

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

MINUTES OF FEBRUARY 1, 2016

- I. **Call to Order:** Chair John Ingle called the meeting to order at 6:34 p.m. on Monday, February 1, 2016 at the Multnomah Building, Room 101, located at 501 SE Hawthorne Blvd., Portland, OR.
- II. **Roll Call:** Present - Ingle, Katharina Lorenz, Chris Foster, Bill Kabeiseman, Susan Silodor, Alicia Denney, Jeremy Sievert, Timothy Wood  
Absent - Vice-Chair Jim Kessinger
- III. **Approval of Minutes: December 7, 2015.**  
Motion by Kabeiseman; seconded by Foster.  
Motion passed unanimously.
- IV. **Opportunity to Comment on Non-Agenda Items:**  
None.
- V. **Public Hearing: Marijuana Land Use Regulation in Unincorporated Multnomah County (PC-2015-4551)**  
Ingle read into the record the Legislative Hearing Process for the Planning Commission for a public hearing, and the process to present public testimony. He asked if any Commissioner wanted to declare a conflict of interest before we proceed. Commissioner Kabeiseman stated that his law firm represents some folks who own property in Multnomah County and are considering getting into the marijuana business. In checking with the County Attorney, and the Government Ethics Commission they were unable to resolve whether that would be a conflict, so at this point he recused himself until that could be resolved.

The rest of the Commissioners disclosed no actual or potential financial or other interests which would lead to a member's partiality. There were no objections from the general public to the Planning Commission hearing the matter.

Adam Barber, Senior Planner, introduced Michael Cerbone, County Planning Director, and Rithy Khut, Planner and welcomed the members of the audience and thanked them for their attendance. Barber opened by saying that Multnomah County is acting on the will of the voters who legalized recreational marijuana in 2014. We are trying to clarify in county code what is allowed by state law and regulate this industry in a reasonable and flexible way. He asked Jed Tomkins, Assistant Multnomah County Attorney, to speak about where we are legally at this point of the process. Tomkins introduced Katherine Thomas, Assistant Multnomah County Attorney, and noted that most marijuana related activities, and the facilitation of those activities, are still illegal under the Federal Controlled Substances Act, and nothing in this proposal authorizes marijuana related activities. Rather, this proposal imposes restrictions on marijuana related activities, so in considering this, you are considering restrictive regulations, not authorizing provisions. Generally, we are looking at proposed ordinance and talking about "allowing" this or "authorizing" that. Today's nomenclature will be "regulating" or "restricting" to ensure we are on the right side of the Controlled Substances Act.

Barber noted that the OLCC (Oregon Liquor Control Commission) is the lead agency for rulemaking and licensing, while Multnomah County has a role at the local level. Also, state statute defines marijuana as an agricultural crop for purposes of farm use per ORS 215.203. This is important because Multnomah County code already identifies areas where it is appropriate for farm uses and regulates similar activities. From a land use perspective and ease of implementation, we consider recreational and medical marijuana as being the same.

At the state level, even though marijuana is considered an agricultural crop, there are specific prohibitions to establishing certain types of dwellings in farm zones or establishing a farm stand that sells marijuana as part of the farm stand activities. Although we are looking at this as a farm product, it is a slightly different one, so we believe some standards of approval are justified for this particular farm crop. Multnomah County also has the authority to adopt reasonable time, place and manner regulations. There are some terms defined in statute that we are using as intended, because the industry is familiar with these terms and we want to make it as easy as possible for them to work with Multnomah County.

Barber noted that the structure of the new marijuana business code has four main sections: purpose statement, definitions, zoning district table, and standards of approval. Each of these sections are outlined in the staff report. He noted that Multnomah County is not the only regulatory authority dealing with marijuana businesses, there are a number of local and state agencies that will also be assessing marijuana businesses, so in establishing these standards, we are looking at it strictly from a land use perspective. He also made it clear that we are not regulating the personal use of marijuana, we are talking about commercial business operations, however, we are differentiating between outdoor and indoor production in the ordinance.

Barber talked about the Columbia River Gorge National Scenic Area (NSA), and referenced Exhibit D of the staff report, which opines that Multnomah County cannot allow marijuana businesses in the NSA due to federal law.

Chair Ingle asked for clarity about the definitions of production, processing, wholesaling, retail and dispensaries. Barber said as planners, we generally think of production as growing and processing as converting to some other product. Because the definitions may change at the state level, we do not want to have to reconvene the Commission to have that conversation, so we are more interested in the general concepts. We want some flexibility for minor amendments, because they are pretty technical definitions. And we plan to have those definitions available at our planning counter.

Foster wondered how many OLCC Land Use Compatibility forms (LUCS) have been submitted to date. Barber said about eleven and that most were for growing.

Commissioner Ingle then opened the hearing to public testimony, and asked that the audience refrain from demonstration either in support or opposition of any testimony.

