

To: Commissioners Anthony DeBone, Phil Henderson, and Tammy Baney

To: Deschutes County Planning Division Community Development Director, Nick Lelack,
Planners: Anthony Raguine, Matt Martin, Zechariah Heck

From: River Springs Estates Property Owners Association and Odin Falls Ranch HOA

Re: Reference File # 247-18-000047-AD

Date: February 3 ,2018

We oppose approval of the proposed land use request of Cascades Estate Farms LLC to establish a commercial marijuana grow facility at 6829 NW 66th Street, Redmond, Oregon. We oppose this application for the following reasons:

- We fear for the physical and mental safety of our children and residents, many of whom are retired. We selected this community for its safe and healthy environment.
- **Criminal activity dealing with black market marijuana is on the rise in Oregon as stated in *The Oregonian*, *The Chicago Tribune* and *The Bend Bulletin*. (SEE HIGHLIGHTED ATTACHMENTS)**
- **Security issues are of the greatest importance.** Those involved in criminal activity and especially teens have easy access from BLM land to the proposed Marijuana Grow facility. Security is a concern to us whose properties lie adjacent and contiguous and to the Marijuana Grow Facility. According to the *Bend Bulletin*, this kind of facility gives “fuel” to theft and criminal activity.
- What are the security measures that are monitored? Security lights turned off from 7 pm to 7am when theft and criminal behavior are most prevalent **are not good deterrents**. We have children and families who want to walk our properties without fear of trespassers and thieves.
- **We fear for our safety.**
- It is not a remote area as declared by the applicant. The greatest number of homes are not on 66th Street but on 69th street which is much closer to the proposed grow facility. There are 297 homes in Tetherow Crossing, and 68 homes in the RSEPOA and Odin Fall Ranch HOAS. These homes and other residences surround and are contiguous to the proposed grow facility.
- The area is not suited for this kind of commercial or agricultural use. No such use is in the surrounding area of family homes. **It is an incongruent use of property**. Historically, the land was originally used for cattle and then subdivided for small non- commercial family homes with backyard hobby farms.
- It will reduce the value of homes surrounding the site and specifically the gated communities of Odin Falls Ranch and River Springs Estates.
- The grow facility will, of necessity increase the use of privately owned roads not intended for heavy trucks,(water trucks, heavy farm equipment, commercial vehicles, transports etc.)
- The roads this enterprise will use are privately owned and the maintenance is paid for by the surrounding HOAS and communities. There is no guarantee the Cascades Estate Farm is going to pay for an appropriate fair share of the wear and tear on the roads.
- According to the regulations all residents on a privately owned road must be contacted personally to give approval for the use of business sponsored traffic. Has this been done? If yes, please provide the documentation.

- **The addition of this Grow Facility's need for 15,000 extra gallons of water monthly from what is now an aquifer that is not able to meet the needs of the present residents for their household needs . This presents a very critical environmental situation. We have had wells go dry in this area as a result of people needing to deepen their wells. The applicant has requested permission to use his well . He, may need to dig a deeper well in order to have enough water for his commercial facility. Who will monitor the water draw- down? And What and who is the enforcement?**
- **The value of our homes is at stake here. We all worked hard to create and maintain well-tended properties, so we can sell them, when feasible, for a fair market price. This marijuana facility with all its detriments to **safety, peace and quiet and environmental issues will definitely not enhance the value of our property.****
- **The county will lose tax revenues as our properties recede in value.**
- **To test our belief that a marijuana growing facility in the midst of one's residential community would devalue our homes, please ask anyone hoping to buy a home in our area if this would cause them not to buy the home and/or ask for a great reduction in price. We, the HOAs and residents, would be happy to poll perspective buyers.**
- **We asked our realtor his opinion, and he said yes, he feared it would be a detriment.**
- **We are a suburban residential community with families. This is not an appropriate area to place a marijuana growing business. We understand the need for medical marijuana growing facilities. **However, in a residential family-oriented housing area It is not rational nor safe.****
- **We did not carefully select and invest in our properties and their locations to have a commercial enterprise forced upon us.**

The time allotted for a rebuttal and the gathering of concerns as stated in the Notice of Application was ten days from January 26, a Friday. Our HOA President received this notice February 1. If one adds in weekends and not receiving the notice until one week had already passed, we did not have the stated time allowed to gather our petition and our responses.

Commissioners, we voted for you to care about our safety and the safety of our natural resources. We recognize that business enterprises are essential for our country to function. Many of us have owned or been employees of private businesses. We support private enterprise.

The LOCATION of this grow facility is the concern. It is a misfit.

Please do not approve of the proposed Marijuana Grow Facility at 6829 NW 66th Street, File # 247-000047-AD. Let's put a moratorium on establishing such grow facilities until there is greater control of the production, sale and location requirements. If not regulated wisely, it is a product that can bring crime and violence into our communities.

Sincerely,

Sharon D Williams Secretary to RSEPOA : 7150 NW River Springs Rd. Redmond

Robert Litmer, President, RSEPOA : 6900 NW River Springs Rd. Redmond

Ray Jensen, Resident: 7150 River Springs Rd. Redmond

Tina and Bill Hinchliff; 5087 Woody Court, Redmond

ATTACHMENTS

BUSINESS

THE BULLETIN • SATURDAY, FEBRUARY 3, 2018



U.S. Attorney for the District of Oregon Billy J. Williams, middle, speaks at a marijuana summit in Portland on Friday, as Gov. Kate Brown sits to the right of Williams.

(AP Photo/Don Ryan)

US prosecutor:

Oregon has big pot overproduction problem

By Gillian Fiacco
The Associated Press

PORTLAND —

Oregon's top federal prosecutor said Friday the state has a "formidable" problem with marijuana overproduction that winds up on the black market and that he wants to work with state and local leaders and the pot industry to do something about it.

U.S. Attorney Billy Williams convened the unprecedented summit of influential

federal law enforcement representatives, state officials and marijuana industry scientists after Attorney General Jeff Sessions withdrew an Obama-administration memo that had guided states with legalized weed on how to avoid federal scrutiny.

The meeting included representatives from 13 other U.S. attorney's offices, the FBI, the U.S. Postal Inspection Service, the U.S. Forest Service and U.S. Customs and Border Protection. U.S. attorneys

from California, Washington, Colorado, Idaho, Alaska and Montana attended in person.

Gov. Kate Brown, a Democrat, told guests that Williams has assured members of her administration that "lawful Oregon businesses remain stakeholders in this conversation and not targets of law enforcement."

The marijuana industry has been watching federal prosecutors in states with legalized weed like Oregon closely since Sessions rescinded the

so-called Cole memo. U.S. attorneys in states where marijuana is legal under state law now face the delicate question of how to do their jobs and how to the federal ban.

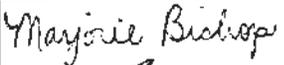
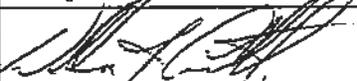
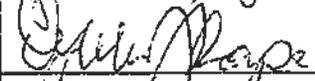
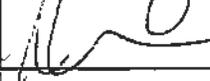
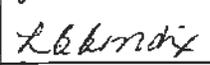
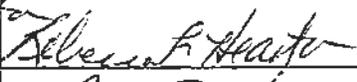
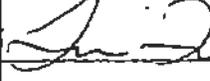
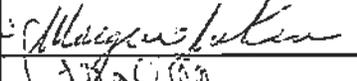
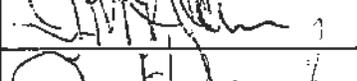
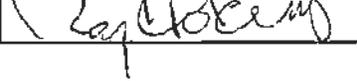
Williams sought to calm fears among pot growers, but said the market has a problem that must be addressed. Everyone needs a "bottom-line answer" on how much excess marijuana is being produced and how much of it winds up on the black market, he said.

See Summit /D4

PETITIONS

Opposition to Proposed Commercial Marijuana Grow

Petition summary and background	We are opposed to the proposed Cascades Estate Farms LLC commercial marijuana grow operation in the residential neighborhoods of Odin Falls Ranch, River Springs Estates and surrounding neighborhoods. RE: Application file #247-18-000047-AD
Action petitioned for	We, the undersigned, are asking Deschutes County Community Development to deny the application from Cascade Estate Farms LLC for the proposed commercial marijuana grow operation.

Printed Name	Signature	Address	Comment	Date
Margorie Bishop		7165 NW River Springs Rd. Redmond, OR 97756	Opposed to application by Cascades Estate Farms	2/4/18
William J Castillo		7165 NW River Springs Rd Redmond, OR 97756	W/2P NEGOTIATION ON FILE NEW APPLICATION - OVER PROTECTED	2/4/18
J Alan Roysse		7185 NW RIVER SPRINGS REDMOND, OR 97756	OPPOSED TO PROPOSAL BY CASCADE ESTATE FARMS	2/4/18
Debbie Roysse		7185 NW River Springs Redmond OR 97756	Opposed to Proposal By Cascade Est Farms	2/4/18
Debra Weller		8080 NW Grubstake Way Redmond OR 97756		2/4/18
Linda Blodim Barabx		8059 NW Grubstake Way Redmond OR 97756		2-4-18
LAWRENCE W HEASTON		8055 NW Grubstake way Redmond OR 97756		2/4/18
Rebecca L Heaston		8055 NW Grubstake Way Redmond OR 97756		2/4/18
Terri Timbickman		8050 NW Grubstake way Redmond OR 97756		2/4/18
MARGARET MCKEOWN		8040 NW Grubstake Way Redmond OR 97756		2/4/18
DON MCKEOWN		8040 NW Grubstake Way Redmond CR 97756		2/4/18
RAY HOLCOMB		8035 GRUBSTAKE Redmond OR 97756		2/4/18

Opposition to Proposed Commercial Marijuana Grow

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Printed Name	Signature	Address	Comment	Date
David Stender		270 NW River Springs Dr	see letter	2/4/18
Dennis Collins		6688 NW 66 th St. Redmond	Keep out of residential	2/4/18
Yara Collins		6688 NW 66 th St. Redmond		2-4-18
Kathryn A. Degenhardt		6700 NW 66 th St. Redmond		2/4/18
DAVID A. DEGENHARDT		6700 NW 66 th St. Redmond		2/4/18
Brian Manselle		6741 NW 69 th Pl	Potry Location (residential)	2/4/18
Carson Manselle		6741 NW 69 th Pl	" " "	2/4/18
Savannah Spear		"	"	2/4/18
Teri Manselle		6741 NW 69 th Place	Redmond ore	2/4/18
Marc Horne		7117 NW 69 th Pl		2/4/18
CAROLYN HORNER		7117 NW 69 th Pl. Redmond	97750	2/4/18
Brett Hodges		7024 NW 69 th Pl	Redmond, OR 97756	2/4/18

Opposition to Proposed Commercial Marijuana Grow

Petition summary and background	We are opposed to the proposed Cascades Estate Farms LLC commercial marijuana grow operation in the residential neighborhoods of Odin Falls Ranch, River Springs Estates and surrounding neighborhoods. RE: Application file #247-18-000047-AD
Action petitioned for	We, the undersigned, are asking Deschutes County Community Development to deny the application from Cascade Estate Farms LLC for the proposed commercial marijuana grow operation.

Printed Name	Signature	Address	Comment	Date
RAY R. JENSEN	<i>Ray R. Jensen</i>	7150 NW RIVERS SPRINGS	OPPOSE Application C21D R-DMOIN EX	02/04/18
Sharon D. Williams	<i>Sharon D. Williams</i>	7150 NW River Springs Rd	NOT in residential areas Draws an aquifer, Crime	02/07/2018

Opposition to Proposed Commercial Marijuana Grow

Petition summary and background	We are opposed to the proposed Cascades Estate Farms LLC commercial marijuana grow operation in the residential neighborhoods of Odin Falls Ranch, River Springs Estates and surrounding neighborhoods. RE: Application file #247-18-000047-AD
Action petitioned for	We, the undersigned, are asking Deschutes County Community Development to deny the application from Cascade Estate Farms LLC for the proposed commercial marijuana grow operation.

Printed Name	Signature	Address	Comment	Date
Michele Hodges	<i>Michele Hodges</i>	7024 NW 69 th Pl	concerned re ground H ₂ O	2/4/18
Tina Hinchliff	<i>Tina Hinchliff</i>	7100 NW River Springs		2-4-18
Bill Hinchliff	<i>Bill Hinchliff</i>	7100 NW River Springs		2-4-18

From: [Anthony Raguine](mailto:Anthony.Raguine@deschutes.org)
To: [Tracy Griffin](mailto:Tracy.Griffin@deschutes.org)
Subject: Pls scan to 18-047-AD & print a copy for the record. Thx.
Date: Monday, February 12, 2018 9:19:56 AM

From: William Hinchliff [mailto:wchinchliff@cbbmail.com]
Sent: Monday, February 12, 2018 9:12 AM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Re: Proposed Marijuana Commercial Grow Facility File 247-18-000047-AD

Thanks you for the quick response, Anthony. Our mailing address:

Bill and Tina Hinchliff
5087 NW Woody Ct.
Redmond, Or 97756

On Mon, Feb 12, 2018 at 8:37 AM, Anthony Raguine <Anthony.Raguine@deschutes.org> wrote:

Hi Bill. Attached is Deschutes County Code Section 18.116.330 which details the approval criteria for marijuana production. These are the criteria which I will address in my decision.

Please send me a mailing address so that I can add you and Tina to the list of parties who are entitled to notice of all decisions and public hearings. Let me know if you have any other questions.

Anthony Raguine
Senior Planner
Deschutes County Community Development Department
117 NW Lafayette Avenue
Bend, OR 97701
[\(541\) 617-4739](tel:(541)617-4739)

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: William Hinchliff [mailto:wchinchliff@cbbmail.com]
Sent: Sunday, February 11, 2018 7:15 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Proposed Marijuana Commercial Grow Facility File 247-18-000047-AD

Dear Anthony,

Thank you for contacting my wife, Tina, last week and discussing the proposed marijuana grow facility at 6829 66th St. in Redmond.

Will you please forward to us the criteria for such a facility, notice of any meetings pertaining to this site and a copy of approval should that happen.

Thanks in advance for your assistance.

