



Deschutes County Board of Commissioners
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AGENDA REQUEST & STAFF REPORT

For Board of Commissioners Work Session of October 5, 2016

DATE: September 26, 2016

FROM: Peter Gutowsky, Community Development, 541-385-1709

TITLE OF AGENDA ITEM:
2nd Quarter Planning Division Update

PUBLIC HEARING ON THIS DATE?: No.

ATTENDANCE: Nick Lelack, Peter Gutowsky

SUMMARY: This memorandum updates the Board of County Commissioners (Board) on the Planning Division's Fiscal Year 2016-2017 Work Plan and provides a 30-day update on the implementation of the new marijuana regulations in effect since September 1.

Staff seeks Board direction on one or more long range planning projects to initiate this fall (see attachment).



Community Development Department

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Memorandum

DATE: September 29, 2016
TO: Deschutes County Board of Commissioners
FROM: Nick Lelack, AICP, Director
Peter Gutowsky, AICP, Planning Manager
RE: Planning Division Work Plan & Marijuana Update

This memorandum updates the Board of County Commissioners (Board) on the Planning Division's Fiscal Year 2016-2017 Work Plan and provides a 30-day update on the implementation of the new marijuana regulations in effect since September 1.

Staff seeks Board direction on one or more long range planning projects to initiate this fall (page 2).

Long range planning projects continue to be overshadowed by the demands generated by development review (current planning). To meet the sustained increase in land use applications, the Division recently hired a new Associate Planner (started September 26), hired a consulting planner on contract, and allocated a portion of long range planning staff time (Senior Planner Peter Russell and Associate Planner Matt Martin) to review and process applications.¹ In addition, the Division is recruiting for an on-call current planner to provide more temporary help if necessary based on this fall's application volumes.

The Division anticipates having capacity to initiate new long range planning projects this quarter.

I. Long Range Planning Projects from 1st Quarter

The following list summarizes the status of projects discussed last quarter:

- **Bend Urban Growth Boundary (UGB)**: The Board conducted first and second reading and adopted by emergency Ordinances Nos. 2016-021 to 2016-023.
- **Brownfield Development Grant**: The grant ended on September 30, 2016. It funded Brownfield inventories for Deschutes County and the cities of Bend and Redmond, nine (9) Environmental Site Assessments, and area-wide planning for Redmond's mid-town.

¹ Land use application volumes are exceeding 2015 levels by over 10%. In addition, approximately 270 counter customers and 330 planning calls are received monthly by planning staff. Compounding the increase in land use application volumes and customer inquiries are: training four (4) new planners hired this calendar year; the complexity of applications submitted; the number and length of marijuana and other pre-application conferences; LUBA appeals and remands; and the resources required to address high levels of planning-related code enforcement cases.

- Comprehensive Plan and Zoning Text Amendments: A work session and public hearing with the Board is scheduled for October 17 and 24 respectively, to consider three staff-initiated amendments relating to the Agricultural Lands Public Outreach discussions.²
 - A Comprehensive Plan amendment recognizing non-resource lands process allowed under State law to change Exclusive Farm Use (EFU) zoning;
 - A zoning text amendment providing a definition of agricultural-exempt buildings; and,
 - A zoning text amendment reducing setbacks in the Forest Use (F-2) Zone, explicitly for the Haner Park Subdivision.
- Zoning Text Amendment: A public hearing is scheduled with the Planning Commission on October 13 at 5:30 p.m. to take testimony on allowing existing buildings for hardship dwellings in EFU.

The projects above are either completed or nearing completion.

II. Long Range Planning Projects / 2nd Quarter Tasks

The following projects are identified in the FY 2016-2017 Work Plan.

1. Central Oregon Large-lot Industrial Project: Coordinate with the City of Redmond, County Fairgrounds and Property and Oregon Department of State Lands (DSL) on a UGB amendment for a regional large-lot industrial campus.³ This project will be initiated by DSL and processed as a quasi-judicial land use decision with hearings before a Hearings Officer and the Board.

In addition to the Large Lot Industrial Project above, **staff seeks Board direction** on which project(s) below to initiate this quarter or next. If multiple projects are selected, the project completion timelines may be extended, but still may be initiated.

2. Community Plans: Engage Tumalo and/or Terrebonne residents to determine if community goals and policies meet the current and future needs of the area and, based on the input, consider initiating an update to one or both community plans.
3. Floodplain: Initiate amendments changing the floodplain zone to a combining zone.
4. Housekeeping Amendments: Initiate amendments to update County code.
5. Natural Hazards: Coordinate with the Planning Commission and the Board to discuss implementing recommendations from the University of Oregon's Community Service Center's 2014-15 review of County codes and policies regarding natural hazards and mitigation (floodplain and fire protection).

III. Marijuana Application 30-day Update

The Board rescinded the opt-out on marijuana-related businesses in rural Deschutes County on August 1, 2016. Beginning September 1, 2016 the Community Development Department began accepting land use applications to regulate medical and recreational production, medical and recreational processing, medical marijuana dispensaries, recreational marijuana wholesale, and recreational marijuana retail.

² The Planning Commission conducted a public hearing in March 2016. A Board hearing was placed on hold due to reallocating staff resources to draft and implement marijuana regulations.

³ According to the consultant hired by DSL, land use applications are not anticipated until early 2017.

- Staff has conducted 20 pre-application conference meetings since mid-August; additional pre-application conference meetings are scheduled.
- Prominent pre-application themes and industry representative comments to date include:
 - Land use applications are too expensive;⁴
 - Land use review process is too time consuming if appealed;
 - Recreational marijuana production in the EFU zone should be permitted and approved through an Oregon Liquor Control Commission (OLCC) Land Use Compatibility Statement (LUCS) and Land Use Action (clear and objective standards without public notice, public hearings, or opportunities for appeal) rather than through Land Use Decisions (applying discretionary standards through a process that requires public notice, may require public hearings, and subject to appeal); and,
 - Minimum lot size is too high for marijuana production.⁵
- Six (6) marijuana related land use applications have been submitted since September 1, four (4) for recreational marijuana production, one (1) for recreation production and processing, and one (1) for recreational marijuana retail. As of the date of this memorandum, three of the four production applications are nearing the 30-day completeness check, including agency comments.⁶

⁴ An administrative determination for marijuana production costs \$1,500. It may also require a \$5,000 hearings officer deposit. A marijuana processing application is more expensive because it includes site plan review.

⁵ A five acre minimum lots size is required in Exclusive Farm Use and Multiple-Use Agricultural 10 zones.

⁶ The completeness check is the process to determine if the application contains all required information in order for the Planning Division to proceed with the review to determine if the application complies with applicable standards, applicable standards with Conditions of Approval, or does not comply.