Logan Leichtman, 805 SW Broadway, Ste 2400, Portland, represents Emerge Law Group, a law firm that represents all aspects of the cannabis industry. His comments were directed particularly at the production aspects of the regulations, specifically in the CFU zones. The regulations as currently written would prohibit indoor production in the CFU. The OLCC has established canopy size limits for indoor production in the CFU to 10,000 s.f., and we believe that limitation would allay the concerns of over proliferation of buildings. As to the building limitation in Rural Residential (RR) zones, the regulations as written limit the footprint to 2,500 s.f. While this is

understandable for smaller parcels, it would severely restrict indoor producers on the larger parcels. We kindly recommend a tiered system that would allow for a staged or graduated production limit for those larger parcels. For example, up to 5,000 s.f. for a parcel of five acres or less and up to 10,000 s.f. for a parcel of ten acres or more. State law does not allow multiple outdoor production licenses on a single parcel, but it does allow for multiple indoor production licenses. We would kindly ask that the Commission follow the state in this respect, instead of the proposed one license per property.

Art Dummer, 682 NE 28<sup>th</sup> Ave, Hillsboro, commended the Planning Commission on the work they did on the Rural Reserves. He then talked about the rich soil of the 40 acres of timber he owns in Scappoose. He pointed out that there are people out there that need medical marijuana, and also mentioned that people should have the right to grow anything they want.

Jeff Lewis, 21540 NW Gilkison Rd, Scappoose. He has six acres of agricultural land and wondered if there might be any sort of change in property valuation and taxation. Will you be showing any sort of estimates of change in valuation or taxation? Also, do you have a more specific timeline for the finalization of whether it's approved or disapproved?

Scott Ekstrom, 1616 SE 282<sup>nd</sup> Ave, Gresham. I have a neighboring farm in EFU and am concerned about the exhaust. There is already a grow operation about six miles down the road of just one greenhouse, and you can smell the exhaust from the growers. A John Deere dealership was just sold to a marijuana grower less than a mile from my property and I'm concerned about the grow and property values. I'm a little concerned the fact that the kids are going to see so many marijuana people smoking and doing whatever. I'm a foster dad and do not appreciate being surrounded by this. I'm all right with it being in other areas, but I don't want to be this close to it. He thinks that the 100 ft. setback and 1,000 feet from the schools is not restrictive enough.

At this point, many people in the audience clapped and Chair Ingle reminded them to please refrain from demonstration in favor of or against testimony.

Woodrow Shepherd, 7124 SE 262<sup>nd</sup>, Gresham. He has property in a couple of counties and he believes we're starting to take people's rights away and he doesn't like that. His family has been soldiers and supported our country and freedoms right through the Revolution and if we don't stop stepping on people's toes, we're going to have another revolution in this country. I support any law that's fair, but there are lots of laws that somebody got in a corner and drew it up and figured out a way of getting it passed through the county or cities or whatever and it's just not right. Especially some of the land laws that we have right now. We have land laws like we were talking about the 100 ft setback. Well if you put a 2,500 ft. building and you're going to put a 100 ft setback on each side of it, how many feet are you going to have to have? You're going to have to have over three acres to put a 2,500 ft building. This building here has not got a 100 ft setback. What are we thinking about? I've been a contractor for the last 40 years and a logger and whatever; I've got a lot of hats that I wore. And I cannot believe the way the County and some of the other people is behaving. They got violations out there that's been going on for the last 30 years and they haven't done nothing about it, and here they're wanting to pass more rules and regulations on people like the 100 foot setback. Now, I've never smoked a marijuana cigarette and tried my best not to be around that kind of thing in my life. But these people, if they have a problem and they need medical marijuana, more power to them cause my brother died and he was a Vietnam hero, he had all the medals they had to give out in Vietnam except for the medal of honor. Anyway, all of these rights and regulations that are being taken away from us and we're gonna have to stop and think about some of these different regulations that we're putting on people.

More applause from the audience and Chair Ingle once again admonished them about refraining from demonstrating.

Brent Maxson, 5122 NE 73<sup>rd</sup> Ave, Portland. I'm a fourth generation Oregonian and have a real passion for this state. I have some property in Corbett that's been in the family since 1964; it's a farm with two tax lots, and to restrict it to only outdoor growing would be detrimental to us. I don't see why you're being more restrictive on something that's already been gone over with the state. I think the idea that it's impacting the timber area is not right. The restriction of having a 10,000 s.f. building in a farm timber area I think is misconstrued by somebody. So, I want to go on record to say that if that restriction is in place, it would be a tremendous impact on my family and my siblings.