Regards,

Bill and Tina Hnchliff

From: [Anthony Raguine](mailto:Anthony.Raguine@deschutes.org)
To: [Tracy Griffin](mailto:Tracy.Griffin@deschutes.org)
Subject: Pls scan to 18-047-AD & print a copy for the file. Thx.
Date: Monday, February 12, 2018 8:39:57 AM

From: Sharon Williams [mailto:shrywilliams43@gmail.com]
Sent: Sunday, February 11, 2018 3:57 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Re: File 247-18-000047-AD

Hi Anthony,

Yes, we would love to receive information on the decisions and the hearing dates. Thank you.

Our mailing address is :

Sharon Williams-Jensen and Ray Jensen
7150 NW River springs Rd
Redmond, OR. 97756

On Sat, Feb 10, 2018 at 8:57 AM, Anthony Raguine <Anthony.Raguine@deschutes.org> wrote:

Hi Sherry. If you would like to receive notice of the decision and any future public hearings. Please send me a mailing address. Thanks.

Anthony Raguine
Senior Planner
Deschutes County Community Development Department
[117 NW Lafayette Avenue](mailto:Anthony.Raguine@deschutes.org)
[Bend, OR 97701](mailto:Anthony.Raguine@deschutes.org)
[\(541\) 617-4739](mailto:Anthony.Raguine@deschutes.org)

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: Sharon Williams [mailto:shrywilliams43@gmail.com]
Sent: Friday, February 9, 2018 4:13 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: File 247-18-000047-AD

Dear Anthony,

Thank you for returning my call regarding the establishment of a marijuana production facility at 6829 66th street in Redmond.

I understand that we need to request the criteria the county uses in determining approval or disapproval of such a facility and a sample decision to help us understand how the application will be appraised.

Thank you for assisting us in better understanding the steps we need to take regarding this request for the marijuana grow facility.

Please send us the criteria and a sample decision.

Sincerely,
Sherry Williams-Jensen

From: [Anthony Raguine](#)
To: [Tracy Griffin](#)
Subject: Pls scan to 18-047-AD & print a copy for the file. Thx.
Date: Saturday, February 10, 2018 10:40:41 AM

From: Odin Falls HOA [<mailto:odinfallshoa@gmail.com>]
Sent: Wednesday, February 7, 2018 2:22 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Re: File Number: 47-18-000047-AD

Anthony

Here is the mailing address:

Odin Falls HOA
P.O. Box 2213, Redmond, OR 97756

Thank you,

Terri

On Tue, Feb 6, 2018 at 10:54 AM, Anthony Raguine <Anthony.Raguine@deschutes.org> wrote:

Hi Terri & Casey. Can you send me a mailing address for the Odin Falls HOA? Per our Procedures Ordinance, notice of the decision must be mailed to all interested parties. Thanks.

From: Anthony Raguine
Sent: Tuesday, February 6, 2018 8:28 AM
To: 'Odin Falls HOA' <odinfallshoa@gmail.com>; Nick Lelack <Nick.Lelack@deschutes.org>; Matt Martin <Matt.Martin@deschutes.org>; Zechariah Heck <Zechariah.Heck@deschutes.org>
Subject: RE: File Number: 47-18-000047-AD

Thank you for your comments Terry & Casey. I will add your email to the record. Since I'm the assigned planner for this project, please direct all future comments solely to me. Thanks.

Anthony Raguine
Senior Planner
Deschutes County Community Development Department
[117 NW Lafayette Avenue](#)
[Bend, OR 97701](#)

(541) 617-4739

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From: Odin Falls HOA [<mailto:odinfallshoa@gmail.com>]

Sent: Sunday, February 4, 2018 8:15 PM

To: Anthony Raguine <Anthony.Raguine@deschutes.org>; Nick Lelack <Nick.Lelack@deschutes.org>; Matt Martin <Matt.Martin@deschutes.org>; Zechariah Heck <Zechariah.Heck@deschutes.org>

Subject: File Number: 47-18-000047-AD

File Number: 47-18-000047-AD

Applicant: Cascade Estate Farms, LLC

Mr. Raguine:

The Odin Falls Ranch Homeowner Association is filing notice of OPPOSITION to this application for a marijuana production facility in our neighborhood. There are many reasons why this application should not be approved.

INCREASED RISK OF CRIME: Several houses in our neighborhoods have already been prowled and/or burglarized. This operation will only increase the draw of a criminal element accessing our area, potentially causing increased crime problems for the entire neighborhood.

ODOR: Marijuana plants inherently have a distinctly unpleasant odor when growing due to the oils on the plants. This odor will permeate our neighborhoods, fouling the air and may even violate Oregon clean air standards, as well as Deschutes County regulations regarding grow operations.

LOSS OF TAX REVENUE: If approved, our property values will be severely affected. This neighborhood is a major source of property tax revenue to the County; and it is unlikely the paltry tax revenue the County will receive from this production facility will offset the loss of revenue from our lowered property values.

INCREASED TRAFFIC: The roads accessing this proposed operation are privately owned and maintained by the neighborhoods through which they pass. Approval of this application will cause increased traffic over these roads with no obligation on the part of the applicant to fix any damage, nor contribute in any way to the maintenance of these roads. This will negatively impact over 600 properties financially in Tetherow Crossing, Odin Falls Ranch, and River Springs Estates, plus other un-associated properties, benefiting no one but the applicant.

GROUND WATER DEPLETION: Our members are served by a community well as our

only source of water. Increased agricultural irrigation requirements of this grow facility will further contribute to the depletion of the aquifer from which we draw our household water needs, to our community's detriment.

OVERPRODUCTION IN OREGON: Experts in the field agree that Oregon is already producing more than five times the amount of marijuana that can be consumed by Oregonians, with Deschutes County identified as one of six counties that are major contributors. They agree that much of this overproduction is going to the black market in other states, contributing to law enforcement problems in states where marijuana is not legal. Another grow operation will only worsen this problem.

INCONGRUOUS USE: Even though the areas affected are zoned MUA-10, the primary use is 5-10 acre lots with one residence. In other words these are residential neighborhoods. A marijuana grow facility has no business in a residential neighborhood and should not be allowed.

PLEASE DISAPPROVE THIS APPLICATION.

Odin Falls Ranch, Board of Directors

Terri Timberman, President

D Casey Gibbs, Secretary

From: [Anthony Raguine](mailto:Anthony.Raguine)
To: [Tracy Griffin](mailto:Tracy.Griffin)
Subject: Pls scan to 18-047-AD & print a copy for the file. Thx.
Date: Friday, February 9, 2018 3:20:00 PM

From: Carolyn Horner [mailto:chorner19@gmail.com]
Sent: Tuesday, January 30, 2018 2:00 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Cc: marc.horner8@gmail.com
Subject: Concerns about proposed land use

Good Afternoon Anthony,

I'm contacting you regarding file number 247-18-000047-AD. My mailing address is 7117 NW 69th Place, Redmond, 97756.

My husband and I received communication that our neighbors at 6829 NW 66th Street are proposing to farm commercially on their land. We want to formally oppose this proposal. We have numerous concerns about our neighbors using their land to farm commercially. First, how will it affect our water use? We currently are on a shared well and we have limited water access as it is. We do not see how a well system could sustain a commercial-sized farm. Second, how will the farm be powered? Will there need to be more power lines established? Third, what types of pesticides will be used in such close proximity to our house and garden? Fourth, will the traffic increase due to their marijuana production and distribution? We currently share a fence line, and their driveway can be seen easily from our house and backyard. As it is, we hear their trucks leaving and arriving home; increased traffic would be noticeable on our end. We have 4 young kids who play outside everyday. We are concerned with many types of pollution that would increase with the presence of a commercial-sized farm in our neighborhood. Specifically, we are concerned with air pollution as the wind blows in our direction. Finally, we are very concerned with our overall property value. The side-effects of residing near a marijuana farm would be detrimental to our property value. This is concerning as we have invested a lot of time and money into our home; this is of great importance to us. We would be happy to speak with you over the phone about our concerns as well. It cannot be emphasized enough that we oppose this production facility. We appreciate you considering our opposition. Thank you for your time.

Marc and Carolyn Horner
541-480-8579
7117 NW 69th Place
Redmond, OR 97756

From: [Anthony Raguine](#)
To: [Tracy Griffin](#)
Subject: Pls scan to 18-047-AD & print a copy for the file. Thx.
Date: Monday, February 26, 2018 8:14:53 AM
Attachments: [Water Source LTR Bend Water Hauling.pdf](#)

From: chicagorichwines [mailto:chicagorichwines@gmail.com]
Sent: Sunday, February 25, 2018 8:21 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Re: FW: File Number: 247-18-000047-AD

Anthony,

Finally snow.. Hope you are well. I have attached the letter from bend water hauling to our lawyer stating they are a quasi or muni water source.

Thanks
Brett

Sent via the Samsung Galaxy S7, an AT&T 4G LTE smartphone

----- Original message -----
From: Anthony Raguine <Anthony.Raguine@deschutes.org>
Date: 2/12/18 1:48 PM (GMT-06:00)
To: "'brett@cascadeestatefarms.com'" <brett@cascadeestatefarms.com>
Subject: FW: File Number: 247-18-000047-AD

Hi Brett. Please see the email from CEC below and contact CEC regarding load & demand requirements. In order to meet the approval criteria regarding utilities, you'll need to submit correspondence from CEC indicating they have the ability to serve your specific use.

Anthony Raguine
Senior Planner
Deschutes County Community Development Department
117 NW Lafayette Avenue
Bend, OR 97701
(541) 617-4739

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From: Perkins, Parneli [mailto:pperkins@cec.coop]
Sent: Monday, February 12, 2018 9:28 AM

To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: File Number: 247-18-000047-AD

Anthony,

CEC requests the applicant apply for a new electrical service by calling Bob Fowler at 541-312-7778 and provide the electrical load and demand requirements for this activity. CEC will determine if capacity is available.

Thank you

Parneli Perkins • Central Electric Cooperative, Inc. • Lands Specialist
Office: 541.312.7747 | Fax: 541.923.3549 | pperkins@cec.coop
2098 N Hwy 97, PO Box 846, Redmond OR 97756 www.cec.coop

This e-mail message contains information that may be confidential. Use by parties other than the intended recipient is unauthorized and prohibited.



22166 Nelson Road
Bend, OR 97701-9790

02/06/18

Dear Mr Hughes:

The water we haul as part of our delivery service is from either municipal or quasi-municipal sources. Our sources of water are Avion Water and City of Redmond.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberlee Nunez". The signature is fluid and cursive.

Kimberlee Nunez
Manager/Member

From: [Heather Siemens](#)
To: [Nicole Margell](#)
Subject: FW:
Date: Wednesday, June 27, 2018 8:55:54 AM
Attachments: [doc09946420180627085353.pdf](#)
Importance: High

Hi Nicole,

Attached is our letter for the July 2nd hearing.

Thank you,

Heather Siemens
Medical Receptionist
Redmond Internal Medicine
Summit Medical Group Oregon/BMC
541-322-3500 Ext. 1137

June 27, 2018

To whom it may concern:

RE: File #247-18-000047-AD

I am writing this letter in hopes that it will be used in your decision making process regarding the marijuana grow application at 6829 NW 66th Redmond Oregon.

I am a current home owner in the Odin Falls Ranch community and I am against the approval of said grow operation for the following reasons:

1. At this time Oregon already has more marijuana being produced than is being used, so adding another operation makes no sense. It can't be exported so it's a waste of time and resources to grow.
2. The location for this facility is next to my neighborhood, if approved this will reduce home values and make it difficult for any of us in Odin Falls Ranch and River Springs to sell our homes. The marijuana facility if approved would lower our home values significantly.
3. Then there will be the nasty smell that no one will be able to control and will offend many neighbors.
4. Also, there will be an increase in the amount of traffic and most likely more crime in our area as well.

In closing, I feel that we as tax payers and residents of Deschutes County should not have this forced upon us by a greedy out of state interest that cares nothing about Central Oregon and just wants to profit off of our great peaceful area in a totally wrong and offensive way. So, please remember that we as tax payers and residents have to live with your decision.

Thank you for your consideration in this matter. And if you have any questions please feel free to contact me.

Bradley and Heather Siemens
7965 NW Grubstake Way
Redmond, OR 97756
(541) 699-8707 – Brad cell
800-320-7397 – Brad work
Email: Brad.Siemens@autowrecking.com or bandhsiemens@gmail.com

Nicole Mardell

From: Jeffrey Kitchens <jhkitch@blm.gov>
Sent: Monday, July 02, 2018 6:26 AM
To: Nicole Mardell
Cc: Thomas Beaucage; dteitzel@blm.gov
Subject: RE: [EXTERNAL] RE: Public Hearing on Case #247-18-000047-80

Hello Nicole

I wanted to follow-up from our discussions last week and provide you the information you requested for this morning's hearing. Here is background information to explain BLM's concerns regarding Case #247-18-000047-80.

On October 27, 1970, President Nixon signed the Comprehensive Drug Abuse Prevention and Control Act of 1970 into law. Title II of this Act is the Controlled Substances Act (CSA). Marijuana was classified by Congress as a schedule 1 drug/controlled substance under this act. Under the CSA, it is "unlawful for any person knowingly or intentionally to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense a controlled substance." The BLM cannot permit activities on the public lands that will violate the CSA. This includes issuing Rights of Ways for commercial activities associated with illicit substances.

Our Office sent Deschutes County a letter regarding the case which stated:

Access across public lands for commercial purposes requires a right-of-way (ROW) grant issued by the Bureau of Land Management. Additionally, if the applicant chooses to access the project area by travelling across Public lands, they may be transporting illicit substances across federal lands which is in violation of federal law.

Based upon the information in the first three bullets, our agency was and is concerned about the location of the marijuana production facility. If it is approved by the county in the location originally indicated, this would be permitting an activity that could not receive the necessary permits/authorizations (ROW) from our agency to conduct commercial operations across public lands. Without a ROW the applicant would not be meeting federal requirements for permitting of a commercial activity. Furthermore, they would be transporting illicit substances across public lands.

I hope this additional information is helpful. Please don't hesitate to call me if you have any questions.

Thank you.

Jeff Kitchens.

Jeff Kitchens
Deschutes Field Office Manager
USDOI - BLM - Prineville District
3050 NE 3rd Street
Prineville, OR 97754

Phone: (541) 416-6766,



BOARD OF COMMISSIONERS' MEETING
REQUEST TO SPEAK

Citizen Input or Testimony

Subject: Item 9 Administrative Appeal Date: 7/2/18
Name CASEY GIBBS ODIN FALLS PATCH HOA
Address PO Box 2213

Phone #s 541-316-1626

E-mail address dcgibbs@hatmail.com

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No
If so, please give a copy to the Recording Secretary for the record.

