

COLUMBIA COUNTY PLANNING COMMISSION MEETING

February 6, 2017

Meeting Minutes

Planning Commission Members Present: Alta Lynch, Linda Hooper, Paula Lichatowich and Claudia Frace

Staff Present: Glen Higgins, Deborah Jacob, Hayden Richardson Karen Kane and Lonny Welter

Others: Phillip Hamilton, Richard Ontiveros, Lucille Ontiveros, Eugene Ontiveros, Thomas Bembenek, Mariah Hamilton, Lana Hamilton, John Basket, Darci Rydzinski, Aaron Kightlinger, Chantel Kightlinger, Kirk Kightlinger, T Wolf and Ken Shonkeiler

Deborah Jacob read the pre-hearing statement

Linda Hooper, Co-Chairman, called the meeting to order at 6:30pm.

No Exparte declared.

V 17-05

Deborah Jacob opened the record for the David Clark application. It was then asked that we continue this application to the March 6, 2017 planning commission meeting. The reason being is that we need further information regarding the access to the property over and/or along the CZ Trail.

Claudia Frace made a motion to continue this application at the March 6, 2017 meeting.

Alta Lynch seconded

All in favor motion carried.

MO 17-07

Staff report present by Hayden Richardson.

The request is to conduct a Marijuana Growing Operation on a 21.48 acre property in the PF-80 zone provided for in Sections 504.16 and 1803 of the Columbia County Zoning Ordinance. Tax Map Number 7313-00-00600

BACKGROUND:

The applicants, Kirk and Chantel Kightlinger, are requesting approval to establish and operate a future mixed OLCC Recreational Marijuana and OHA Medical Marijuana production operation on the subject ~21.48 acre property. The applicants intend to grow marijuana both indoors and outdoors. The indoor grow will take place in four (4) separate 30x40 structures that are clustered together and the outdoor grow will take place in a 19,000 square foot area to the north of the proposed indoor structures. The whole area will be surrounded by an 8 foot cyclone fence and will be approximately two acres in size.

The applicants currently have an existing medical marijuana grow that is being conducted in their storage barn which will be demolished to make room for the new recreational/medical grow. This is a legal medical grow and both growers are licensed by the OHA for the subject site. The registration number for Kirk Kightlinger is 541980 and the registration number for Chantel Kightlinger is 541981.

The site is already developed with the applicant's residence, a detached garage, a storage barn, a septic system and a well. The property is large enough to safely accommodate its intended new use in compliance with the required minimum 100' setback from all property lines for structures used for marijuana operations in the PF-80 Zone.

The applicant has applied for a Recreational Marijuana Growing License from the State of Oregon Liquor Control Commission (OLCC). This license will need to be issued by the State as a condition of County approval of the applicant's establishment of a Recreational Marijuana Growing Operation on the subject property as requested in MO 17-07 and issuance of any building permits. The remainder of this report will evaluate and make findings on whether the proposal for MO 17-07 complies with the minimum land use provisions of Columbia County's Zoning Ordinance.