James Lyle, 3399 SE Teal Dr, Gresham. I really appreciate the documentation that was provided, especially the document that talks extensively about marijuana. I want to speak to the proposed exclusion of the 100 ft separation between production and public and private schools and the proposed exclusion of the 100 ft. setback when marijuana production is within EFU zoning. This pamphlet was very interesting to me; I didn't realize that marijuana use amongst teens and adults within Multnomah County is actually higher than in other counties in Oregon or in the nation. I'm concerned about the increased youth marijuana use now that we've legalized marijuana for adults. Sam Barlow High School, which is very close to me, has some borders that are on border of this EFU zoning. What message do we send to teenagers if every time they attend high school, or participate in high school activities, they see marijuana growing on the border of the high school property? They might actually watch marijuana seedlings grow to mature plants. I don't think that such exposure to marijuana grows, next to a high school, sends the message that we want our youth to hear. Teens shouldn't use marijuana. I would recommend the County require both the 1,000 foot separation between marijuana businesses production in particular, and public and private schools and that the 100 ft setback be included within these EFU areas.

Rawley Burns, 29215 SE Orient Dr, Gresham, I'm here mostly for information because our area on Orient Drive has been nicknamed the Green Mile. We have new growing operations all around us, and one operation is real close to the grade school. And these just pop up. I'm attempting to put up a new building on my property for storage and I have to go through a lot of hoops and a lot of money in order to put up this storage building and these buildings just pop up. There's a greenhouse right across the street from me, there's a lumber yard next door that's now growing marijuana. And 1,000 feet is not going to help the odor because it is really strong. Both of those are at least 1,000 feet or more. I have a real concern for our community, for the parents and the kids in our community.

Jeff Froug, 400 NE Lucas Rd, Troutdale, we just moved here about two months ago, we're transplants from Florida. We recently purchased a 35 acre property zoned EFU, and I would like to talk about the potential multiple licenses on larger properties, and the way that outdoor grow is defined. On the number of licenses, we understand under 35.0560(e)(6) that you're suggesting that no more than one of each license be on a particular property. I would respectfully suggest that there are a lot of different types of properties that are zoned EFU, everything from less than an acre to hundreds of acres and to have the same rule that you can only have one license of each type on all properties fails to take into consideration the different types of properties that are there. Our vision is to build an environment where multiple, independent growers can be in a co-op environment. They would be independent growers, each with their own licenses. They would have the ability to cultivate using their own means, but also share information. Furthermore, these

indoor grow operations are ecologically and environmentally unfriendly. There are huge heat plumes that produce a lot of negative energy. Our goal is to have an eco-friendly, carbon neutral property with multiple growers being able to do this in a community that encourages community involvement. We've written into all of our proposed leases that every grower gives back 10% to the community; every grower grows vegetable crops and gives them back to local food banks. We have this vision and we're not going to be able to do that with only one licensee per property. And I believe there are other properties, especially the larger properties, that are going to want to have multiple tenants, but still be able to cultivate. One last point I wanted to make on the definition of outdoor, the word "non-rigid", I believe, is going to create some problems. We have interviewed greenhouse companies to put up structures for our outdoor grow operations, and they are telling us we have to comply with certain building codes, wind loads of 130 mph and snow loads of 35 lbs or greater, so those structures are going to be pretty rigid in order to meet those standards. So if we're using the word "non-rigid", it's going to create some problems, so I would ask that that be clarified so that we can build greenhouses and hoop houses that are using only the power of the sun, no artificial lights, and that qualify as outdoor grow operations.

Carol Rulla, 5162 SE 28<sup>th</sup> Dr, Gresham, I'm an officer in the Kelly Creek Neighborhood Association and there are quite a few people here tonight from that area. I understand that EFU is designed for farm crops, and this is a different kind of crop with very significant odor problems. I know from working with the grow houses that they have had terrible problems with odor in neighborhoods. The EFU in our area backs up to single family neighborhoods and are close to our schools. EFU is designed for farm, and marijuana, I know, is a farm crop, but we also have to do what we're saying here, which is respecting minorities and keeping it away from minorities, because that is a key point of Measure 91 and was a key point of HB 3400. I think there needs to be some exception, and I don't think 100 foot setback is going to be enough.

Dale Burkholder, PO Box 305, Corbett, principal real estate broker in East County. I am also involved in assisting people with land use applications. I'm here specifically to address the OCI zone in Orient. I recently sold property for an individual that had purchased it ten years ago and had not been able to sell the property because of the stringent guidelines within that zone, which requires that businesses cater to 51% of the rural community. That is primarily why the Green Corridor has been left like Death Valley days, with buildings not able to be productive. With respect to my notification here, tonight was in relationship to the 1,000 foot setback to the schools, and the requirement that the operation be indoors. I think that it makes sense that whatever zone you're in where the density is going to be higher around a rural area, for the protection of noise, light, odor, and mitigating that. And, from what I understand, there are some benefits to a higher quality product by being indoors in a controlled environment. I've come to find a very professional industry of individuals that take this to heart. The art of what they're doing, especially with the known benefits of medical marijuana, how it has helped people that I personally know, including a brother that I lost five years ago that used hemp therapy, which he benefited from. But in relationship to the 1,000 foot rule, when you already have an enclosed requirement of the operation in this zone, this would completely undermine and keep this property vacant because of the zoning restrictions. And right across the street from the West Orient Grade School, you have an 80 acre nursery zoned EFU that would allow an outdoor grow. The review use of this zone would allow for a tavern, it would allow for a video store, and what are the regulations for the types of videos that would be allowed? I would like to just make my point with respect to this specific zoning in OCI zone that the 1,000 foot rule need not apply if you can meet the mitigation of being an enclosed building with adequate secure fencing.