**SUBMIT COMPLETED REQUEST TO
RECORDING SECRETARY BEFORE MEETING BEGINS**

APPEAL OF DECISION OF THE DESCHUTES COUNTY PLANNING COMMISSION

Deschutes County Board of County Commissioners

APPELLANT: Odin Falls Ranch Property Owners Association PO Box 2213, Redmond, Oregon 97756

CONTACT: D Casey Gibbs, Secretary, OFRPOA 541-316-1626

File Number: 247-18-000047-AD

SUBJECT PROPERTY: 6829 NW 66th Street, Redmond and is identified on Deschutes County Assessor's

Map 14-12-23, Tax Lot 1412230000300

APPLICANT: Brett Richwine, Cascade Estate Farms LLC

OWNER: Isaac Babani

The APPELLANT asserts that the Planning Commission erred in the determination that this application meets all applicable criteria for approval, to wit:

1. Road Access to the Subject Property

- (a) The staff finding that access criteria do not apply to this application due to the canopy size being equal to or less than 5000 square feet is in error due to the following:
 - (1) The road designated as NW 66th ST from the border of Federal land administered by the BLM, a distance of approximately 0.6 miles, does not legally exist
 - (2) County records in DIAL incorrectly identify the access road across public lands (BLM) as NW 66th ST. . (*Appendices, page 6*)
 - (3) Deschutes County Code 16.16.030 (F) (1) states that the legal status of a road must be verified by the County Clerk and the Road Department before a road can be named. (*Appendices, page 7-10*)
 - (4) In order for the road to have legal status, a grant of right of way across Federal land is required in favor of either a property owner or Deschutes County.
BLM Regulation 2801.9 (a) states "...a grant under this part [is required] when you plan to use public lands for systems or facilities over, under, on, or through public lands..."
BLM Regulation 2801.9 (a) (6) states "Transportation systems such as roads, [and] trails..." [are included]. (*Appendices, page 11, 12*)
 - (5) The BLM has expressly stated in two separate communications that "...no legal access has been granted through public lands for the parcel in question..." See letter from BLM District Manager, Dennis C. Teitzel dated Feb 20, 2018, and email from Tom Beaucage; (*Appendices, page 13, 14*)
 - (6) The applicant has posted signs in two locations declaring publicly owned BLM access roads to be private roads, which is illegal under Federal statute. (*Appendices, page 15, 16*)

(7) A legal road must exist in order for an address number to be issued.

2. Pre-emptive Federal Law

The Planning Commission ignored pre-emptive Federal law regarding the transportation of federally controlled substances across public lands, specifically:

- (a) Access to the subject property is via 0.6 miles of Federal Public Land administered by the Bureau of Land Management, and therefore is subject to Federal regulations, and does not fall under the purview of Oregon State law nor Deschutes County Code and guidelines.
- (b) Title 21 USC Section 13, Subchapter I, Part D, Section 841 (a) specifies:
"Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally--
 - (1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance.
- (c) Title 21 USC Section 13, Subchapter I, Part B, Section 812 (C) states:

"Schedules I, II, III, IV, and V shall, unless and until amended pursuant to section 811 of this title, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

Schedule I

(c) (1)

...

(c)(10) Marihuana. (sic)

...

(c) (28)"

- (8) Further ,the BLM specifically states "The BLM cannot issue a right-of-way supporting an activity that is [Federally] illegal..." (*Appendices, page 16*)

To state this plainly, the subject property does not even have a legal right of access for private purposes, let alone a commercial Schedule I drug growing operation.

3. Private Road Considerations and Fire Prevention

- (a) The Fire Department requires that "Fire apparatus roads shall be designed and maintained to support the imposed loads of 70,000 pounds and shall be surfaced so as to provide all-weather driving capability", as well as providing for periodic turnouts. No road survey was completed to ensure these standards can be met. **These fire code criteria apply to any commercial building. (See the Building Classification "Commercial" on the building and septic permits, page 19-21).**

The illegal dirt access road currently in place clearly does not qualify, nor can it be made to qualify without BLM approval. (Appendices page 17)

- (b) The Planning Commission has not considered the financial impact on the property owners of Tetherow Crossing, Odin Falls Ranch, and River Springs Estates regarding the private, paved roads over which the applicant must travel. These roads (a portion of NW Coyner Ave, all of NW Odin Falls Way, NW 62nd ST, NW Homestead Way, and NW 66th ST) are privately owned and maintained at the expense of the homeowners who live in the neighborhoods. The Applicant is not a member of any of the organizations that pay for the maintenance of these access roads. The Applicant would benefit financially from the commercial use thereof, to the extreme financial detriment of the owners of the roads. The Applicant has stated there will be approximately 15,000 gals of water trucked over these roads monthly. Each truck will weigh approximately 65 tons, for an additional total annual road wear tonnage of at least 780 tons. These local access roads are not constructed to Deschutes County standards and would be unduly worn by this regular, heavy vehicle traffic as well as crop haul traffic.
- (c) The Deschutes County Transportation planner has calculated a Transportation System Development Charge (SDC) in the amount of \$6299 to be added to the county coffers for the Applicant's use of roads. As these roads to be used are privately owned, and maintained at property owner's expense, the County will be profiting while the owners of the roads are left with the repair bills. At the very least this SDC fee should be paid to the property owners associations affected.

4. Ground Water Contamination

- (a) There is no provision for containment of waste water or prevention of ground water contamination of the nearby residential water wells. The Bureau of Land Management states:
- (9) "BLM have concerns over the use of pesticides and herbicides and chemical residue migration onto public lands" . (Appendices, page 13)

5. Increased Crime

- (a) The Sheriff's department states:
"we are finding the calls for service related to marijuana grow operations are increasing".

In other words, crime is increasing in areas where marijuana grow operations are allowed.

- (b) The subject property is bordered by public lands on one side, where daily uses include target shooting, ATV and motorcycle riding, 4-wheeling, hiking, mountain biking, camping, and access to the Deschutes river for sport fishing. This entire area is readily accessible by minors as well as adults.

6. Deception?

- (a) According to Deschutes County property records, this parcel was purchased on **October 10, 2017**.
- (b) Deschutes County Development records show that on **November 9, 2017** Mr. Babani applied for a building permit for a 5000 square foot pole barn, stating it's intended use was "**Undecided Agricultural Use**". Also, on the same date, an application for septic for this building was submitted. This application shows the building classification as "Commercial". (*Appendices, pages 20-22*) These applications were approved.
- (c) On **January 7, 2018** Mr Babani filed an application for Marijuana production.
- (d) Was this sequence a deliberate attempt to conceal from the County and the public the Applicant's true intent? (*Appendices, page 18*)

7. Deschutes County Criteria

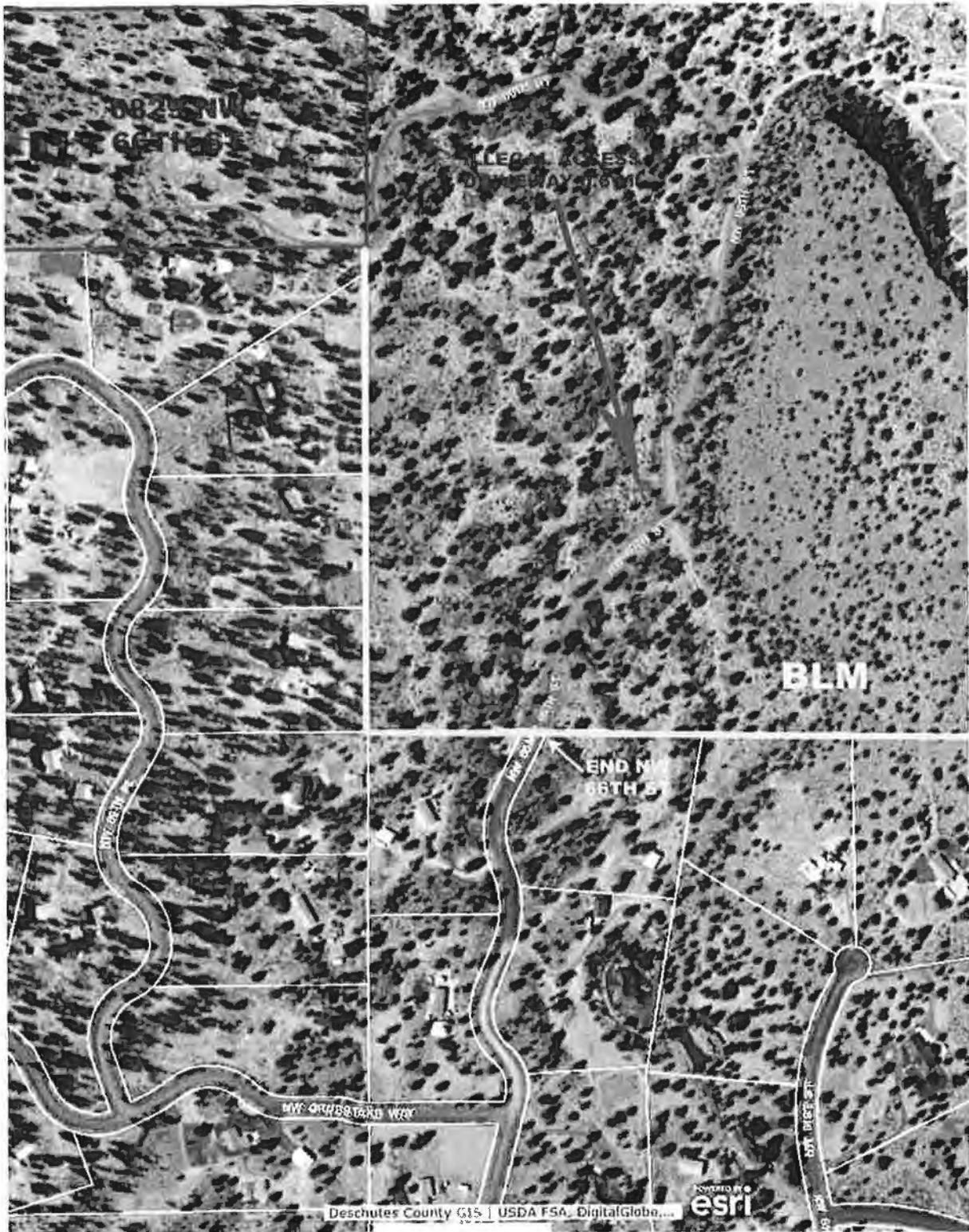
The Deschutes County Planning Commission states that there are no applicable DCC criteria regarding the following:

- (a) Traffic
- (b) Crime and Safety
- (c) Pesticide Use
- (d) Decrease in Property values
- (e) Overproduction of marijuana in Oregon
- (f) Rural Residential Character of the Area

It would be in the County's best interest to consider all these pertinent points in the determination of marijuana grow site locations. The well-established communities these applications affect have grown and prospered here over many years, and are a jewel of the Redmond area, with scenic settings along the beautiful Deschutes River and bordering on BLM land. Many residents of these communities do not subscribe to the marijuana legalization mindset and feel strongly that a marijuana grow operation would be detrimental to this area for all the reasons listed. Logically, it makes more sense for the applicants to secure a marijuana production facility in a more rural farming setting which is not in a residential neighborhood, nor bordering public lands. In short, **a higher standard needs to be applied** when approving these applications.

Further, we call your attention to the points made by US Attorney Billy J. Williams, as well as the front-page article published by the Bend Bulletin on Sunday, May 27th which went into great detail describing the "Overproduction of Marijuana Floods Market". Please ask yourself, do we really need another marijuana farm in central Oregon? And what really happens to the unsold surplus?

APPENDICES



Chapter 16.16. ROAD NAMING

16.16.010. Road Naming Authority.

16.16.020. Unnamed Roads.

16.16.030. Procedures for Naming New Roads.

16.16.040. Procedures and Standards for Changing Existing Road Names.

16.16.010. Road Naming Authority.

A. Deschutes County, through the Community Development Department, shall have the authority to and shall assign road names to roads requiring names as provided in DCC 16.16.

B. The County, through its Community Development Department, shall have the authority to and shall change existing road names under the standards set forth in DCC 16.16.

(Ord. 89-010 *1, 1989)

16.16.020. Unnamed Roads.

All unnamed public and private roads and other roadways which provide access to three or more tax lots, or which are more than 1,320 feet in length, shall be assigned a name in accordance with the procedures in DCC 16.16.030.

(Ord. 89-010 1989)

16.16.030. Procedures for Naming New Roads.

A. Application.

1. The naming of a road may be initiated by the Community Development Department, Planning Commission, the Board, or by application of adjacent property owners, developers, or public agencies which may be affected by road names.

2. An application to name a road shall be submitted to the Community Development Department and shall include, at a minimum, the following:

- i. Name of applicant;
- ii. Location of road by description and/or map;
- iii. Legal status of road, if known;
- iv. Proposed road name, with two alternate proposed names;
- v. Reason for name request;
- vi. Petition(s) attached, if any, and
- vii. Fee, if any, as established by the Board.

(g) Notice of a proposed name assignment shall be sent to all persons owning property abutting the affected road or having an address on the affected road. Such notice shall be sent within 10 days of the receipt of an application, if any, or other action initiating the proposed road name assignment.

(h) Persons receiving notice under DCC 16.16.030(B) shall promptly notify any tenants or other occupants of the affected property of the proposed name assignment.

(i) Any person receiving notice under DCC 16.16.030(B) above may comment in writing on the proposed name within 10 days from the date of the notice. E. Standards.

a. General. The proposed road name shall:

- i. Be limited to a maximum of two words.

- ii. Not duplicate existing road names, except for continuations of existing roads.
- iii. Not sound so similar to other roads as to be confusing.
- iv. Not use compass directions such as North, East, South, etc., as part of the road name.
- v. Not use designations such as Loop, Way, Place, etc., as part of the road name.
- vi. Improve or clarify the identification of the area.
- vii. Use historical names, when possible.
- viii. Reflect a consensus of sentiment of affected owners and occupants, when possible, subject to the other standards contained in DCC 16.16.030.