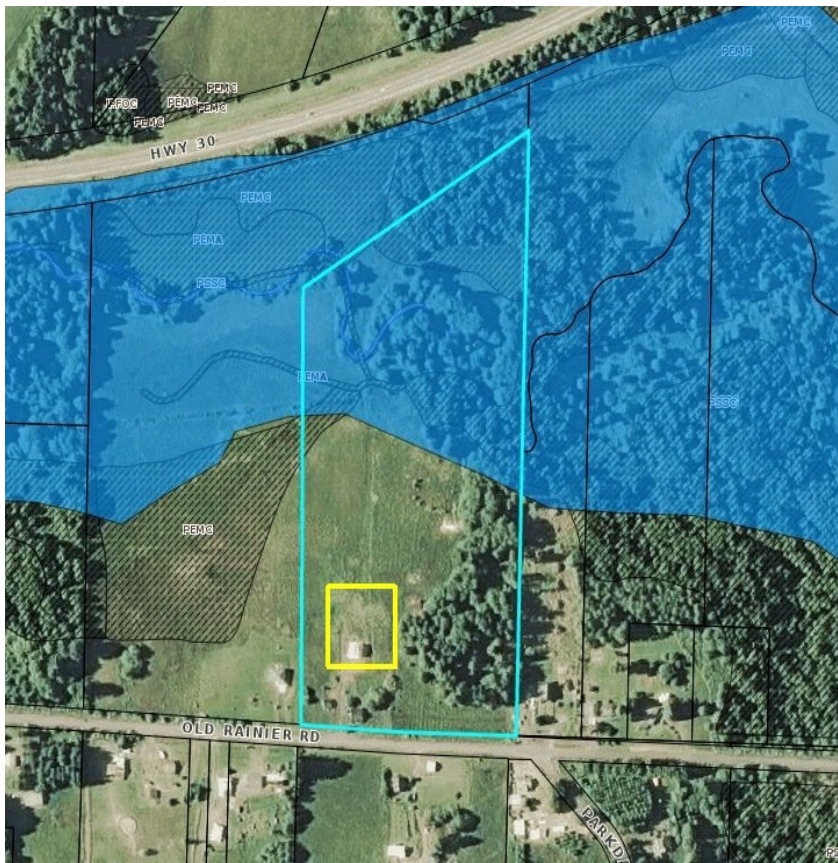
This application for Administrative Review was deemed complete on November 28, 2016. On November 30, 2016 notices were mailed out to adjacent property owners within 750 feet and affected government agencies. Those notified were given 10 calendar days in which to submit comments to the Planning Department or to request a public hearing on the matter before the Planning Commission. A Referral was timely received on December 8, 2016 from a notified party, Eugene Ontiveros of 75503 Larsen Road, Rainier, OR. The application is therefore being referred to the Planning Commission to review and approve, deny or approve with conditions the request proposed for MO 17-07.

The residence on the subject property is served by a private well, however the applicant has submitted a Marijuana Producer Exempt Water Form. This form indicates that the applicants have contracted with Rainier Water Supply, LLC to supply them the estimated 13,500 gallons of water for the outdoor grow and 36,000 gallons for the indoor grow per year.

The property is accessed via a gravelled driveway off of Old Rainier Road. On December 5, 2016 the Transportation Planner commented that a commercial access permit is required for this new use. In the submitted site plan, the gravelled driveway appears to be over 150' which will require Columbia River Fire and Rescue to do a final inspection on the property prior to final occupancy.

This property contains Beaver Creek within it, running through the northern portion of the parcel. The site map submitted by the applicant shows the proposed marijuana grow to be approximately 600 feet from the creek, which far exceeds the 50 foot setback listed in 1172(A)2.

The submitted Site Plan identifies the four proposed 1,200 sq ft buildings as well as the 19,000 square foot outdoor grow will be enclosed by an 8' cyclone fence which will be located over 130' from the closest property line to the south. All other property lines are over 150' away from this two-acre fenced area. The total minimum setback required for an indoor marijuana grow is 100'. This includes the usual required setbacks for all structures in the PF-80 Zone of 50', plus an additional setback of 50' as required in 1803.2©. During the site visit on 12/12/16 the project planner verified that the applicant has sufficient property to meet the minimum required setbacks. Staff finds the proposal requested for MO 17-07 will comply with the provisions in Section 1803.2.



This Marijuana Grow Operation land use permit shall remain valid for four (4) years from the date of the final decision, and shall become void unless the proposal has commenced by issuance of a building permit, in complete conformance with all conditions and restrictions established herein within the four-year validity period

After reviewing the staff report and findings staff recommended approval of this application.

Hayden pointed out that Condition #10 had to be changed from “The following shall be completed prior to Final Occupancy of the structures authorized in MO 17-07” to “The following shall be completed prior to Building Permit issuance of the structures authorized in MO 17-07”.

Paula Lichatowich wanted to know what the waste water is on this application and it was explained that it is the excess of water from the marijuana plants and this water does not go to the septic system.

Linda Hooper wanted to know what the plan is and it was explained that the approval of their plan will be made by the sanitarian.

In Favor:

Kirk Kightlinger, Owner, explained that the nutrients that are added to the water are used until the gauges show that the level is no longer there then it goes in storage tanks. It can actually go into the ground and is great for the grass and even some landscapers use it for fertilizer. They will have 4-5 tanks that will hold 2500 gallons with a waste tank that will hold 500-1000 gallon.

Paula Lichatowich wanted to verify that they would have specifics from the county and that this will not migrate to the creek. Also will there be residue in the waste water.