Ben Mackaness, PO Box 542, Corbett, as a disclosure, I am the co-chair of the advisory committee on medical marijuana for the State of Oregon, but I am speaking on my own behalf tonight. First, thank you so much, I've got to say I've looked at a lot of laws in a lot of counties in a lot of states, and I'm grateful for the first whack at it and as far as you've gotten. However, there are some things that I have some great concern with. There are a lot of limitations now to be in the NSA. I've been trying my entire life to be able to run a small business in the Columbia River Gorge. I've made eight separate attempts and have been shut down every time through different regulations and restrictions. Now there is another ban in the National Scenic Area. And you're looking to implement that ban even though the Columbia River Gorge Commission has not yet formally voted on this. I know of eleven different cultivators that will lose their livelihood. And I ask very kindly, because you're treating medical the same as recreational, that you reconsider that. There is no commercial component to medical use. You can't profit from it, you can only pay for your costs. Right now, 42 patients will no longer have access to medicine. Forty of them, on our property, will no longer have a place to cultivate because of these new laws. We were going to try to flip it over to recreational, but because of the restrictions about multiple cultivators, that is no longer possible. I would ask you to look whether they are actually the same. And why should a non-toxic substance that has never killed anyone in the state of Oregon be treated so harshly, when my kid's school in Springdale is across the street from a bar, where people die every day from alcohol. Not a single person has died from cannabis. It just seem inappropriate, the level of extremeness it's taken on. I would also consider the commercial activity statement that allowing greenhouses is imperative. Each indoor 5,000 s.f. grow uses the same amount of electricity as 300 homes. Whereas a 10,000 s.f. outdoor grow uses 25-50 amps, depending on what you use. For full light supplemental, it uses 80% less. So it's 2-300 times more harmful to the environment. We have a massive shortage of industrial property and you're forcing everyone to industrial property. It's a plant, it belongs in farm use cultivation. I beg of you to reconsider some of these paramount affects that they will have. Whether it's an outright ban to everyone, for patients that cultivate themselves, will no longer have someone to do that for them. Not everybody can grow for themselves. I just really want to implore you to think about the fairness principle and ask that if this were hops, that it would be treated virtually the same. And look at the damage and destruction, the things that we legally promote versus this. And really, which is more harmful to our children. Thank you.

Anne Bothner-By, 13720 NW Springville Ln, Portland. I support this effort, we live on a farm that is overlayed with SEC-w and SEC-h and it makes it difficult to produce agricultural products because of all the restrictions. This is one of the few products we can produce and it would be an economic boon to the area to be allowed to do that. We have two five acre lots side by side and a barn that is less than 100 ft from the interior property line, which would be ideal for production of marijuana. I'd like to respectfully suggest that the rules about the 100 ft. limit pertain only to exterior property lines and not interior.

Siva Weilert, 26312 NW St Helens Rd, Scappoose. I'm reading the codes for what is permitted for an MUA-20 zone, and I'm just concerned that our land use codes for what we can do on the property doesn't necessarily reflect what's being permitted. I don't know what the definition of wholesale is in MUA-20 and then I see the wholesale definition in the OLCC. I'm an advocate that we pay taxes and we just want to make sure that in our zone we're able to use that. For MUA-20 zoning, I see that it has producing, wholesaling, even retailing, and I'm curious why wholesaling would not be listed as a use in the zone for the Multnomah County land use.

Tom Klovsky, 28601 SE Powell Valley Rd, Gresham. There have been a lot of comments up here, and I'd just like to touch on a couple of main issues. The first mistake I think we're making is

classifying marijuana as an agricultural plant. There are all kinds of problems and issues that is going to bring up. Second of all, the 1,000 ft rule and schools, we've talked about that distance, but no one has mentioned that on my street, the kids who walk home from that school will be walking right by this stuff and observing what's going on. I also worry about the enforcement of what we decide to do here today. As we all know, we can drive out this driveway here and we can see people smoking marijuana on the street, in cars, everywhere they're not supposed to, and there's no enforcement. So whatever we decide to do here today, the enforcement of it concerns me. And as a business owner myself, I'm about capitalism and making a dollar, but I've heard testimony that people have purchased property and come here to just grow marijuana and I don't think they have the same heartfelt desire to make Oregon what we want it to be. They're coming here for profit only and I'm more concerned about what this is going to do to our children and our environment in general.