2. Particular Roads. The proposed road name shall also conform to the following standards:

- a. North/South roads shall be called "roads" or "streets."
 - b. East/West roads shall be called "avenues."
 - c. Roads dead-ending in a turnaround 1,000 feet or less from their beginning points shall be called "courts."
 - d. Roads of reduced right of way or curving roads of less than 1,000 feet shall be called "lanes" or "terraces. "
 - e. Curving roads longer than 1,000 feet shall be called "drives" or "trails."
 - f. Roads that deviate slightly from the main course of a road with the same name, and are less than 1,000 feet in length, shall be called "places."
 - g. Roads that are four lanes or more shall be called "boulevards. "
 - h. Historical roads may be called "market" roads.
 - i. Roads running at oblique angles to the four points of the compass, less than 1,000 feet in length, shall be called "ways." (See Appendix "D," attached hereto.)
 - j. Roads that begin at and circle back onto the same road, or that are circular or semicircular, shall be called "circles" or "loops."
- F. Staff Review and Road Name Assignment. The Community Development Department shall review road name applications and shall assign road names under the following procedure:
1. Verify legal status of road with the County Clerk's office and Road Department.
 2. Check proposed road name(s) to avoid duplication or confusing similarity with other existing road names, with those on approved preliminary land divisions and with those approved for future use.
 3. Perform a field check, when necessary.
 4. Assist the applicant or other affected person(s) to find alternate names when required.
 5. Notify appropriate persons, departments and agencies of the road name application, and request comments.
 6. Review and consider all comments submitted.
 7. Assign a road name in accordance with the standards set forth in DCC 16.16.030(E) above.

- G. Notice of Staff Decision. Following assignment of a road name by the Community Development Department, notice of the road name assignment shall be sent to all persons entitled to notice under DCC 16.16.030(B).
- H. Appeal. Affected property owners and occupants shall have the right to appeal the assignment of a road name by the Community Development Department. Such appeals shall be conducted in accordance with the provisions of the Deschutes County Development Procedures Ordinance, except where the provisions of DCC 16.16.030 conflict with the procedures ordinance, in which case the provisions of DCC 16.16.030 shall apply. Affected property owners and occupants shall have 10 days from the date of the staff decision in which to file an appeal. Issues on appeal shall be limited to whether the Community Development Department correctly applied the criteria set forth herein.
- I. A road name assignment becomes final when no further right of appeal established herein is possible. Within 10 days of the road name assignment becoming final, the Board shall sign an order establishing the road name as assigned by the community Development Department.
- J. The affected property owners and occupants shall have 180 days from the date of the Board order of road name assignment to begin using the road name.
- K. Notice of Decision. Following the order of the Board naming a road, the Community Development Department shall:
 - 1. Notify the applicant requesting the road name of the action; and
 - 2. Send copies of the order naming the road to the following:
 - a. Road Department.
 - b. Assessor's Office and Tax Office.
 - c. Postmaster.
 - d. Planning Department.
 - e. County Clerk's office.
 - f. Affected telephone and other utilities.
 - g. Affected fire department(s).
 - h. Local school district(s).
 - i. Emergency services, i.e., police, fire, 911, etc.
 - 3. File the original order naming a road with the County Clerk.
 - 4. On a monthly basis, the Community Development Department shall publish a list of changed road names in a newspaper of general circulation designated for the purpose by the Board.

(Ord. 89-010 1989)

16.16.040. Procedures and Standards for Changing Existing Road Names.

The following procedures and standards shall apply to the changing of existing road names:

- A. An existing road name may be changed by the Community Development Department if the existing name:
 - 1. Duplicates a pre-existing road name within the same postal zip code or geographic area;
 - 2. Sounds like or is spelled so similarly to a pre-existing road name in the same postal zip code or geographic area as to cause confusion between the two roads;
 - 3. Is known by more than one name;
 - 4. Is different than the name of the road of which it is a continuation; or
 - 5. Is not consistent with County road naming standards set forth in DCC 16.16.

- B. In choosing which road name to change as between two or more roads with the same or similar names (affected roads), the department shall consider the following factors:
1. The number of properties, developed and undeveloped, abutting each affected road;
 2. The length of time a name has been in use to designate each affected road and whether the name used to designate each road has any historic significance;
 3. Whether one affected road as named is relatively better known by the general public than the other affected road or roads as named;
 4. Any showing that a proposed road name change would be relatively more burdensome to abutting property owners than if another affected road name were changed.
- C. Proposed name changes shall proceed under the process specified under DCC 16.16.030. (Ord. 89-010 *1, 1989)

Bureau of Land Management, Interior**§ 2801.9**

1761, and administering, amending, assigning, renewing, and terminating them;

(2) Grants to Federal departments or agencies for transporting by pipeline and related facilities oil, natural gas, synthetic liquid or gaseous fuels, and any refined products produced from them; and

(3) Grants issued on or before October 21, 1976, under then existing statutory authority, unless application of these regulations would diminish or reduce any rights conferred by the original grant or the statute under which it was issued. Where there would be a diminishment or reduction in any right, the grant or statute applies.

(b) *What don't these regulations apply to?* The regulations in this part do not apply to:

(1) Federal Aid Highways, for which Federal Highway Administration procedures apply;

(2) Roads constructed or used according to reciprocal and cost share road use agreement under subpart 2812 of this chapter;

(3) Lands within designated wilderness areas, although BLM may authorize some uses under parts 2920 and 6300 of this chapter;

(4) Grants to holders other than Federal departments or agencies for transporting by pipeline and related facilities oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced from them (see part 2880 of this chapter);

(5) Public highways constructed under the authority of Revised Statute (R.S.) 2477 (43 U.S.C. 932, repealed October 21, 1976);

(6) Reservoirs, canals, and ditches constructed under the authority of R.S. 2339 and R.S. 2340 (43 U.S.C. 661, repealed in part, October 21, 1976); or

(7)(i) Any project or portion of a project that, prior to October 24, 1992, was licensed under, or granted an exemption from, part I of the Federal Power Act (FPA) (16 U.S.C. 791a et seq.) which:

(A) Is located on lands subject to a reservation under section 24 (16 U.S.C. 618) of the FPA;

(B) Did not receive a grant under Title V of the Federal Land Policy and

Management Act (FLPMA) before October 24, 1992; and

(C) Includes continued operation of such project (license renewal) under section 15 (16 U.S.C. 808) of the FPA;

(ii) Paragraph (b)(7)(i) of this section does not apply to any additional public lands the project uses that are not subject to the reservation in paragraph (b)(7)(i)(A) of this section.

§ 2801.8 Severability.

If a court holds any provisions of the regulations in this part or their applicability to any person or circumstances invalid, the remainder of these rules and their applicability to other people or circumstances will not be affected.

§ 2801.9 When do I need a grant?

(a) You must have a grant under this part when you plan to use public lands for systems or facilities over, under, on, or through public lands. These include, but are not limited to:

(1) Reservoirs, canals, ditches, flumes, laterals, pipelines, tunnels, and other systems which impound, store, transport, or distribute water;

(2) Pipelines and other systems for transporting or distributing liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined products from them, or for storage and terminal facilities used in connection with them;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transporting and distributing solid materials and facilities for storing such materials in connection with them;

(4) Systems for generating, transmitting, and distributing electricity;

(5) Systems for transmitting or receiving electronic signals and other means of communication;

(6) Transportation systems, such as roads, trails, highways, railroads, canals, tunnels, tramways, airways, and livestock driveways; and

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way.

(b) If you apply for a right-of-way grant for generating, transmitting, and distributing electricity, you must also

§ 2801.10

comply with the applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act of 1935, 16 U.S.C. 791a *et seq.*, and 18 CFR chapter I.

(c) See part 2890 of this chapter for information about authorizations BLM issues under the Mineral Leasing Act for transporting oil and gas resources.

§ 2801.10 How do I appeal a BLM decision issued under the regulations in this part?

(a) You may appeal a BLM decision issued under the regulations in this part in accordance with part 4 of this title.

(b) All BLM decisions under this part remain in effect pending appeal unless the Secretary of the Interior rules otherwise, or as noted in this part. You may petition for a stay of a BLM decision under this part with the Office of Hearings and Appeals, Department of the Interior. Unless otherwise noted in this part, BLM will take no action on your application while your appeal is pending.

Subpart 2802—Lands Available for FLPMA Grants**§ 2802.10 What lands are available for grants?**

(a) In its discretion, BLM may grant rights-of-way on any lands under its jurisdiction except when:

- (1) A statute, regulation, or public land order specifically excludes rights-of-way;
- (2) The lands are specifically segregated or withdrawn from right-of-way uses; or
- (3) BLM identifies areas in its land use plans or in the analysis of an application as inappropriate for right-of-way uses.

(b) BLM may require common use of a right-of-way and may require, to the extent practical, location of new rights-of-way within existing or designated right-of-way corridors (see § 2802.11 of this subpart). Safety and other considerations may limit the extent to which you may share a right-of-way. BLM will designate right-of-way corridors through land use plan decisions.

43 CFR Ch. II (10–1–11 Edition)

(c) You should contact the BLM office nearest the lands you seek to use to:

- (1) Determine whether or not the land you want to use is available for that use; and
- (2) Begin discussions about any application you may need to file.

§ 2802.11 How does BLM designate corridors?

(a) BLM may determine the locations and boundaries of right-of-way corridors during the land-use planning process described in part 1600 of this chapter. During this process BLM coordinates with other Federal agencies, state, local, and tribal governments, and the public to identify resource-related issues, concerns, and needs. The process results in a resource management plan or plan amendment, which addresses to what extent you may use public lands and resources for specific purposes.

(b) When determining which lands may be suitable for right-of-way corridors, the factors BLM considers include, but are not limited to, the following:

- (1) Federal, state, and local land use plans, and applicable Federal, state, local, and tribal laws;
- (2) Environmental impacts on cultural resources and natural resources, including air, water, soil, fish, wildlife, and vegetation;
- (3) Physical effects and constraints on corridor placement due to geology, hydrology, meteorology, soil, or land forms;
- (4) Costs of construction, operation, and maintenance and costs of modifying or relocating existing facilities in a proposed right-of-way corridor (i.e., the economic efficiency of placing a right-of-way within a proposed corridor);
- (5) Risks to national security;
- (6) Potential health and safety hazards imposed on the public by facilities or activities located within the proposed right-of-way corridor;
- (7) Social and economic impacts of the right-of-way corridor on public land users, adjacent landowners, and other groups or individuals;



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Prineville District Office 3050 NE 3rd Street

Prineville, Oregon 97754 FEB 20 2018

Rec'd 2-27-18



In Reply Refer To:

2000, 2800 (ORP006)

CERTIFIED MAIL 7017 3380 0000 1219 9894

RETURN RECEIPT REQUESTED

Anthony Raguine

Deschutes County Planning Division

117 NW Lafayette Avenue

Bend, OR 97708

Dear Mr. Raguine:

On January 29, 2018, the Bureau of Land Management (BLM) Prineville District Office received notice of the application file number 247-18-000047-AD from Deschutes County. This application proposes a marijuana production facility at 6829 NW 66th Street in Redmond. At the time we were unable to provide written comments on the proposed land use action within ten days of mailing.

Upon recent review of the project area, BLM does have concern on a number of issues regarding the location of this proposal. A recent review of the land status near the property indicates that the property is accessed by travel across BLM lands (via what is indicated as 66th Street on the map). The portion of the road indicated as 66th Street that passes through public lands does not have a right-of-way granted to Deschutes County for it to be a County Road. Our records show that no legal access has been granted through public lands for the parcel in question. Our records also do not indicate that the applicant has applied for a right-of-way across public lands for commercial purposes. Access across public lands for commercial purposes requires a right-of-way grant issued by the BLM.

The location of the project area abuts to Public Land. BLM recommends that the applicant have a boundary survey of the parcel conducted to ensure no unintentional future trespass onto public lands occurs. Additionally, the BLM has concerns over the use of pesticides and herbicides and chemical residue migration onto public lands. It is requested that if chemical are used in the operation, that protocols are required to ensure that chemical residue is contained and does not migrate onto public lands.

If you have any questions, please contact Jeff Kitchens, Field Manager Deschutes Field Office at (541) 416-6766.

Sincerely,

Dennis C. Teitzel

District Manager

**Re: [EXTERNAL] Deschutes County Decision 6829 NW 66th
Beaucage, Thomas <tbeaucage@blm.gov>**

Thu 5/31/2018 3:15 PM

To: Casey Gibbs <dcaseygibbs@hotmail.com>;

Hello Casey,

I wanted to make sure that I got this response to you in a timely fashion due to your
upcoming deadline. To answer your questions about 6829 NW 66th St, Redmond,

Oregon:

Road access to the property is identified as being through BLM-managed land in the County's Finding
and Decision. This appears to be the only road access.

- There are no authorizations granting access to the property by the BLM.
- A right-of-way authorization from the BLM (under 43 CFR 2800) would be required for the
commercial use of this access across public land.

Options to obtain legal access for a marijuana production facility may not include BLM-managed lands.

The BLM can not issue a right-of-way supporting an activity that is illegal. Existing right-of-way grants
may be terminated if they are determined to be aiding in the cultivation, production or distribution of a
controlled substance as defined in Title 21 of the United States Code Chapter 13.

I am only addressing the land management issues here. There are, of course, criminal penalties involved
with violating the Controlled Substances Act.

Let me know if you have questions.

Tom Beaucage

Assistant Field Manager, Lands and Minerals

BLM, Prineville District Office



PRIVATE ROAD SIGN AT BLM BOUNDARY LINE



SECOND PRIVATE ROAD SIGN ON BLM LAND



TYPICAL ROAD CONDITION

STATEMENT OF INTENDED USE

Job site: Project/Building Permit: Pole Barn

Address: 6829 NW 66th Street Redmond, Or 97756

Property description: 20.0 Acre EFIJ

Township 14 Range 12 Section 23 Tax Lot 300

I/we, as owner/s of the above-described property, do hereby certify that the proposed building will be used for:

(Give specific details on the intended use of the building):

Undecided Agricultural Farm Use

I understand that any alternate use and non-compliance with this statement may result in the issuance of a citation.

Property Owner's Signature*:Date:



11/09/2017

Please be advised that any statement will be used to determine consistency with all applicable land use regulations. Permits from the Building Division will be required for any electrical, mechanical or plumbing installations.

Deschutes County Property Information

Building Permit details for account #127580

The Deschutes County Community Development Department is responsible for land use and permits for properties in the County's jurisdiction. Contact this department if you need additional information or if you have questions.