Kirk Kightlinger re-enforced that whatever criteria Erin O’Connell, Sanitarian, requires will be met and they will meet with Erin before the plan is designed. There are more issues with urine from cattle then there will be with this business. The levels of pesticides that will be used has to be kept at a minimal because there are major rules on organic grows. There will not be residue in the waste water because of the rules on the grows.

Alta Lynch questioned if fresh nutrients were added daily and if chemicals were in the waste. Does the state approve the landscapers to use the waste?

Kirk Kightlinger explained that they recycle their daily water and when the nutrients are at low levels then it goes to waste.

Claudia Frace asked if they can use the waste water .

Kirk Kightlinger said that once the nutrients get to 60% they have to change it.

Linda Hooper asked about the light, noise, smell and security.

Kirk Kightlinger said there would be no light coming in or out of the building and there will be no outside lighting. The only time there would be any odors would be from 4-8 weeks when the plants are flowering, usually September and October. There will be filters in the indoor grow. The operation has to have 24-7 security, there will be 64 total cameras at this site. They also want to have arborvitae's around the fence to help block the view. This is going to be a family ran business and the product will be delivered. Maybe in the future there may be a broker come to the property in a van size vehicle. There will not be any packaging on site. The drying takes about seven days then 2-3 days for trimming. They are also not worried about a wholesaler buying because the product will speak for itself.

Opposition:

Phillip Hamilton: States that the Kightlinger's do not live there. They have a caretaker living there, they previously grew marijuana in Washington and were busted by the police. On social media they are posting their grow before they had a license, (photos were presented), and they are pulling water from the creek. They say that they are getting water from the City of Rainier and to date they do not have a contract for water with city of Rainier and to date no water has been delivered to the property. There is currently a smell and on Christmas day they were hauling off plants.

Alta Lynch wanted to know if Land Development Services was notified?

Phillip went on to say that there is already another grow site within 1/4 of a mile and that we should beware of the owner.

Richard Ontiveros, Stated that there are rules, regulation and laws that they should have to follow and to date they have not, there should be a wet land delineation done, does there need to be a zone change from PF-80 to an agriculture zone? Who are the licenses issued by?

Glen Higgins pointed out the county does not have business licenses, OLCC issues the marijuana license. The State has a point of checks that they do, criminal backgrounds, they will allow license if they have a site. This not the same as a liquor license.

Alta Lynch wanted to know when the Washington incident was. The police incident happened in 2013.

Richard Ontiveros continued to state that this is a security risk, is there going to be a fence down the property line, what about access to Hwy 30-north side, cameras having light to see by, this is still a controlled substance, what are they doing with the waste, there are wet lands on the property-north & south, the creek is an issue, waste needs identified and quantified, they should buy the chemical machine for testing, there are many odors that come from the Washington marijuana area and Richard just does not want another one in his neighborhood.

Lugene Ontiveros pointed out that RAD Nursery is an indoor operation and they still get a odor from that site. The outdoor grow will smell and what about people with allergies? The Washington area stinks! They have one in the neighborhood they don't need another one. This is a neighborhood with multiple families. What about light pollution, even having an 8' fence is not secure, that height is easy to climb over, this will create more traffic of which is not good for the road that is already not the best. Lugene just does not want another one in her area. Also it is already know that the MFH park on Price road has a high meth reputation.

Tom Bembanek is retired from the navy. He has concerns about the smell and has the same concerns as the other neighbors, This area is for ag and forestry, this is an area where logging is done, Tom has concerns about the security, light pollution and well water - his well is only 70' deep. Anyone with a shallow well is concerned. It would be cheaper for the applicant to let the waste water go into the ground so what guarantee will there be that is will be taken off site. On a yearly basis who will be monitoring this operation to be sure all the rules are being observed? Tom has definite concerns about well water contamination.

Mariah Hamilton, There has already been one fire in the barn - maybe from the existing marijuana. The 8' fence does not hide anything, they are growing in the wetlands and they use four wheelers to get water from the creek and the marijuana is being grown in the ground not in planters.

Nancy Bryant, is highly sensitive to the smells and is concerns about the odors from this grow, what will the waste water do to the wildlife, how will this effect the property values and she does not want this in her neighborhood.

Rebuttal:

Kirk Kightlinger. The smells from cattle are worse than this. How is this different from that? There will be no lights. As far as the police case in Washington, they did have medical marijuana grow which was raided and the case was dropped - it was not worth the expense to pursue it.