Daniel Huson, 11121 SE Division St, Portland. I'm an aircraft engineer, a pilot, a mechanic and a machinist. I started flying airplanes at 13 years old, due to my parents, and I've been working in the industry ever since. I started smoking pot at 11 years old, I had an older brother who influenced me and I've been doing it almost every day of my life. Yes, I am an aircraft engineer, a pilot, mechanic and a machinist. I think it starts with your family, your parents; how you're raised, and what you're taught in life. My grandmother started a Cancer Aid Thrift Shop in Grass Valley, California when I was born in 1972. I grew up with her next to people's bedsides dying of cancer. I have actually, over the years, way prior to it ever being legal, devised medicine for cancer, for epilepsy, for multiple sclerosis. Back in 2004, I myself, got really sick. I came on the program and started growing for nineteen people. I then decided to open up a dispensary and opened Mt. Hood Wellness Center in 2011. We've done hospice care, and I still spend my time next to people's bedsides dying of cancer. I still grow and take care of MS patients. My dispensary has helped everybody, legally, from the age of seven years old to the age of 98 years old. There's a lot going on in this industry, there's a lot of changes. So far, at my dispensary, there have been over 11,000 people walk through my door, different people. I already deal with seven agencies, and it's becoming pretty hectic to navigate this when everybody's trying to implement more rules and laws, so with a little bit of reasonability, a little bit of common sense, hopefully we can make it through this.

Don Kruger 12508 NW Mt. View Rd, Portland. I have a 150 acre farm on Sauvie Island and a Type 2 farm stand permit. I'm still on the fence whether to grow this high value farm product, but I'm concerned about the language related to the farm stands, specifically Section 8 "notwithstanding, the following are not permitted uses, a farm stand used in conjunction with a marijuana crop". I'm concerned about the word "conjunction" and the potential for misinterpretation and misunderstanding of that word. I believe that the intent is to prevent selling marijuana at a farm stand, and I completely support that. I also support the 75/25 rule because it makes a lot of sense because of the high value of the crop. I support that none of the value of the crop is included in the 75/25. But to me, the word "conjunction" should not mean you cannot grow this farm product at a farm that possesses a farm stand permit, which is kind of the way I understand it. I believe the word conjunction is vague and if the intent is to prevent the sale of the product at a farm stand, we might want to choose another word. The other thing that has come up a lot tonight is smell. I'm concerned about smell also, because I don't want to impact anybody's life. But I will say that I smell a lot of cow smells from my neighbor's farm, and we have a lot of skunks on the farm. I think we need a study on smell. We need to have more information when it comes to smell, in trying to ensure that it's mitigated and we're not impacting people's lives.

John Cartisser, 2562 SE Glacier Ct, Gresham. I'm a business owner and a father, and I'm deeply concerned for our neighborhood. I grew up in the Orient area and I have two young children going to East Orient and my concern is not only the smell, but I'm concerned for my children. We moved out to the Barlow area because it's rural. I've even tried to run businesses out there and I am now in Portland because of the restrictions in the east county area. I'm against anything, the 1,000 ft setback to schools. Marijuana is not just a crop or a plant to me, it's a drug. It's affected many people in my family's lives, and I'm just against it.

Barbara Shepherd, 1743 NE 2<sup>nd</sup> Ave, Hillsboro, I have property in Gresham, and my concerns are in connection with the fact that medical marijuana has been clumped in with recreational marijuana. I am not a marijuana user, I'm healthy and strong so I don't have to go in that direction. But there are drugs out there that are far worse than medical marijuana that destroy your body and can kill you. There's been much research and reports that have confirmed that, so what I respectfully ask you to consider is separating the medical marijuana from the recreational. There are all kinds of taxes that were talked about; we don't tax medicine from our doctors, we should not be taxing medical marijuana. The people that use it need it and should not have to suffer those kinds of economical impositions. We were told that medical marijuana would not be affected by all of this and it is. We live in a country with freedoms and I think there are already too many regulations and restrictions on land management and property use. We have to jump through all of these different loops and holes that should not even exist because we should be free. There's been a lot of testimony that I support in terms of the medical and recreational differences.

Cory Vodden, 7921 SE 257<sup>th</sup> Ave in Gresham. First of all I'd like to thank you for the opportunity to speak today and I'd like to thank Adam and his team for the job he's done putting this together. We're here to regulate and ensure public health and safety. I'm a producer and a processor in the medical marijuana field and take care of multiple patients. Everybody talks about card stacking. Card stacking has an important role in the treatment of cancer patients. Not every patient needs a large dose. The patients have done this as a community for themselves, came together as co-ops. I'm in fear that if we over-regulate, we going to regulate it to the point that it's impossible to compete with the black market, the illegal sales of marijuana. I would strongly urge allowing a tiered operation. Currently, under OHA rule, you are restricted to plant counts, and those are related to the number of patients you take care of. On a typical grow site, it could sustain 96 patients, which is going to be the highest allowed limit. Typically it's about 2,500 s.f. footprint, which is half of the smallest on OLCC's regulatory side. Permit wise, it costs double to stay with the medical program and keep helping patients. Just for the permit fees. Time, place and manner; please make it reasonable. There are a lot of us who have been in this to help patients, and it seems that the industry is pushing medical away.

