercial use is allowed in the neighborhood. Jeff pointed out that there is already a secondary business at this location (deck renovation). With the additional use of the road there will be an impact on the private maintained road. How will there not be odors. The building would have to be 100% sealed off to prevent odors. The odor is there and always will be and there will be odors in the wastewater also. Where will the drain water go?

Linda Hooper inquired about the private road agreement. In the statement from the Lonny Welter the county does not maintain the road at all.

Fonda Jackson is also a neighbor and is also concerned about the CCR's. Also the drainage and how close will it be draining to the well, will the well or wells be affected? The smell is hard on allergies and he just does not want it in that neighborhood.

Stan Johnson, his property adjoins the applicants property. Stan is curious as to if the shop was ever permitted. There is already a decking business up there. Will there be 6 employees with the new business? Who will enforce the operation, will it be seasonal, there are water issues now what if the well dry up? Who monitors the amount of the water being trucked in. He moves to keep this neighborhood residential.

Michael Griffin, they got CCR's for a reason and the intent of the CCR's is to keep this area residential. He doesn't understand how the application can be approved knowing what the CCR's are there. This is not a commercial location. How much will the traffic increase if there are five employees? The CCR's state that no offensive activity is permitted. This is private residential.

Unknown - It would have been nice if Mr Cumby would have checked with the neighbors before springing this on them. There is a 11% grade on this road and it is dangerous in the winter, it does not need more traffic on it. What will a business like this in a residential district do to the property values.

Don Karow, There is a shared well with Mr Cumby and there are dry well issues in the area. No matter what I understood that you could not use well water for this operation, will there be a monitoring device on this well and will the spring water be contaminated?

Kathleen Johnson, lives on Meserve Rd and enjoys the country living, it's a good clean environment for family living please don't spoil it. This is a residential neighborhood where we watch our kids play, please support the CCR's and deny this application.

Rebuttal:

Mr Cumby did not want everyone upset about his intended business. The reason there is a water truck coming to his location twice a year is that he can not use well water for his business. He recycles the water so there is very little water wasted, there will be an underground tank for the water. There is more infrastructure needed to use rain water. The smell is minimal to none because there will be a room within a room and this was previously tested and it does hold the odors in. This was not tested at this site because it is not completed. This is not a large scale grow. It is costly to grow in this type of structure and using the CO2 generator. There will be shop filters being used also for odors. The normal traffic will be the two that reside in the home, him and his future wife. He has talked to his neighbors and gets along with them but has never mentioned the grow operation, its just an uncomfortable topic. He wants to do this for additional income. It probably would have been better to bring this up in public discussion with the neighbors. This is a second business at the

home but the other business is Portland based. As far as the wastewater goes it is just fertilized water that will put any waste back onto the grass. After 8 weeks the mixture loses its potency.

Claudia Frace wanted to understand the underground water storage. It will be 3000 gallons.

Mr Cumby also wanted to mention that there may be water trucks and propane.

Alta Lynch wanted to know if any oil trucks would be coming up the road because there may be weight restrictions.

Mr Cumby did scan over the CCR's.

Closed public hearing

Glen Higgins wanted to point out that Columbia County does not enforce CCR's, they are an agreement between neighbors, we have no authority we only deal with zoning.

Linda Hooper explained that the CCR's are just a vehicle for the neighbors for enforcement.

Alta Lynch explained that what the Planning Commission deals with is the zoning aspect and the County as a whole passed the law to allow the marijuana.

Alta Lynch made a motion to approve MO 18-02 and CU 18-04, adding in that the air filtering is a condition of approval as well as requiring the information regarding the water supplier. At this point there is no water contract signed.

Glen Higgins pointed out that the applicant has four years to start his business.

Bill DeJager seconded the motion. Motion carried.

Meeting adjourned 7:50 p.m.