Linda Hooper wanted to know if the State of Oregon does a criminal check and what about the security. **Kirk** replied that the State does do a criminal check and you have to pass it to be able to get your license. As far as security they will be doing infra red-night vision, the plants can not have light, no artificial lights or light from the outdoors.

Claudia Frace wanted to know if they lived there and the reply was yes.

Kirk Kightlinger pointed out that as far as allergies go there is no pollen from the female plants and there are no male plants, there will be odor but not all year long.

Claudia Frace questioned the growing that was going on now. **Kirk** responded that they could legally grow medical marijuana.

Kirk went on to explain that they would not be using spring water and Beaver Creek only has water in it for about 3 months of the year and that they will see about water rights for the commercial use. They will get a GSI report, the final report should be coming out next month. There will not be any outdoor lighting. As far as waste products are concerned it is organic and it can be used in a compost pile or be shredded - both which are accepted practices. The OLCC can visit a site at anytime day or night, they do not have to announce their visit.

Paula Lichatowich wanted to know if they had water right to Beaver Creek? **Kirk** responded no they will have commercial water tanks for their grow.

Alta Lynch questioned if they would get a permit to use Beaver Creek? **Kirk** explained that they had three sources for water. In the indoor grow one plant would use about 1 gallon of water and on the outdoor grow each plant would use about 2 gallons of water. They are about 500 feet from the creek.

Paula Lichatowich asked if there were any salmon in this creek. Does ODFW have a fish report? **Kirk** responded that there were probably not any Salmon in the creek. **Paula** wanted to know if they have made contact with the watermaster regarding the wells. **Kirk** just said that there were multiple water levels in that area. **Kirk** told Paula that he would be trucking in water. **Paula** is concerned about the neighbors and **Kirk** said he would work with any of the neighbors. As far as the fire he had a heated blanket for ducks and that is what caused the fire. There was medical marijuana inside.

Public Hearing was closed.

Linda Hooper wanted to know about the wetlands. **Glen Higgins** explained the wetlands were about 400 feet from the grow site. The reason that **Ontiveros'** had to do a lineation report was because he was dividing his property.

Linda Hooper also wanted to know who monitors the site and who enforces the rules. **Glen Higgins** said that both the state and county monitor the site and there are administrative conditions (#3). The county will review these each year to be sure we get the renewed information that we need.

Alta Lynch pointed out that the county did pass this ruling and it is unfortunate that out of stater's do not know all the rules and regulations. The county and the state set guidelines.

Paula Lichatowich has concerns regarding the waster water, also if ODFW should review the site and their disposal system. She understands the concerns of the neighbors. Paula also has concerns regarding the wells in the area. What nutrients will be used?

Glen Higgins pointed out that Beaver Creek has no annual Salmon run.

Alta Lynch added that the state only allows minimum use of chemicals and fertilizer can not be used.

Deborah Jacob pointed out that the sanitarian does not have to accept the submitted waste plan if it does not meet all necessary criteria.

There was a motion to add ODFW review to 10B and to make Hayden's correction on Condition #10 had to be changed from "The following shall be completed prior to Final Occupancy of the structures authorized in MO 17-07" to "The following shall be completed prior to Building Permit issuance of the structures authorized in MO 17-07".

Claudia Frace made a motion to approve MO 17-07 with corrections as stated above, **Alta Lynch** seconded. All in favor motion carried.

Other Business: Approval of January 9th minutes.

Work Session regarding the County TSP began.

Glen Higgins reviewed the intent of the transportation system plan.

Columbia County is presenting a new Transportation Systems Plan. In January 2014 the County, cooperating with and through Oregon Department of Transportation, contracted with DKS Associates to prepare a Columbia County TSP Update and prepare associated Comprehensive Plan and Development Ordinance amendments. The new TSP will establish a new 2014 baseline condition and identify transportation improvements based on a 2035 planning horizon.

Glen introduced John Bosket from DKS & Associates, Darci Rydzinski from Angelo Planning Group, Karen Kane from Columbia County, Kenneth Shonkwiler from ODOT and Lonnie Welter from Columbia County Road Department (Transportation Planner)

Lonnie Welter gave a brief review of our current plan. The original plan was designed in 1998 and the life span is usually for 15-20 years. Our plan needs to be updated especially with our population growth. We want the opportunity for the Planning Commission to be able to submit a plan for approval. We have had four open meetings with the public and five public advisory meetings. There is a list of the associated committees in the handout. There have been meetings with the BOC and Betsy Johnson has been informed. Our goal is to be able to present this at a public meeting in March.