Denney asked Mr. Vodden to define card stacking. He said card stacking would be one card equals six plants for one patient to grow. If you add an additional card, you could go up to twelve plants. So if you stack cards together to accumulate 96 plants, that's what the reference of card stacking is. Putting multiple patients on one site to collectively come together to provide medicine at a higher rate for cancer patients.

Brian Hall, 39911 SE Loudon Rd, Corbett. I believe the 2,500 s.f. regulation for the footprint for the building that you're allowed to produce marijuana is too small to survive in an industry that's about to explode. I support having a two tiered production. That's my basic request, to consider allowing people with rural residential properties, since you're not doing outdoor grows, to allow them to have a larger footprint for the building to grow within.



Josh Kluedt, 6464 SE 33<sup>rd</sup> Way, Gresham. I know I can't do anything about this being a legal substance, but I'm curious why we are allowing these businesses to move right next to neighborhoods when we have plenty of room closer to Mt. Hood, away from all people, away from all schools, away from any kind of neighborhood association, any kind of neighborhood period. Also, Clackamas County retroactively adopted guidelines for setback increases, and I would like you to consider that as well. My next question is, on the northwest corner of 282<sup>nd</sup> and Orient, there's a subdivision that has a permit to get put in there and I'm curious how this will affect that neighborhood, because it will be within the 100 ft. setback. I'm curious as to how you guys approach that. Would you allow the John Deere pot business to go in or would you allow the neighborhood to go in first? Are you aware that three other businesses have been denied their application for the John Deere business on 282<sup>nd</sup> and Orient due to the grounds there; oil, fuel; it's been used as a tractor implement place for a long time, and there have been businesses that have been kicked out from that area, but you are willing to allow this to be put in that spot.

Bob Skipper, 7800 SE Short Rd, Gresham. I farm the property at 29690 SE Orient Drive, the nursery that was described. Several generations of my family go to Orient Grade School and Barlow High School, and I have concerns with anything less than 1,000 ft. setback. I also have concerns with the building size being over 2,500 s.f. It appears to me we're going to have more than ample 2,500 s.f. units, seeing as how Rawley Burns made reference to the Green Mile. The reason it's called the Green Mile is we have six potential sites within one mile of the school and to me, that's just overkill. It seems to me that they should be dispersed rather than consolidate them at the county line.

Leanne Hicks, 32117 SE Compton Rd, Boring, I think I'm just going to echo Bob Skipper's concerns. I have several generations of family that have lived and grown up in the Orient area, also farmed and I am concerned about the possibility of you relinquishing the 1,000 ft. setback. I worked for 30 years with at-risk teens and young adults and I am very concerned about the viewing and the stench of marijuana. I live on the property that my mom and dad bought in the 40's out on Compton Rd, I'm one mile east of a large grow area, which used to be old stables, and at certain times of the year the stench is overwhelming. And I'm concerned that you're talking about many rural sites that have schools and large residential tracks that are now being targeted to input large marijuana grows, either outside or inside. I don't use marijuana, I hope I never have to, but I understand some of the medical uses. However, I'm concerned about our younger generation because if it's there, they're going to smell it, they're going to know what it is; everybody is very aware of what's going on.

Tom Pope, 3921 N Hampton Ct, West Linn, I'm renting 20 acres at 39062 Knieriem Rd in Corbett and we will be a grower. Our goal is be transparent and provide different access and warning labels for youth and adults who are using this so we don't have some of the issues that happened in Colorado. My family just moved here from Houston, Texas a few months ago. We chose to come to Oregon and get in this industry and if we don't have the opportunity to produce indoor on our farmland, we will choose to take that production to a different county. We want to make sure that we're not one of the 80% of businesses that fail in the first year, or 50% that fail in the second year. We really believe for it to be economical and for us to be sustainable, that's a facet of our business that has to be considered and we would like to keep the tax revenues inside of Multnomah County. I have three children, twins that are 3-1/2 and a 13 year old, so for me, I don't want my children to be around marijuana, alcohol, any substances. Anything can be a problem if it's abused, and if the community isn't educated properly as to what this substance can do. So we really want to have different rules in place to make sure it's protected and that the business owners and my competition are doing what they're supposed to be doing. We definitely support the

different tiers in sizes of indoor cultivation based on the different sizes of lots. I purposely chose to go with a larger lot to make sure that we didn't become a nuisance to our neighbors, or be next door to a school.