Account Information

Mailing Name: BABANI, ISAAC V

Map and Taxlot: 1412230000300

Account: 127580

Situs Address: 6829 NW 66TH

ST, REDMOND, OR 97756 Tax

Status: Assessable

Building Permit Details

Permit Number: 247-17-006689-STR

Application Date:
11/09/2017 Issue
Date: 02/15/2018

Status: Permit Issued

Permit Name: BABANI,
ISAAC V

Final Date:

Contractor Name: WALTON
BUILDING INC

Building Classification:
Commercial

On Sewer:

Class of Work: New -
Commercial

Square Feet: 5000
Bedrooms:
Stories: 1

Permit Valuation: \$225,450

Building Use: BARN
50X100

Inspections

Date: 05/23/2018

Initials: Chris

File # 247-18-000047-AD

Comments: 1999 Final Building**Date: 5/23/2018 Unable to locate property. Cell phone apps do not locate property correctly. Please leave detailed directions to site and a contact # when requesting inspection. -- Insp Cancelled : No Access

Date: 05/23/2018

Initials: Randy

Comments: 1999 Final Building**1. Provide level grade adjacent to landings within 4" to 7". 2. Complete truss bracing and gang nailing per roof truss documentation. 3. Provide permits for current T.I. underway in the structure. 4. Provide address numbers on building per code. See Conditions of Approval letter. 5. Provide proof of compliance with all RF&R requirements per the conditions of approval letter provided with the approved set of plans. See items # 4, 5, 6, & 7. CONDITIONS OF APPROVAL FOR 247-17-006689-STR BABANI COMMERCIAL BARN 1. Any interior build-out; electrical, plumbing or mechanical work will require additional permits. Any public component will require accessibility upgrades and additional permits. 2. Provide building address numbers that are visible from the street fronting the structure with 4" minimum height and which contrast with their background. Section 501.2, 2014 OSSC. 3. Door locks and latches must meet the requirements of Section 1008.1.9, 2014 OSSC. 4. Coordinate water supply & location requirements as per Appendix B & C, 2014 OFC and acceptable to Redmond Fire & Rescue. 5. Coordinate type and location of all portable Fire Extinguishers with the County Building Inspector and Redmond Fire & Rescue per Section 906, 2014 OFC. 6. Coordinate location of Key Lock Box with Redmond Fire & Rescue per Section 506, 2014 OFC. 7. Provide required Fire Apparatus Access Roads as per Section 503 and Appendix D, 2014 OFC. If you have any questions regarding these conditions, please contact me at 541-385-1701. Respectfully, Krista Appleby. Deschutes County F&LS Plans Examiner -- Insp Cancelled : Denied

Date: 03/28/2018

Initials: Rainer

Comments: 1240 Reinforcing Steel -- Insp Completed : Approved

Date: 03/21/2018

Initials: Rainer

Comments: 1260 Framing -- Insp Completed : Approved

Date: 02/21/2018

Initials: Rainer

Comments: 1140 Post Holes -- Insp Completed : Approved

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Deschutes County Property Information

Septic Permit details for account #127580

The Deschutes County Community Development Department is responsible for land use and permits for properties in the County's jurisdiction. Contact this department if you need additional information or if you have questions.

Account Information

Mailing Name: BABANI, ISAAC V
Map and Taxlot: 141223000300
Account: 127580
Site Address: 6829 NW 66TH ST, REDMOND, OR
97756 Tax Status: Assessable

Septic Permit Details

Permit Number: 247-17-001571-AUTH	Application Date: 11/09/2017	Status: Authorization Approved
Permit Name: BABANI, ISAAC V	Issue Date: 12/07/2017	
Contractor Name:	Final Date:	

Building Classification: Commercial	Tank Material:	Maximum Trench Depth:
Class of Work: Authorization Building	DEQ Approval Number:	Trench Length:
Use: LA FOR BARN 50X100 Linked	Service Code:	Tank Capacity:
Feasibility Permit:	System Type:	Daily Flow Rate:
Drainfield Type:		

Special Instructions:

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2920.0-5 Definitions.

As used in this part, the term:

- (a) Authorized officer means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this part.
- (b) Easement means an authorization for a non-possessory, non-exclusive interest in lands which specifies the rights of the holder and the obligation of the Bureau of Land Management to use and manage the lands in a manner consistent with the terms of the easement.
- (c) Lease means an authorization to possess and use public lands for a fixed period of time.
- (d) Permit means a short-term revocable authorization to use public lands for specified purposes.
- (e) Land use proposal means an informal statement, in writing, from any person to the authorized officer requesting consideration of a specified use of the public lands.
- (f) Land use plan means resource management plans or management framework plans prepared by the Bureau of Land Management pursuant to its land use planning system.
- (g) Public lands means lands or interests in lands administered by the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos.
- (h) Person means any person or entity legally capable of conveying and holding lands or interests therein, under the laws of the State within which the lands or interests therein are located, who is a citizen of the United States, or in the case of a corporation, is subject to the laws of any State or of the United States.
- (i) Proponent means any person who submits a land use proposal, either on his/her own initiative or in response to a notice for submission of such proposals.
- (j) Applicant means any person who submits an application for a land use authorization under this part.
- (k) Casual use means any short term non-commercial activity which does not cause appreciable damage or disturbance to the public lands, their resources or improvements, and which is not prohibited by closure of the lands to such activities.
- (l) Land use authorization means any authorization to use the public lands issued under this part.
- (m) Knowing and willful means that a violation is knowingly and willfully committed if it constitutes the voluntary or conscious performance of an act which is prohibited or the voluntary or conscious failure to perform an act or duty that is required. The terms does not include performances or failures to perform which are honest mistakes or which are merely inadvertent. The term includes, but does not require, performances or failures to perform which result from a criminal or evil intent or from a specific intent to violate the law. The knowing or willful nature of conduct may be established by plain indifference to or reckless disregard of the requirements of law, regulations, orders, or terms of a lease. A consistent pattern of performance or failure to perform also may be sufficient to establish the knowing or willful nature of the conduct, where such consistent pattern is neither the result of honest mistake or mere inadvertency. Conduct which is otherwise regarded as being knowing or willful is rendered neither accidental nor mitigated in character by the belief that the conduct is reasonable or legal.

[46 FR 5777, Jan. 19, 1981, as amended at 52 FR 49115, Dec.



BOARD OF COMMISSIONERS' MEETING
REQUEST TO SPEAK

Citizen Input or Testimony

Burnerberg

Subject: Ridgeview - Cascade Date: _____

Name: Steve Burnett, Fran Burnerberg

Address: 7123 N.W. 6th
Redmond, OR 97756

Phone #s: 503-391-5337

E-mail address: aburnerberg@burnerberg.com ; Direct White House consult H. C. 02

In Favor Neutral/Undecided ~~Opposed~~

Submitting written documents as part of testimony? Yes No
If so, please give a copy to the Recording Secretary for the record.

**SUBMIT COMPLETED REQUEST TO
RECORDING SECRETARY BEFORE MEETING BEGINS**

Board of Commissioners
Deschutes County
1300 NW Wall Street
Bend Oregon 97703

Re: File Number 247-18-000047-AD. Brett Richwine, Cascade Estate Farms, LLC.
Applicant. Isaac Babani, Owner

Dear Commissioners,

Thank you for the opportunity to present testimony at this hearing. Jamie Ross and I own 7123 NW 69th Place (Lot 1 in the Mary K. Falls subdivision), which directly adjoins the Applicant's property on the south side. The map of adjacent properties with dwellings submitted by the Applicant fails to disclose the presence of our house even though we are arguably the closest house to the proposed marijuana growing facility.

We have owned our property for over 20 years and have watched the 69th Street neighborhood evolve from a very troubled area with meth labs, junkyards, etc. into a functioning neighborhood appropriate for families.

We would like to raise four issues with respect to the proposed application:

- 1. Wastewater management is not explicitly addressed in the application.**
The Applicant has proposed using trucked in water to serve the very significant water demands of their facility. However, the Applicant has not committed to the manner in which wastewater from their indoor growing facility will be disposed of. This is of significant concern as indoor cultivation is known to produce both solid waste, (which the applicant does describe the storage of but, not the ultimate disposal of) and waste water with significant concentrations of nitrogen and other chemicals in concentrations potentially injurious to drinking water supplies. Indoor cannabis growing also, typically involves the use of pesticides and other industrial chemicals, the residue of which is carried by the wastewater.

This issue is of particular concern because the Applicant's property is in an area of shallow wells, which sit atop a common water layer, located about 120-200 feet below the surface. Surface pooling of water also occurs in some locations due to the presence of low-lying lava rock shelves in many areas. Under these circumstances, pollution introduced by the disposal of wastewater from the facility runs a significant risk of causing damage to the wells of the adjacent property owners and potentially to the water table itself.

We request that the Applicant's application be denied until an appropriate and comprehensive plan for wastewater disposal is provided.

2. Adjacent homes are not fully disclosed by the Applicant, rendering compliance with the setback requirements inconclusive.

As previously noted our house is immediately adjacent is not disclosed on the maps provided by the Applicant. Our house sits approximately 150 feet from the Applicant properties southern property line and is perhaps the closest dwelling to the Applicant's proposed site. As the Applicant failed to disclose the presence of our house, the current Application fails to have demonstrated compliance with the set back requirements.

The Application should be denied for failure to disclose the existence of our dwelling as this renders its compliance with setback requirements incomplete.

3. The Application is internally inconsistent regarding noise generation.

The text of the application itself says "no noise" will be generated that is audible beyond the property lines. However, a careful reading of the exhibits attached to the application discloses that 6 condenser units will be located outside the building on the South side. The application fails to provide an opinion from an engineer that the condenser units, which commonly do produce noise, will be silenced in some way. The nighttime quiet is a cherished aspect of living in this remote region and any noise such as that of cycling condensers, which run all night would be detrimental to the quality of life on adjacent properties. We note that marijuana cultivation operations are not "farms" for purposes of the "right to farm" statutes and thus should be held strictly to controlling emitted noise, smell and impacts on adjacent property owners.

4. Applicant's ability to use the BLM road easement that provides access to the Applicant property has not been demonstrated.

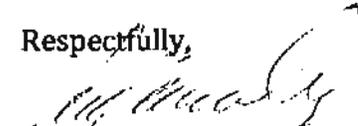
Road access to the Applicant property is via a road on located on BLM property. It has not been demonstrated that use of that easement for purposes of growing marijuana is allowable given the federal government's opposition to the cultivation of marijuana. We believe that that application should be denied until a credible legal opinion is provided stating that the ability of the Applicant to use the BLM easement for this purpose is not in question.

Based on the foregoing four points, we respectfully request that the board of Commissioners deny the Applicants application.

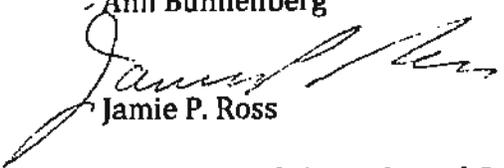
Thank you for the opportunity to present this testimony during the hearing. It gives us no pleasure to oppose a neighbor's plans for their property----but this is a situation where the property was bought expressly for the purpose of changing the

use of the property from its traditional use as a rural residential horse property to a commercial cannabis production facility. Under these circumstances, we feel it is necessary to seek to hold the Applicant strictly to compliance with the regulations in this area so that the neighborhood does not suffer unduly from the Applicant's commercial endeavors.

Respectfully,



Ann Bunnenberg



Jamie P. Ross

7123 NW 69th St., Redmond Oregon



BOARD OF COMMISSIONERS' MEETING
REQUEST TO SPEAK

Citizen Input or Testimony

Subject: Proposed Marijuana Grow Date: 7-7-18

Name William Finchliff

Address 7100 NW River Springs Rd

Phone #s 541-604-9347

E-mail address wchinchliff@cbmail.com

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No
If so, please give a copy to the Recording Secretary for the record.

**SUBMIT COMPLETED REQUEST TO
RECORDING SECRETARY BEFORE MEETING BEGINS**



BOARD OF COMMISSIONERS' MEETING
REQUEST TO SPEAK

Citizen Input or Testimony

Subject: WATER HEARING Date: 7-2-14

Name RAY R. JENSEN

Address 7150 NW RIVER SPRINGS RD
REDMOND

Phone #s 541-542-9930

E-mail address mujensen43@gmail.com

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No
If so, please give a copy to the Recording Secretary for the record.

**SUBMIT COMPLETED REQUEST TO
RECORDING SECRETARY BEFORE MEETING BEGINS**

Written testimony
only



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Citizen Input or Testimony

Subject: Marijuana opent Date: 7-2-18

Name Spencer Krueger

Address 7940 NW Grubstake
Redmond OR 97756

Phone #s 541 504 5618

E-mail address spencerk@bendbroadband.com

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No

If so, please give a copy to the Recording Secretary for the record.

**SUBMIT COMPLETED REQUEST TO
RECORDING SECRETARY BEFORE MEETING BEGINS**

My name is Spencer Krueger. My wife and I live at 7940 NW Grubstake Way in the Odin Falls Ranch development. There are over 60 properties in our gated community, including River Springs Estates. We are zoned multi-use agricultural but there is nothing agricultural about any of the properties. No horses, nothing. It is a purely residential community. I agree with the proposed changes in the County's rules discussed in the Bulletin article of June 13th rejecting marijuana operations in multi-use areas. Also, this proposed grow operation is within 0.5 mile of public areas managed by the BLM, which is another reason new rules would disallow this ~~grow~~ operation.

Also of concern to us is the aquifer that provides our community with drinking water. What is the possibility that this operation will contribute to the depletion of this aquifer and also it's contamination with ~~the~~^{its} effluent from the ~~operation~~. These grow operations are huge users and wasters of our valuable water sources. Also, what about negative effects on the nearby Deschutes River? Can the applicant reassure us of these concerns?

Crime. Our community has seen an up-tick in crime recently. The police believe that the perpetrators are coming from the BLM. We are concerned that this grow operation will further encourage criminal activity in the area. It is well known that there is a large excess of marijuana and that much of the excess ends up on the black market. The OLCC has been unable to successfully control this criminal activity. We do not need more criminals in our area! Please vote to disallow this grow operation. Thank you.