John Bosket - DKS & Associates. This has been a two year process and we have had lots of informal meeting. The TSP helps to define policies, apply for grants, update the old plan and add new projects in the rural areas, helps to keep in sync with the cities, acknowledge other plans, meets state regulations, focus on work, review the higher value needs, county control, different types of transportation (bikes, freight etc) , 20 year projects for the city & county, past trends, growth needs, funding for projects, what isn't needed, maintenance cost are high and funds are low, may help in getting state money, better updates for grant money and other revenue sources, the county is not responsible for funding all projects, amend to help development. There has been many meeting to get input and to give presentation, define modes of transportation and other key issues. Just want to let everyone know that the project documents are on line.

Paula Lichatowich asked that since the funding is not there, then what?

John explained that this what the study is for so that the needs and funding will be clarified. We just wanted to present an overview of the contents, background and the process, how the trends are reviewed through 2035, and the investment funding, what goes to maintenance, what ODOT does and what grants may be out there. In the planning area we will look at new projects, prioritize the changes. This TSP does not lock the county in to anything. Planning will look at primary funding sources, state verses county, use of roads verses road type and possible freight routes. We will look at response routes, as well as biking and walking routes, need for traffic impact studies and presentation of guidelines. We want to look at the outcome as to what we can achieve and new funding alternatives.

Alta Lynch said maybe we should have a bike license and insurance to help pay for the bike paths, this would be revenue from the actual bike users. Also with all the growth at the airport maybe some of Hwy 30 could come from that - maybe an over/under pass for the railroads. **John** responded that they could look at new routes to get around besides highway 30. Glen pointed out that these are things that we can put on a wish list.

Darci Rydzinski, representing the Angelo Planning Group. We want to ensure the consistency between the comprehensive plan and the TSP. We will look at the old plan and create a new plan. The act of adopting the TSP does not amend the comprehensive plan. The regulations will be updated. It will be an audit of the current plan and cover the subdivision and partitioning guidelines. In table one of the review it demonstrates the current verses suggestion and is only a draft. Policies are defined for the future. We need to update the language and define how the money is being spent, this way we will have new policies, goals and objectives while catching up with current transportation such as bikes, bus etc. We can also make recommendations for the ordinances, as well as updating the ordinance amendments. We will have modification standards, updated terms and enhance the standards-notifications. We will be adding new sections, ie: bicycles, traffic impact studies, impact fees, guidelines and modifying the language for a better fit.

Paula Lichatowich wanted to know if they should send their suggestions to staff. Glen said that is where they should be directed.

Glen Higgins said we wanted to address bussing, transit etc in the rules and regulations in the comp plan.

Lonnie Welter wanted to recap. The TSP is a county system, the cities have their own system but they will abut up to the county. This will incorporate our needs, train crossings, bike paths etc. ODOT also uses this study in their overall plan.

Glen Higgins pointed out that this plan makes our system work better. We will be holding a public meeting on March 6, 2017. There will be more publications and notifications to agencies. There will be copies of the TSP in the library for review. We will only be adopting Volume one.

Paula Lichatowich pointed out that this proposal is already four years old.

Linda Hooper wanted to know if the rail system is integrated into our system. The reply was the expansion that will impact our county.

Lonnie Welter pointed out that private companies own the rail and there is a rail plan.

Paula Lichatowich wanted to know if there is a long range plan to change the funding. Maybe check into the Connect Oregon Funding program.

Kenneth Shonkwiler, ODOT, mentioned that they can make recommendations on funding, for example what they do with lottery funding. They can only recommend and there are no guarantees.

Lonnie Welter mentioned that if the county receives funds from the federal government then we are not allowed to use funding from Connect Oregon/Lottery. Betsy Johnson plays a big part in getting funds for the county. We will never have enough funds to do all the maintenance that needs to be done.

Paula Lichatowich wondered if it was possible to change the rules regarding federal funding so that we could have more options. After all if we do not have roads then what will we do?

Linda Hooper wanted to make a point that this is what gets looked at with a zone change such as Port Westward and Brian Rosenthal.. It was replied that trip counts are done on zone changes.

Meeting adjourned 9:25 pm