Gaizua Llona, 29935 SE Harris Pl, Gresham, I'm a new Oregonian. I came to US with a piece of luggage about 11-12 years ago, and I'm living the American Dream. I have a house in the same area as many of the people here tonight. As an analytical person, I work for big companies all around the world and there are some things in here that I just don't understand why we are defining this product as a crop. We wouldn't allow to put a paper mill where it will be a complete nuisance to our neighborhood. The designation on the EFU in that specific area, I think it might be not the proper designation. Because the reality is that neighborhoods have overgrown that boundary and even though it's outside those limits, they're neighbors. You can go there and you see those neighborhoods. So I don't see that that product should be identified as crop, I believe that it should be identified as industrial. At least the processing. The growing, I can understand. Yes. It's a crop, you grow it. But again, you wouldn't allow a paper mill to do everything on the same spot where there's already houses. If the houses move next to the paper mill, they know what they're dealing with, but not the other way around. Another point that I want to bring up is why is there an EFU exclusion for the 1,000 and 100 foot, I don't get it. That specific area where we are, the schools are really close by. It's not the same thing, 1,000 foot when you are in downtown Portland or downtown Gresham, the relative proximity is not the same. The property values are going to be impacted. The last point I want to make is this is still an illegal substance at the federal level, there is great concern in the neighborhoods of the cash that this could carry. The fact is that the feds don't let anybody do business with banks because it's an illegal substance. Where's all that money going to stay? What kind of security? Are we going to witness Bonnie & Clyde in my neighborhood? I wouldn't appreciate that.

Jay Johnson, 8395 SE Groce Rd. I worked for the Portland Rescue Mission for three years in their recovery program, so I'm very familiar with addiction. I would like to point out that the majority of drug abuse and addiction is from prescription drugs. Those are far more toxic and lethal, historically, than marijuana has ever been. That's not to say that I condone the abuse of marijuana, but we have legalized it now in the State of Oregon. My main questions are regarding some of the technicalities of the document we have before us this evening. I'm wondering what regulations are currently in place for lighted greenhouses for other crops. If I was growing flowers and wanted to light a greenhouse at night to keep my crop going at the highest production possible, what regulations are in place for that, and how fair is it to simply choose cannabis as a crop to regulate regarding that? If there is already regulation in place for other crops, then I would say we're being fair in regulating cannabis the same way. If there are no regulations for other crops in greenhouses, I would say that probably oversteps the fairness line to pick out cannabis. As far as the 2,500 s.f. footprint for a building on a rural residential or small farm, does anybody have questions about a barn that already exceeds that number as a possible facility that could be used for growing? And is a barn that is bigger than that considered out of place in those neighborhoods and those areas? Finally a greenhouse is a far more efficient place to grow a crop than an enclosed structure where you can only use artificial light. If we want to have a low energy impact, why don't we allow greenhouses that can be managed as far as odor control and that sort of thing, and would allow for a far more energy efficient production.

Frank Card, 28929 SE Powell Valley Rd, Gresham. I've raised five boys, have fifteen grandchildren and all of them have gone to these schools that are in this neighborhood. It appears to me that you have a very difficult decision to make. I came here trying to think of what's the right thing to do? I've been a naturopathic doctor and chiropractor for forty years, so I know well

the benefits of drugs versus natural care. I support natural care, I do not support the drug care. Marijuana has certain drug situations that are very helpful for many patients, but it is a drug. It is an entry drug into addiction. I think what you have heard tonight is the fear that this area is going to be inundated with toxic substances. So it's going to be difficult for you to make the right decision. The only thing that I can see is you must divide the drug use to the recreational use. It's been suggested here that you push recreational use away from all of this housing and children. We go skiing, we drive 40 miles up to go skiing, that's a recreational situation, so we get the recreational away from the medical use. Something that hasn't been brought up here today is they're saying that 50% of the income derived from marijuana must come from the local community, therefore we have to have 50% of the money come from that Green Mile to make this legal. So I suggest that you separate them and that you use this 50% rule.

Anthony Walter, 2026 SE 130<sup>th</sup> Ave, Portland. I am currently a medical marijuana producer and patient and I wanted to stress the fact that we definitely need to keep separate the medical from the recreational because there's a lot of people that need it medicinally. I was in a series of seven car accidents in a matter of seven months and six of them weren't my fault. And instead of being strung out on oxy's and pain killers all day, I decided to mitigate my system with medical marijuana and have found much more success with that than I had taking toxic drugs. I'm aware that my business creates a stench; I'm not trying to impose my stench on anyone else, but at the same time, we all drive past cow fields, we're not standing there picketing them that the stench is making me sick. You can smell the paper mill across the river any time the stacks are on, so I think the smell factor is going to be hard to mitigate. One other issue I had was with the fences, not allowing barbed wire, razor wire or anything like that to deter people from coming up and over. And I really want to stress the fact that medical is completely different from recreational because people who are recreationally using marijuana are using it to alter their state of mind, not to mitigate a symptom or condition that they have.