DESCHUTES COUNTY SHERIFF'S OFFICE

L. Shane Nelson, Sheriff

Proudly Serving Our Community

RECEIVED

JUN 09 2011

Deschutes County (11)

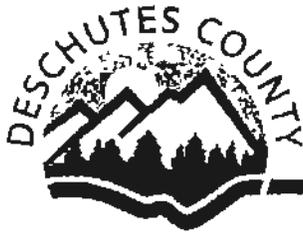
Comment from Sheriff L. Shane Nelson:

Our concern lies in the odor, sights, sounds and set backs of the property in this type of request and how it affects the livability of our community members; in conjunction with the issue that marijuana is illegal on a federal level.

In addition, we are finding the calls for service related to marijuana grow operations are increasing.

If this information is accurate, we should not deviate or make exceptions to any regulations on the books.

- Marijuana production is against Federal Law
- There are several rural residents who have issues with smell, sound and sight issues related to marijuana grows and how these affect quality of life.
- According to U. S. Attorney Billy Williams and OSU Professor Seth Crawford, there is three times the amount of marijuana being produced in Oregon than the state can consume in the "legal" market.
- According to the draft OSU Marijuana Analyst report, there is \$4 billion to \$9 billion worth of street value marijuana that is unaccounted for given the "legal" consumer market in the State of Oregon. It is highly probable this is being diverted to the black market industry.



Mailing Date:
Tuesday, June 26, 2018

COMMUNITY DEVELOPMENT

REVISED NOTICE OF PUBLIC HEARING

The Deschutes County Board of Commissioners will hold a public hearing on Monday, July 2, 2018, at **10:00 AM**¹ in the Deschutes County Board of Commissioners Hearing Room at 1300 NW Wall Street, Bend, to take testimony on the following item:

- FILE NUMBER:** 247-18-000047-AD (247-18-000452-A, 247-18-000453-A)
- APPLICANT:** Brett Richwine, Cascade Estate Farms LLC
- OWNER:** Isaac Babani
- AGENT:** Michael Hughes, Hughes Law and the Hughes Companies
- SUBJECT:** Appeal of an administrative determination to establish a marijuana production facility at 6829 NW 66th Street, Redmond. The applicant is proposing to construct a 50' x 100' (5,000 square-foot) structure with a maximum mature canopy area of 5,000 square feet.

- HEARING PROCEDURES:** Pursuant to DCC 22.24.070, the Board has determined the public hearing will be conducted as detailed below:
 - The applicant, Cascade Estate Farms, will be given twenty (20) minutes for opening testimony;
 - The appellants, Odin Falls Ranch Property Owners Association and Tetherow Crossing Homeowners Association, will each be given twenty (20) minutes for opening testimony;
 - Public testimony will be limited to three (3) minutes for each individual

STAFF CONTACT: Nicole Mardell, Associate Planner
nicole.mardell@deschutes.org, 541-317-3157

DOCUMENTS: Can be viewed and downloaded from:
www.buildingpermits.oregon.gov and <http://dial.deschutes.org>

Seven (7) days prior to the public hearing, copies of the proposed documents and attachments will be available for inspection at no cost at the Deschutes County Community Development Department at 117 NW Lafayette Avenue. Copies of the documents and attachments can be purchased at the office for (25) cents a page.

ALL INTERESTED PERSONS MAY APPEAR, BE HEARD, BE REPRESENTED BY COUNSEL, OR SEND WRITTEN SIGNED TESTIMONY. ALL WRITTEN REPLIES MUST BE RECEIVED BY THIS DEPARTMENT PRIOR TO THE HEARING DATE OR SUBMITTED AT THE HEARING. ANY PARTY TO THE APPLICATION IS ENTITLED TO A CONTINUANCE OF THE INITIAL EVIDENTIARY HEARING OR TO

¹ This revised Notice of Public Hearing corrects a typo in the time of the hearing listed in the June 5, 2018 Notice of Public Hearing.

From: [Spencer Krueger](#)
To: [Nicole Mardell](#)
Subject: Additional testimony 247-18-000047-AD
Date: Wednesday, July 04, 2018 6:08:56 AM

Dear Ms. Mardell,

Additional testimony: file 247-18-000047-AD Cascade Farms marijuana production facility

I was struck by the number of errors or deceptions made by Mr. Hughes and Mr. Richwine on Monday. Comparing overproduction of marijuana, an illegal crop in most states, to corn was ludicrous. It is common knowledge that the oversupply of the drug is in high demand, i.e. profitable, on the black market and, presumably, controlled by gangs and drug cartels. Secondly, the 200,000 gallons of water that they informed us as falling on a 5000 sq ft roof annually is also specious. 27,000 gallons is the correct figure and the vast majority falls during the winter/spring months. Richwine, I believe, will not be utilizing most, if any, of this precipitation. Storage is extremely expensive.

Mr. Richwine may currently live in the county, but according to the real estate records, the owner, Isaac Babani, recently bought the property and lives in Florida.

This is not a production facility surrounded by the agricultural land. This property is bordered on 2 sides by residential areas (multiuse agricultural), home to 100-125 people. Fire, as mentioned in the hearing, is a real concern.

Also, I don't believe any mention was made of the County's proposal to not allow marijuana facilities within 0.5 mile of federal lands (The Bulletin June 13). Is this now not a factor?

Spencer Krueger
7940 NW Grubstake Way
Redmond, OR
July 3, 2018

To: Tony DeBone
Phil Henderson
Tammy Baney

RE: File # 247-18-000047-AD (247-18-000452-A, 247-18-000453-A)

Dear Commissioners,

I attended and spoke at the hearing referenced above on Monday, July 2, 2018. During that meeting, Brett Richwine (Cascade Estate Farms, LLC) stated in response to questions about the water supply needed for his marijuana grown, that he had his building(s) fitted with gutters to increase his water supply and the gutter installer indicated he would receive about 200,000 gallons of water per year.

After the meeting, I used U.S. Climate Data to determine the average annual rainfall for Redmond, Oregon. It is **8.88 inches** per year.

Then I found a website that calculates rainfall catchment volume (www.calcuool.org). I don't know what the roof surface area is that he had guttered but used the **5,000 square foot** number from his grow site. It may be more or less than this number.

Using these numbers, the annual rainfall volume is only **27,678 gallons per year**, not 200,000 gallons. Far less than what he indicated.

There are 3 other factors that would/could affect the total volume of rain collected:

1. The volume number does not take into consideration evaporation.
2. If 5,000 square feet is the correct number and the roof is sloped the catchment area would be less than this number.
3. I don't know if the average annual rainfall number includes snow.

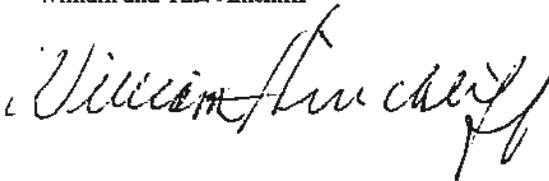
Maybe this information is not important for you to reach your final decision. With the applicant not currently having irrigation rights, rainfall catchment not being adequate to supply them with enough additional water for their grow, most likely having to drill their well deeper which may have a negative effect on surrounding wells and most likely having to transport water over the existing roads affecting others who pay to maintain it, I feel it is.

Legal marijuana is now codified into Oregon law but this is just not the right place for this reason and the others stated at this week's hearing for a commercial marijuana grow.

Thank you for your time and consideration.

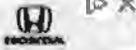
Regards,

William and Tina Hinchliff





MyGT
Main
Forum



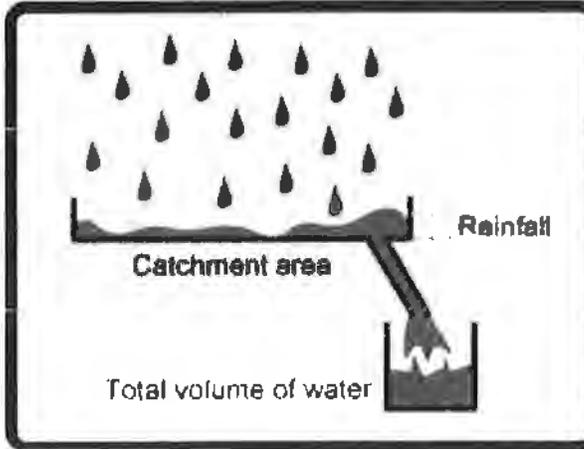
Honda HR-V

Volume of rainfall

From amount of rain and area.

Search

[Other subcategories index](#)
[Other calc index](#)



the calc

The catchment area is multiplied by the depth of rain that falls on it to give the total volume of water produced. Factors such as evaporation, wetting, and soaking into the ground are not considered here.

Catchment area:

Rainfall height:

Water volume:

Calculate!

Add

notes

Although this calculation is simple in principle, the units can make it a headache. However, CalcTool's unit menus remove this issue, doing all the unit conversion for you.

Here you can easily find how much rainwater you can collect from you roof, how much you need to remove from a courtyard, or how much runoff you can expect from an area of land.

Share / Save ...

© Andy & Steve Shipway 2008

Nicole Mardell

From: Odin Falls HOA <odinfallshoa@gmail.com>
Sent: Sunday, July 08, 2018 9:18 PM
To: Nicole Mardell
Subject: Additional Info File # 247-18-000047-AD
Attachments: Marijuana Farm Additional Info.pdf

Nicole-

Attached please find additional relevant information regarding the appeal of Cascade Farms recreational marijuana application; file # 247-18-000047-AD, for consideration by the Deschutes Board of County Commissioners.

Thank you.

-Casey Gibbs

Secretary, Odin Falls Ranch HOA

File # 247-18-000047-AD

ADDITIONAL EVIDENCE FOR THE DESCHUTES COUNTY BOARD OF COUNTY COMMISSIONERS
IN THE MATTER OF FILE # 247-18-000047-AD

Deschutes County Board of County Commissioners

APPELLANT: Odin Falls Ranch Property Owners Association PO Box 2213, Redmond, Oregon 97756

CONTACT: D Casey Gibbs, Secretary, OFRPOA 541-316-1626

File Number: 247-18-000047-AD

SUBJECT PROPERTY: 6829 NW 66th Street, Redmond and is identified on Deschutes County Assessor's
Map 14-12-23, Tax Lot 1412230000300

APPLICANT: Brett Richwine, Cascade Estate Farms LLC

OWNER: Isaac Babani

The following information is relevant to a decision in this case:

WATER RIGHTS AND USEAGE

1. Applicant stated in testimony that he has water rights to the subject property. A search of the water records in the Oregon Water Resources Department database shows that in Township 14S, Range 12E, Section 23, there are three (3) holders of water rights. None of them is appurtenant to the subject property, nor to Isaac Babani or Brett Richwine. (*See water right holders of record, pg 3*)
2. Applicant has appurtenant use of the Domestic Water Well drilled in September, 2016 for Domestic purposes; an exempt use. (*See attched well log, pg 4, noting Domestic use only*) **The use of domestic groundwater for any commercial agricultural use, including growing of marijuana is NOT an exempt use, and is specifically prohibited by Oregon State law. (ORS 537.545 (1) (b))**
3. Applicant stated in testimony that he will collect and use 200,000 gallons of rainwater for irrigation via his roof and gutter system. The average annual rainfall in Central Oregon is 8.88 inches per year, most of which accrues in the fall and winter months. A 5,000 square foot area (roof) would collect 27,678 gallons of water, assuming 100% efficiency.
4. Therefore, Applicant's only legal source of water is via heavy truck traffic over 2.3 miles of the privately maintained roads of Tetherow Crossing, causing undue wear and tear as testified to in the County Commissioner's hearing.

ILLEGAL ACCESS ACROSS BLM LAND

1. Applicant testified that he was granted access to the subject property via the deed of purchase. The Statutory Warranty Deed on file shows this is not the case. There is no grant of easement for the driveway across the BLM land. This deed only warrants the property itself to be free and clear, except for "...rights of way and easements of record...". **This does not grant an easement or right of way across Federal lands for the purpose of site access.** (See Warranty Deed, pg 4,5)
2. The lack of a Grant of Easement across BLM land has been noted three (3) time by the BLM, and has been acknowledged by Nicole Mardell, Deschutes County Planning Department; as well as an exhaustive search of title transfer and easement records dated back to the original Patent Grant from the U S Government. **There is no legal access to this lot, nor is it a legal county address.**



Records/Page:

	Contacts	<u>Application</u>	<u>Permit</u>	<u>Certificate</u>	<u>Claim</u>	<u>Decree</u>	<u>Transfers</u>	<u>Status</u>
Select	OWNER: ▷ AVION WATER CO. INC 60813 PARRELL RD BEND, OR 97702	G10617	G9982					NC
Select	OWNER: ▷ AVION WATER CO. INC 60813 PARRELL RD BEND, OR 97702	G12757	G12330					NC
Select	OWNER: ▷ ROBERT MAYFIELD 908 S CANYON DR REDMOND, OR 97756	G10234	G9374	64246				NC

WATER RIGHTS HOLDERS OF RECORD

9/6/2016

(1) LAND OWNER Owner Well ID _____
 First Name PAM Last Name FINDLEY
 Company _____
 Address 6829 NW 66TH ST
 City RIDMOND State OR Zip 97756

(2) TYPE OF WORK New Well Deepening Conversion
 Alteration (complete 2a & 10) Abandonment (complete 5a)

(2a) PRE-ALTERATION
 Dia + From To Gauge Stl Plstc Wld Thrd
 Casing:
 Material From To Amt sacks/lbs
 Seal: _____

(3) DRILL METHOD
 Rotary Air Rotary Mud Cable Auger Cable Mud
 Reverse Rotary Other _____

(4) PROPOSED USE Domestic Irrigation Community
 Industrial/ Commercial Livestock Dewatering
 Thermal Injection Other _____

(5) BORE HOLE CONSTRUCTION Special Standard (Attach copy)
 Depth of Completed Well 258.00 ft.
BORE HOLE
 Dia From To Material From To Amt sacks/lbs

12	0	18.5	Bentonite	0	18.5	13	S
8	18.5	258			Calculated	10.49	
					Calculated		

How was seal placed: Method A B C D E
 Other BENTONITE DRY
 Backfill placed from _____ ft. to _____ ft. Material _____
 Filter pack from _____ ft. to _____ ft. Material _____ Size _____
 Explosives used: Yes Type _____ Amount _____

(5a) ABANDONMENT USING UNHYDRATED BENTONITE
 Proposed Amount _____ Actual Amount _____

(6) CASING/LINER
 Casing Liner Dia + From To Gauge Stl Plstc Wld Thrd

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	8	<input checked="" type="checkbox"/>	1.5	18.5	250	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	6	<input type="checkbox"/>	6	258	188	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

