

DEPARTMENT OF COMMUNITY SERVICES  
LAND USE PLANNING DIVISION  
MULTNOMAH COUNTY PLANNING COMMISSION

MINUTES OF OCTOBER 5, 2015

- I. Call to Order:** Chair John Ingle called the meeting to order at 6:30 p.m. on Monday, October 5, 2015 at the Multnomah Building, Room 101, located at 501 SE Hawthorne Blvd., Portland, OR.
- II. Roll Call:** Present - Ingle, Vice-Chair Jim Kessinger, Alicia Denney, Susan Silodor, Jeremy Sievert  
Absent - Katharina Lorenz, Chris Foster, Bill Kabeiseman
- III. Approval of Minutes: August 3, 2015.**  
Motion by Kessinger; seconded by Silodor.  
Motion passed.
- IV. Opportunity to Comment on Non-Agenda Items:**  
None.
- V. Briefing: Multnomah County Comprehensive Plan Update (PC-2014-3436)**  
Adam Barber, Senior Planner, stated that we are about half way through the process, and expect to have a draft plan before the Planning Commission in a little less than a year. This has been formulated much like the Sauvie Island/Multnomah Channel Rural Area Plan and there are six topic areas for discussion: Farm and Forest Lands, Agri-tourism/Farm Stands/Wineries, Rural Centers, Natural Resource Protection, Natural Hazards, and Transportation.
- Kevin Cook, Planner, followed with a more detailed explanation of each of the six topic areas, and asked if the Commissioners had any questions or comments.
- Ingle stated that he thought the general process has been very efficient and the moderator is doing a fantastic job of keeping everyone on topic and working civilly through the issues.
- VI. Briefing: Impacts of Medical and Recreational Marijuana on Land Uses within Unincorporated Multnomah County (PC-2015-4551)**  
Barber introduced Rithy Khut, Assistant Planner, and both contributed to the briefing. Barber said this has been a topic that is moving very quickly and unfortunately, we have not had as much time as I would like to research the issues involved. We are looking for guidance because there is a lot we don't know about the direction this issue will take.
- After the PowerPoint presentation, Barber asked if the Commissioners had any comments. Wanting to add some direction to the conversation, he asked what kind of community the Commission wants to see. For example, should forest land be treated differently from farm land and should growing marijuana be allowed in residential areas or commercial and industrial areas? Rithy added that they would like some guidance on the unregulated areas from Exhibit C of the staff report.
- Kessinger said I think the inside pot will be the bigger issue around here, maybe more volume. Some of the literature states you could do it in a greenhouse, an industrial building and I think we need to put some thought into that. Would you be able to erect a structure to grow on farmland?

Barber said Commissioner Foster brought up the environmental impacts, such as water usage. If Multnomah County is very strict about a very limited ability to set up greenhouses to have these kinds of operations, it will force that type of activity to the urban areas where perhaps it's a little easier to be energy efficient and treat the water run-off properly. But from an urban viewpoint, is this really the best use of our industrial space?

Ingle said there are a lot of unanswered questions.

Sievert said I think an even bigger concern is the production or processing. I think there's a difference between a bakery making cakes and using butane for extraction. I have a big concern with a lot of those extraction methods. I don't know if there have to be parameters for what type of extraction you're doing, but I don't think you can lump those all into one code of production.

Silodor said we have spent so much time talking about natural resources and protecting our rural areas and the land and the water, and yet we have this. When it comes to the environmental impacts, that concerns me.

Barber said I understand the environmental concerns, specifically on the production side. I've been reading about very high water demands, concerns about wastewater run-off containing fertilizers, pesticides and fungicides. So one option is to leave the Exclusive Farm Use (EFU) zone the way it is because we have to, because marijuana is an exclusive farm use, but all the other zones, we say farm uses are allowed, except for marijuana. You can't grow marijuana in any of the zones except EFU. That would be the strictest path we could take, but it would address the environmental concerns.

Silodor said living on the Island, I would rather see it in industrial zones because I don't know what that water use will do to the Island. That land is really valuable and I don't know what marijuana growing and those chemicals will do to the quality of the land and the ability of food growers to grow healthy food. But I think without some environmental information, it's a little tricky to say we're going to limit it to the EFU.

Kessinger said I don't know if the chemicals are labeled for pot yet. If you pick up a jar of pesticide, it'll tell you what you can and can't use it for; the label is the law. I don't think they've added marijuana to the labels yet and that needs to happen. Once that's established, the grower is responsible for meeting the label, and if they're not, they're liable for any damages that have occurred.

Silodor asked who is going to do the enforcement. Barber said the Oregon Health Authority is designated as having an enforcement role in HB 3400. Khut said OLCC's rulemaking will bring in the Department of Agriculture to help figure out the issues of pesticide use and OLCC has enforcement ability as well. Barber said HB 3400 states that an OLCC enforcement officer cannot go into a residential unit to inspect so that made me think about home occupations. If marijuana uses are allowed in home occupations, we may end up with a scenario where the state says we can't go in and inspect and I'm not sure how that will play out. I'm not sure our inspectors will have the authority to look at the types of rules their inspectors are typically looking at, so that may be one reason to amend the rules to not allow marijuana through home occupations.

Ingle said I think there's a lot of information that we don't have yet that makes it difficult to make decisions at this time. If we understood how the production, processing and wholesaling goes, it would be beneficial.

Barber said I'm hearing a need for more information around production, processing and wholesaling in order to make informed decisions. However, I worry about not doing anything for now because the OLCC may be accepting applications in early 2016 and those folks are going want to have land use approval. At this point, we would look at our code and try to find the best match.

Jed Tomkins, Assistant County Attorney, noted that the County Health Department will discuss marijuana issues with the Board tomorrow, so we will have a better idea of what their questions and interests are and we can bring that back to you. I think more information will develop and ideas will start congealing and there will be something more concrete to bring to you. In the talks about limiting it to EFU, there are multiple things to consider, the tax consequences being one. Local governments have an opportunity to impose up to a 3% tax, which is subject to a county-wide vote. We won't have that opportunity if we prohibit any of these avenues, the wholesale, the retail, or any of the types of players. You have to allow it all in order to have the right to impose the local tax. There is also going to be a 17% statewide tax and some of that is supposed to come back to the counties as well, especially to the sheriff's department. But we may lose out on that also if we prohibit things. So that will certainly inform the conversation.

Kessinger said it seems like we do not want to lose that tax possibility. Tomkins said the phrase is "reasonable" regulation, so if we limit it to one zone...

Barber said staff will bring more information to the Commissioners before we start working on code amendments. He also suggested that we could take our experience as planners, take a look at what other jurisdictions are doing, look at our code and rough out a table of what might work in terms of consistency and land use rules.

Ingle said he thought that would be helpful. He thought tonight's presentation was good in terms of education, but there is so much to absorb, it's difficult to articulate right now.

## **VII. Director's Comments:**

Barber said the Sauvie Island/Multnomah Channel Rural Area Plan and Transportation System updates was approved by the Board. The appeal period has expired and there were no appeals, so the plan became effective October 3rd. We will begin working on code in the next few months.

He also mentioned that we have a new Land Use Planning Director, Michael Cerbone, starting November 2<sup>nd</sup>. Mike is coming to us from the City of Cornelius. We are also planning a recruitment for the two open planning commission seats, one of which is a recommended reappointment for Chair Ingle.

Meeting adjourned at 8:50 p.m.

**The next Planning Commission meeting is tentatively scheduled for November 2, 2015.**

Recording Secretary,

Kathy Fisher