Mike Kost, 29005 SE Dodge Park Blvd, Gresham. I'm probably right in the middle of the Green Mile. I would like to talk about zoning more than anything and give you a little experience. My wife and I are trying to retire, we built a coffee shop and a barber shop and a building right in the middle of Orient. It's the only thing that's been done there in the last 20 years. We want to retire so we put it up for sale and the first week out, we had the best offer you would ever think about getting. Then the buyer runs down to zoning and zoning scares them so bad, they couldn't get the offer off the table fast enough. They had a great business in Portland, a fireplace shop, and he wanted to move out to my 2,500 s.f. building, and he ran away from the deal so fast because of the zoning. The OCI, the 51%, would not allow him to bring his fireplace shop out there and have a little profit center. I had three offers of marijuana guys and my wife and I don't want to sell to marijuana operations. The zoning has to be changed. I tried buying the lumber yard. I couldn't buy the lumber yard because they wouldn't let me bring my construction company to the lumber yard. We finally bought the place and built the coffee shop and now we can't sell it. Cause we don't want to sell it to the marijuana people. But you're going to force me. I went down and talked to zoning; I was so mad that if a marijuana grower would have offered me, I'd have sold it cause I was so mad at the County because they're so restrictive on the 51%. You have to take the zoning and loosen it up so somebody can invest some money. Nobody can do anything out there with their properties but sell to the marijuana people.

Barber responded to some of the technical questions that came up during testimony. As far as what regulations apply to other greenhouses for other crops that regulate the internal lighting, Barber said that is a good question and something we thought about. We don't specifically have lighting regulations for other farm crops in our code. We do, however, in certain parts of the county, have

view sheds, scenic view overlays where we have to find that new development is visually subordinate and it could possibly be the case where we would not allow a structure that would glow at night. We typically are focused on the exterior lighting. We don't have something specifically in the code for other crops, but we are treating marijuana differently because we think it's a slightly different type of crop.

I heard a question about why there is an exclusion in the setback standards in the EFU, and that is because we do not believe we have the authority to tell farmers that they have to be a certain distance away from a school or a property line in order to grow this particular farm product. It has been defined as a farm product at the state level, this is not Multnomah County, this is in state law. And there are right to farm laws in the state and we have to respect that.

Barber talked about the language as it related to farm stands and marijuana sales, and that is straight out of state law. My understanding of the way this provision is intended is, you cannot open a farm stand and sell marijuana through your farm stand. I don't read this provision to say that if you have a farm stand on your property, you're prohibited from growing marijuana on the property. I don't think that would pass the "in conjunction with" test. But we will need to look at these on a case by case basis as we start implanting this code.

The question about why wholesaling is not allowed in the MUA-20 is we are viewing wholesaling as an industrial type of use. So we are not allowing wholesaling in residential zoning districts or the EFU zoning district. MUA-20 is like a hybrid between a residential and a farming district. It's an exception zone, not technically EFU, but if you look at the purpose statement, it talks about promoting farming and that type of thing, so we are allowing production, but not wholesaling.

Regarding the impact of property values in the EFU if these rules are put into place, we are not creating any new uses for marijuana businesses that do not currently exist in County code. We are simply connecting the dots by saying that marijuana businesses fit in here as production of a farm product, or fits in here for processing of materials, so we are just identifying where County code allows similar, if not identical, types of uses in the code. We're not changing any uses, we're not allowing new uses, so there really should be no impact to how a property is assessed.

Foster asked about owning two separate tax lots and whether the setbacks would apply in that situation with a common owner. Barber said if we have two separate lots of record that are not aggregated into one, the internal property line would be a property line from which the setback would be measured from in either direction. The reason is that one of those lots of record could be sold. That's why we're using lot of record as a conceptual unit where setbacks would be measured from.

Foster said I remember reading something in the OLCC regulations about amnesty for existing medical facilities, how does that work? Barber said what we have is that a proposal to establish, alter, expand or replace a marijuana business needs to meet all of these current standards. We have non-conforming provisions in the code; that would address existing businesses, but what we say here is that a proposal for the alteration or expansion of an existing building or structure by more than 400 s.f. of floor area or ground coverage shall be deemed to have a greater adverse impact on the neighborhood, and therefore would not be able to go through that provision.

Foster said I was surprised that no one mentioned sound as an issue, because the ventilation of these buildings could potentially be an issue. Barber said I haven't heard the concern raised. Foster

said I read another county regulation that prohibited sound exceeding a certain decibel on the property line. Barber said it's not something we've looked into.

Silodor said somebody mentioned Clackamas County acting retroactively. My understanding was you can't really do that in Oregon, can you? Tomkins said I don't know what that was referring to, but there is a prohibition in state law against retroactive land use ordinances regulating activities. I would have to know more about that situation, but this ordinance will not be applied retroactively.

Lorenz said looking at the Clackamas County regulations they just passed, one footnote that they had was it's not clear whether state law permits medical marijuana production in EFU. Has that come up in your discussion? Barber said I know there's some confusion around that, but our preference is to consider it just like recreational because it's easier to implement, it's easier to understand. We believe the impacts are the same and we think it will be easier for the industry.

The hearing was continued to Monday, February 8, 2016, at 6:30 p.m. for deliberations. Public testimony was closed, while the record remained open for written testimony until Friday, February 5<sup>th</sup> at 4:00 p.m.

Meeting adjourned at 9:05 p.m.

**The next regularly scheduled Planning Commission meeting is tentatively scheduled for March 7, 2016.**

Recording Secretary,

Kathy Fisher