 Show Inside Outside Other Location of shoe(s) _____
 Temp casing Yes Dia _____ From _____ To _____

(7) PERFORATIONS/SCREENS
 Perforations Method factory cut
 Screens Type _____ Material _____

Perf/Screen	Casing/Screen	Dia	From	To	Slot width	Slot length	# of slots	Tel/pipe size
Perf	Liner	6	218	258	125	3	468	

(8) WELL TESTS: Minimum testing time is 1 hour
 Pump Bailer Air Flowing Artesian
 Yield (gal/min) 50 Drawdown 240 Drill stem/Pump depth _____ Duration (hr) 1
 Temperature 65 °F Lab analysis Yes By _____
 Water quality concerns? Yes (describe below) TDS amount _____

From	To	Description	Amount	Units
				4

(9) LOCATION OF WELL (legal description)
 County DESCHUTES Twp 14.00 S N/S Range 12.00 E E/W WM
 Sec 23 SE 1/4 of the NE 1/4 Tax Lot 300
 Tax Map Number _____ Lot _____
 Lat _____ " or _____ DMS or DD
 Long _____ " or _____ DMS or DD
 Street address of well Nearest address
6829 NW 66TH ST RIDMOND OR

(10) STATIC WATER LEVEL

Existing Well / Pre-Alteration Completed Well	Date	SWL (psi)	+ SWL (ft)
	9/5/2016		136

 Flowing Artesian? Dry Hole?
 WATER BEARING ZONES Depth water was first found 136.00

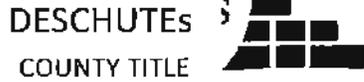
SWL Date	From	To	Est Flow	SWL (psi)	+ SWL (ft)
9/5/2016	136	258	50		<input checked="" type="checkbox"/> 136

(11) WELL LOG Ground Elevation _____

Material	From	To
Top Soil	0	1
Java Gray	1	5
Lavn brown	5	8
Java Gray	8	30
Java with pink color	30	41
Java Gray	41	74
Gray Sand stone	74	98
Dark Brown Sand stone soft	98	127
Fractured Basalt	127	130
Fractured Lava	130	141
Dark Brown Soft Sand Stone Congl	141	169
Fractured Java Brown Congl	169	187
Red Sand Stone Congl soft	187	258

Date Started 9/5/2016 Completed 9/5/2016
(unbonded) Water Well Constructor Certification
 I certify that the work I performed on the construction, deepening, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.
 License Number 1255 Date 9/6/2016
 Signed WILLIAM DOUG AIKEN (E-filed)

(bonded) Water Well Constructor Certification
 I accept responsibility for the construction, deepening, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.
 License Number 1970 Date 9/6/2016
 Signed NEIL M FAGEN (E-filed)
 Contact Info (optional) 541-548-1245



After Recording Return to.
Isaac V. Babani
.11619 NW 48th Lane
Doral, FL 33178

Until a change is requested all tax statements
shall be sent to the following address:
(same as above)

File No. DE3414

Deschutes County Official Records 2017—041 106			
	10/13/2017 01	PM	
Stn=O BN			
\$10.00	\$21.00	\$1 1 00	\$10.00 \$6.00 \$58.00
I, Nancy Blankenship, County Clerk for Deschutes County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.			
Nancy Blankenship - County Clerk			

STATUTORY WARRANTY DEED

Pamela S. Findley herein called grantor,
convey(s) and warrant(s) to
Isaac V. Babani,

herein called grantee, all that real property situated in the County of Deschutes, State of Oregon, described as:

The South Half of the Southeast Quarter of the Northeast Quarter of Section 23, Township 14 South, Range 12 East of the Willamette Meridian, Deschutes County, Oregon.

(Map and Taxlot: 1412230000300, Account: 127580)

and covenant(s) that grantor is the owner of the above described property free of all encumbrances except covenants, conditions, restrictions, reservations, rights, rights of way and easements of record, if any, and apparent upon the land, contracts and/or liens for irrigation and/or drainage; and except any real property taxes due but not yet payable; and will warrant and defend the same against all persons who may lawfully claim the same, except as shown above.

The true and actual consideration for this transfer is \$395,000.00.

DE3414

Return To
Deschutes County Title

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

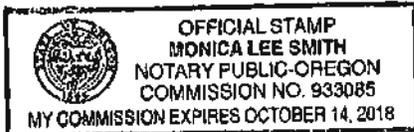
Dated: 10/ _____ 2017


Pamela S. Findley

STATE OF OREGON, County of Deschutes 133:

On 10/10 2017, personally appeared the above named **Pamela S. Findley** and acknowledged the foregoing instrument to be Her voluntary act and deed.

Before me: 
Notary Public for Oregon
My commission expires: 10/14/18



Official Seal

On foregoing instrument to be Her voluntary act
and de

Official Seal

Laid Law

247-17-000293-AD



Jennifer M. Bragar
Attorney
Admitted in Oregon, Washington,
and California
jbragar@tomasilegal.com

121 SW Morrison St, Suite 1850
Portland, Oregon 97204
Tel 503-894-9900
Fax 971-544-7236
www.tomasilegal.com

June 9, 2017

BY EMAIL AND U.S. MAIL

Nick Lelack
Community Development Building
117 NW Lafayette Avenue
Bend, OR 97703

Re: Laidlaw Farms, LLC Application for Proposed Marijuana Production
Case File: 247-17-000293-AD

Dear Mr. Lelack:

This firm represents Martha and Timothy McGinnis ("McGinnis") who own property located at 64980 Collins Road, in Tumalo. The McGinnis property is located less than a mile from the Laidlaw Farms, LLC's (Laidlaw Farms, LLC and Frank Cibelli are collectively referred to as "Applicants") property located at 18281 Couch Market Road, Bend, Oregon (the "Subject Property") where the Applicants seek permit approval for production of marijuana (the "Application"). Please include these comments in the record.

The following comments provide justification for denial of the Application. The Application violates Deschutes County Code ("DCC") 18.116.330.B.7 because the proposed use is too close to a youth activity center. The comments also identify other shortcomings in the current form of the Application, but since the Application is incomplete, McGinnis will not have a full opportunity to comment on these materials unless the Planning Department decides to send this case directly to a Hearings Officer.

I. Marijuana production cannot be approved on the Subject Property because the Subject Property is too close to a youth activity center

Under DCC 18.116.330.B.7.a, marijuana production facilities cannot be located within 1,000 feet of a youth activity center. The City of Bend's Tillicum Park is a public park used as a youth activity center where children gather to ride horses, hike, fly model airplanes, archery and participate in an annual children's pumpkin hunt. The Applicants' proposed marijuana production use is within 1,000 feet of Tillicum Park. See Exhibit 1 (zoning map for Cibelli Property shown in red outline and location of Tillicum Park directly across Couch Market Road).

While the County Code does not define "youth activity center," the definition can be understood by reviewing the individual definitions of the words as these are words of common usage. *State v. Gaines*, 346 Or. 160, 175 (2009) (courts presume the "legislature intended terms

to have plain, natural, and ordinary meaning." Each word in the phrase "youth activity center" supports a finding that Tillicum Park is a sensitive use where the County's marijuana production facility regulations intended to prevent adverse impacts to uses associated with youth activities.

- The plain meaning of "youth" is "the time of life when one is young" or "a young person."¹
- The plain meaning of "activity" is "the quality or state of being active" or "physical motion or exercise of force: as a: vigorous or energetic action: liveliness."²
- Finally, the plain meaning of "center" is "a point around which things revolve; often: a focal point for attraction, concentration, or activity: a point, area or person, or thing that is most important or pivotal in relation to an indicated activity, interest, or condition" in addition, a "center" can be understood to be "a point, *area*, person, or thing *upon which* attention, feeling, *or action converges*."³ (emphasis added).

In other words, a youth activity center is an area of convergence to allow the actions of young people.

Tillicum Park is a youth activity center because children regularly converge at the park for various active and physical use of the space. Therefore, the Application must be denied because the Subject Property cannot meet the minimum requirements under DCC 18.116.330.B.7.a.

II. The Application is not supported by an adequate water right to serve the proposed marijuana grow facility

Under DCC 18.116.330.B.13 the Applicants are required to provide a copy of a water right permit. The Applicants provided a partial copy of their water right as Exhibit B. However, the Applicants' response and Exhibit B fail to demonstrate compliance with DCC 18.116.330.B.13 because the water right is not available to serve the proposed use.

Section 13 of the Application indicates that the Subject Property has access to "two acres of Tumalo irrigation water rights." However, a review of the underlying OWRD Certificate for the water right (Exhibit B) submitted with the Application clarifies that the Applicants only have a vested right to irrigate 1.14 acres. This means that the water right holder is not allowed to use the full amount of water to irrigate 2 acres of land.

¹ Webster's Third New International Dictionary p. 2654 (unabridged ed 2002) ("Webster's").

² *Id.* at p. 22.

³ *Id.* at p. 362.

Significantly, the use of water on the Subject Property is limited to the area where the 1.14 acres of water use is "proved up." The Applicants did not include the final proof of survey for this water right that is on record with the Oregon Water Resources Department ("OWRD"). The final proof of survey is attached hereto and incorporated herein as Exhibit 2. This map shows that the only portion of the Subject Property that can receive irrigation water is the 1.14 mapped acres. The proposed marijuana production facility does not coincide with the mapped irrigation area. Moreover, this surveyed area is well-within the 1,000 foot boundary of a youth activity center as set forth under Section I, *supra*, and the use could not be allowed in the approved area.

In addition to the limitation on the use of the water right, the information contained in the application falls short of providing an explanation of whether this water right could possibly be adequate to serve the use:

- The Applicants do not explain the expected water demand to allow the County to evaluate whether the 1.14 acres of water rights are sufficient to meet the needs of the proposed use.
- As shown on Exhibit B, the Applicants may only access the water rights from March 1 through October 31. The Application fails to provide any information or documentation regarding what additional sources of water rights are available the remainder of the year.
- Exhibit B contains the type of water right held by the Applicants - an irrigation right for use during the "irrigation season." The OWRD's use of the word "irrigation" "means the artificial application of water to crops or plants by controlled means to promote growth or nourish crops or plants" for in-ground planting.⁴ However, the Application describes a "Nursery Operations Use." A "Nursery Operations Use" includes watering of containerized stock and watering within greenhouses.⁵ The OWRD rules make it clear that the Applicants will be using the water in a greenhouse setting and the submitted documentation does not permit Nursery Operations Use.

The foregoing establishes that water is not available to serve the proposed use. Therefore, the Application must be denied.

III. The Applicants fail to address wetlands on the Subject Property

The Applicants do not mention the wetlands located on the Subject Property. However, the attached Exhibit 3 are two diagrams (at different scales) that show the location of the National Wetlands Inventory-designated wetlands on the Subject Property. Because wetlands are located on the Subject Property, DCC 22.08.050 requires the County to provide notice to the

⁴ OAR 690-300-0010(26).

⁵ OAR 690-300-0010(30).

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Nick Lelack

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Department of State Lands ("DSL"). We understand that such notice was provided but the impact on the wetlands must be evaluated prior to any approval on the Application. In its May 24, 2017 comments to the County, the DSL indicated this evaluation must occur.

IV. The Application lacks information about whether electricity is available to serve the proposed use

Under DCC 18.116.330.B.15 the Applicants are required to provide a statement that each applicable utility company proposed to serve the operation is "able and willing to serve the operation." Again, the Application is deficient because the letter from the utility provider, Central Electric Cooperative, Inc., merely recites that it serves the Subject Property but makes no mention of the required usage, and related ability to serve, the specific proposed usage of the Subject Property to produce marijuana. As the email from Central Electric Cooperative, Inc. indicates, attached hereto as Exhibit 4, the utility company did not consider nor express a willingness to serve this particular use of the Subject Property.

V. The Application lacks sufficient information regarding buildings plans and setbacks

The Applicants must provide all the supporting information necessary to meet the requirements of DCC 18.116.330.B so that the County is able to evaluate whether the Application complies with applicable criteria. As explained below, and throughout this letter, there is insufficient information, unclear information, or conflicting information in the Applicants' attempts to respond to many of the requirements of DCC 18.116.330.B. Notably, the Applicants fail to provide the exact size, location, and number of proposed structures.

First, the County cannot properly evaluate whether the plan will comply with the numerous requirements under DCC 18.116.330.B.3 and .9-.12. The Applicants state that all growing operations shall occur indoors and implies that it will be done in more than one building, but the Application contains no site plan for the building(s) for the production nor a diagram that shows the specific location of the buildings(s) on the Subject Property.

Without specifications about the size of the buildings and the proposed growing area, the County cannot confirm that the mature plant canopy size will be equal to or less than 5,000 square feet under DCC 18.116.330.B.3.b. Nor can the County evaluate whether the location of the proposed buildings, and the interior and exterior lighting fixtures will comply with the DCC 18.116.330.B.9. Similarly, the County cannot review and confirm that the design plans and locations of the buildings will comply with the odor and noise requirements under 18.116.330.B.10 and 11, respectively. Last, the Applicants claim that the existing shrubbery will provide an adequate natural screen, but without knowing where the buildings will be constructed, the County cannot evaluate whether the criteria under DCC 18.116.330.B.12 are satisfied.

Second, the County cannot properly assess the setback minimums and separation distances of DCC 18.116.330.B.6 and 7, respectively, because without an understanding of

TOMASI SALYER MARTIN

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where the buildings will be located and their size, a proper distance measurement and evaluation cannot be made.

Third, the Applicants only state that there will be compliance with DCC 18.116.303.B.17 (Secure Waste Disposal), but do not provide a plan, description, or detailed drawing of where or how Applicants intend to secure marijuana waste. The County cannot adequately determine whether the Application meets the applicable criteria as submitted.

The County must deny the approval of this Application because the Applicants cannot meet the County code criteria.

VI. The Applicants fail to address wildlife habitat on the Subject Property

The Application proposes a use that will interfere with the existing wildlife habitat on the Subject Property. First, in 2001, in exchange for a county-approved reduced tax assessment on the Subject Property, Frank and John Cibelli entered into a Wildlife Habitat Conservation and Management Plan (the "Management Plan"), attached hereto as Exhibit 5, with the Oregon Department of Fish and Wildlife ("ODFW"). The Management Plan notes that the entire property is within an area of historical big game winter range and as owners, the Cibelli's agreed to have the entire property "managed to protect and preserve big game winter range habitat values" including protecting the existing juniper woodlands, seasonal wet areas, or any uses that would damage the existing vegetation.

The Management Plan makes it clear that the entire property is under management. However, on Exhibit E to the Application, the proposed marijuana production greenhouse is located in the middle of an area described in the Management Plan as "juniper woodland" and appears to be very close in proximity to an area designated as "seasonally wet" with brush, grasses, pines and juniper. *Compare* Exhibit E to Exhibit 5, page 9. Allowing a facility that generates significant odor, noise and light, in the middle of the Subject Property is in direct contravention to the very purpose of the Management Plan. In addition, the Management Plan does not allow violation of federal or state laws or local ordinances, yet the Application seeks approval for marijuana production, which is a violation of federal law, the Federal Controlled Substances Act.

VII. Failure of Application to Include Annual Report

The Applicants failed to comply with DCC 18.118.330.D.1 and did not submit the required report, fee or consent to inspect premises.

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Nick Lelack

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CONCLUSION

The proposed marijuana production Application must be denied because it cannot meet the County's requirements. The use of armed guards and razor wire to protect the grow operation is incompatible with the neighboring youth activity center. Since the adoption of the marijuana production facility code, Tumalo has been overrun with applications and construction of a significant number of grow facilities. This is an experiment that is not working out – the County needs to re-think its code to prevent the harm caused by these uses to the community – unsafe neighborhoods, inability to supply water for these facilities leading to hard to detect potential water theft, and other adverse impacts from this crop that is illegal to grow under federal law. Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer M. Bragar". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer M. Bragar

JMB/dh

cc: Client
Caroline House (by email)

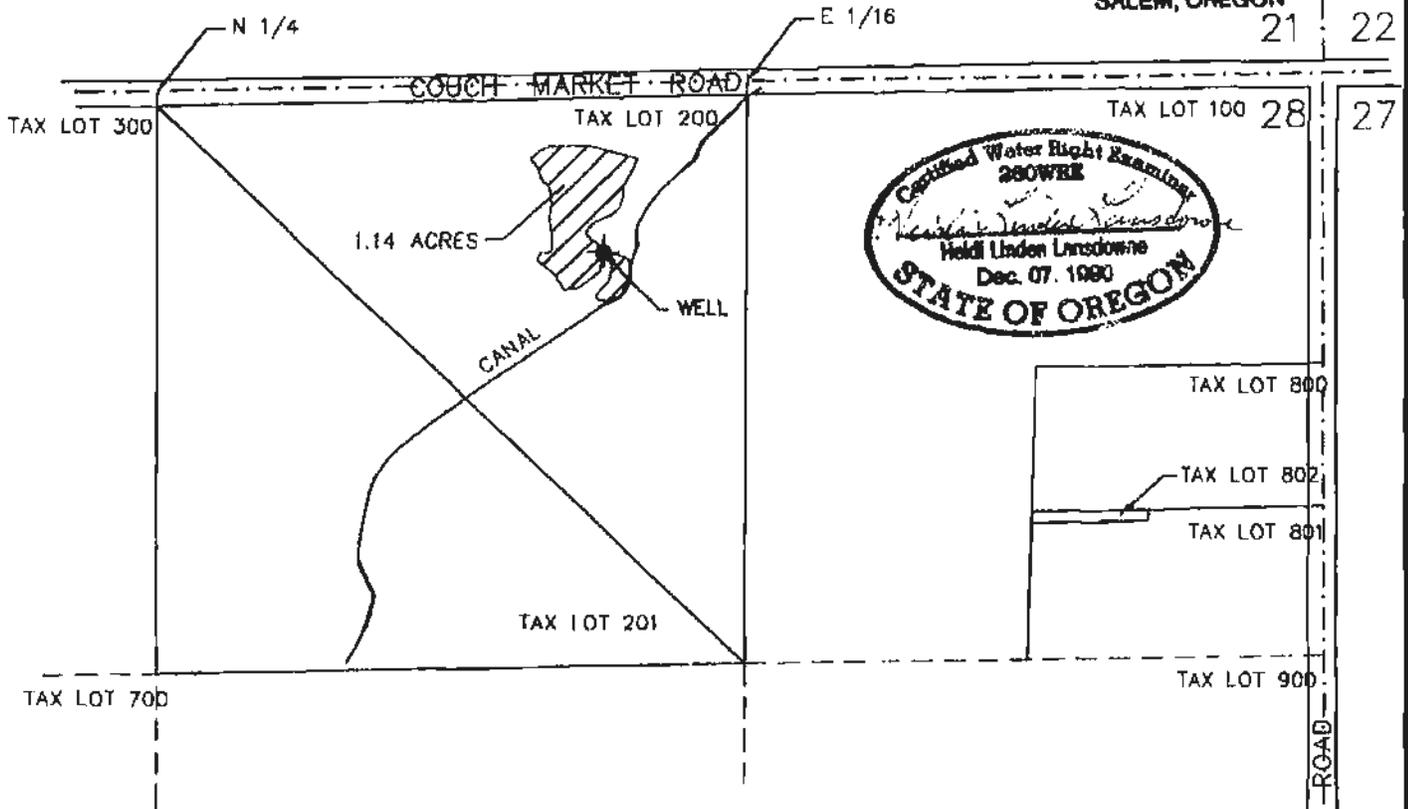


FINAL PROOF SURVEY FOR GROUNDWATER RIGHT
 FOR FRANK CIBELLI
 SECTION 28, T16S, R11E, W.M.
 DESCHUTES COUNTY
 SCALE: 1" = 400'

RECEIVED

OCT 02 2000

WATER RESOURCES DEPT.
 SALEM, OREGON



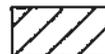
I, Heidi L. Lansdowne, Certified Water Right Examiner in the State of Oregon, hereby certify the above application map was prepared under my direct supervision.

The preparation of this map is for the purpose of identifying the location of the water right only and has no intent to provide dimensions or locations of property ownership lines.

FRANK CIBELLI
 18281 COUCH MARKET RD.
 BEND, OR 97701
 (541)388-4595

APPLICATION NO. G-13662
 PERMIT NO. G-12552

THE WELL IS LOCATED 1630 FEET WEST AND 420 FEET SOUTH OF THE NORTHEAST CORNER OF SECTION 28, T16S, R11E, W.M., DESCHUTES COUNTY, OREGON.



IRRIGATED AREA

LANDSDOWNE ENGINEERING ASSOCIATES

20568 KLAHANI DRIVE

BEND, OREGON 97702

(503) 389-6901

WATER RIGHTS FINAL PROOF MAP

SEPTEMBER 28, 2000

CIBELLI_FINAL



June 6, 2017

Wetlands

- | | | | | | |
|--|--------------------------------|--|-----------------------------------|--|----------|
| | Estuarine and Marine Deepwater | | Freshwater Emergent Wetland | | Lake |
| | Estuarine and Marine Wetland | | Freshwater Forested/Shrub Wetland | | Other |
| | | | Freshwater Pond | | Riverine |

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
 This map was produced by the NWI Mapper



June 6, 2017

Wetlands

- | | | | | | |
|---|--------------------------------|---|-----------------------------------|---|----------|
|  | Estuarine and Marine Deepwater |  | Freshwater Emergent Wetland |  | Lake |
|  | Estuarine and Marine Wetland |  | Freshwater Forested/Shrub Wetland |  | Other |
| | |  | Freshwater Pond |  | Riverine |

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National Wetlands Inventory (NWI)
This map was produced by the NWI mapper.

Caroline House

From: Caroline House
Sent: Tuesday, May 02, 2017 4:35 PM
To: 'fxgolf@gmail.com'
Subject: FW: File Number: 247-17-000293-AD

Please see email below.

Also, please make sure the "Will Serve Letter" specifically states CEC will/can serve the proposed marijuana production use.



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

Disclaimer:

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: Perkins, Parneli [<mailto:pperkins@cec.coop>]
Sent: Monday, May 01, 2017 2:29 PM
To: Caroline House
Subject: File Number: 247-17-000293-AD

Caroline,

CEC requests the applicant apply for a new electrical service by calling 541-548-2144 and provide electrical load and demand requirements for this activity.
CEC will determine if capacity is available.

Thank you for the opportunity.

Parnell Perkins • Central Electric Cooperative, Inc. • Lands Specialist
Office: 541.312.7747 | Fax: 541.923.3549 | pperkins@cec.coop
2098 N Hwy 97, PO Box 846, Redmond OR 97756 www.cec.coop

This e-mail message contains information that may be confidential. Use by parties other than the intended recipient is unauthorized and prohibited.

12. Reproducible line drawing maps of property as it existed when the plan was signed:
- A. Map 1. County tax lot map of property.
 - B. Map 2. Soil names and productivity classifications.
 - C. Map 3. Physical features of the property at the time the plan was signed.
 - D. Map 4. Wildlife habitats existing on the property at the time the plan was signed.
13. Acres of each habitat type which will be maintained when the plan is implemented.
- A. Woodlands: 16 acres of juniper woodland, including 1.5 acres of seasonally-wet area from irrigation canal seepage where rank grasses and some ponderosa pines are growing.
 - B. Water: the 1-acre pond and associated 2 acres of cattail marsh produced from seasonal seepage from the irrigation canal adds up to 3 acres total of riparian and aquatic habitat.
 - C. Grasslands: none.
 - D. Threatened or endangered species habitat sites: none.
 - E. Oregon sensitive species or special status wildlife habitat sites: the entire property will be managed to protect and preserve big game winter range habitat values.
 - F. Structures: no additional structures are planned.
14. Management practices which will be used to achieve and maintain the wildlife habitats listed in item 13, and the time frames for implementation of the practices.
- A. General: this property is located within a juniper woodland/bitterbrush/sage/bunchgrass zone, and this natural vegetation exists on the northwest and east sections of the property. Vegetation in the central section of the property has been changed, by seepage from the irrigation canal, to a mixture of pine, juniper, and rank grasses along the east side of the canal, and to cattail marsh on the west side of the canal. Management will be designed to protect the existing juniper woodland for deer winter range values, and to continue to manage the seasonal wet areas along the irrigation canal as wildlife habitat by protecting these areas from grazing or other uses which would damage the existing vegetation. The largest of the two ponds near the home will also be managed for aquatic habitat values by protecting native plants.
 - B. Grazing: The landowner will not use any part of the wildlife habitat as pasture for livestock. This management will start when the plan is signed and will be ongoing.
 - C. Fences: New fences built on the property will comply with the following standards for fences built on winter ranges. This standard is designed to allow deer to pass under or over fences without injury.

Fence standards to allow wildlife passage in Deschutes County, Oregon
outlined by Oregon Department of Fish and Wildlife
March, 2001

1. The distance between the ground and the bottom strand or board of the fence shall be at least 18 inches.

2. The height of the fence shall not exceed 42 inches above ground level.
3. Fences shall be constructed using smooth single-strand or twisted wire or wood or metal. Woven wire or barbed wire shall not be used.
4. Fences encompassing less than 10,000 square feet which surround or are immediately adjacent to residences or structures, such as horse training corrals, horse pens attached to barn stalls, or fences designed to protect dooryard ornamental plants or gardens, are exempt from the above fencing standards.
5. If opportunities occur to modify boundary fences in cooperation with the adjacent landowners, all efforts will be made by the landowners to assure that the new boundary fences are made wildlife friendly according to the above standards.

end fence standards

- D. Dogs running at large: landowners understand that dogs running at large may kill or injure deer, or chase deer away from needed habitat, therefore landowners will comply with County code Chapter 6.08. (copy included as Exhibit 2), rules regarding control of dogs.
- E. Herbicides: herbicides will not be applied in the habitat areas except to eradicate noxious exotic plants. This management will begin when the plan is signed and will be ongoing.
- F. Fire protection: trees and brush within the area around the home may be trimmed or removed for fire protection at the owner's discretion.
- G. Non-native (Exotic) plants and Weeds: noxious non-native plants such as knapweed will be removed if these plants are located on the property. Herbicide treatment may be necessary to remove exotic weeds. This management will begin when the plan is signed and will be ongoing.
- H. Woody material: dead and downed trees, limbs, and brush are valuable habitat for small mammals, reptiles, and birds, and these existing components on the property will be preserved and protected. In addition, brushpiles will be constructed and placed in areas which are lacking woody habitat, at a rate of one brushpile per 5 acres, or 4 brushpiles.

These brushpiles will be maintained by adding small trees or brush as needed. The brushpiles will be completed within two years of signing the plan.

- I. Bitterbrush: this key plant species for deer browse will be managed by establishing a new clump of young plants to replace older existing plants which provide declining forage value. One 1/4-acre (50 x 50 foot) polygon will be established during the first two years after signing the plan. This polygon will be managed by planting 50 one-year-old plants in groups of two, with the pairs spaced 10 feet apart. Plants will be set out when the soil is moist in either the spring or fall. Young plants will be watered periodically during the dry summer period, of the first summer after planting, to increase the probability for plant survival. The planted plots will be deemed successful if 13 plants or more are growing within each plot at the end of the second summer after planting.
- J. Riparian pond habitat: willows and cattails which are growing in the large wildlife habitat pond will be protected. Some areas of cattails will be removed to provide open water habitat for ducks and amphibians, since the cattails have grown in thickly and nearly grown over the entire pond. The smaller pond will be used as an ornamental dooryard pond.

15. Reproducible line drawing maps of the property as it will exist after the plan is implemented.

- A. Map 5. Physical features that will exist on the property after the plan is implemented.
- B. Map 6. Wildlife habitats that will exist on the property after the plan is implemented.

16. This habitat management plan does not authorize violation of federal or state laws or local ordinances, nor does it supersede any requirements to obtain permits or authorizations required by federal, state, or local entities.

17. The purpose of this plan is to protect and manage wildlife habitat solely on the property identified. This plan is not intended to, nor does it convey any special status on, or otherwise impact in any way, the lawful use of any adjacent or nearby properties.

18. This plan may be amended in the future if requested in writing by either the applicant or Oregon Department of Fish and Wildlife.

Signatures:

Applicant or property owner: [Signature] date 03 07 01

Applicant or property owner John C. Chelli date 03 07 01

ODFW representative: [Signature] date 3/26/01

Title: District Wildlife Biologist Approved Date: 3/26/01



Photo 1, Cibelli property: looking west from front yard of home, showing smaller pond in foreground and larger wildlife habitat pond in background. All photos were taken 11-16-00.



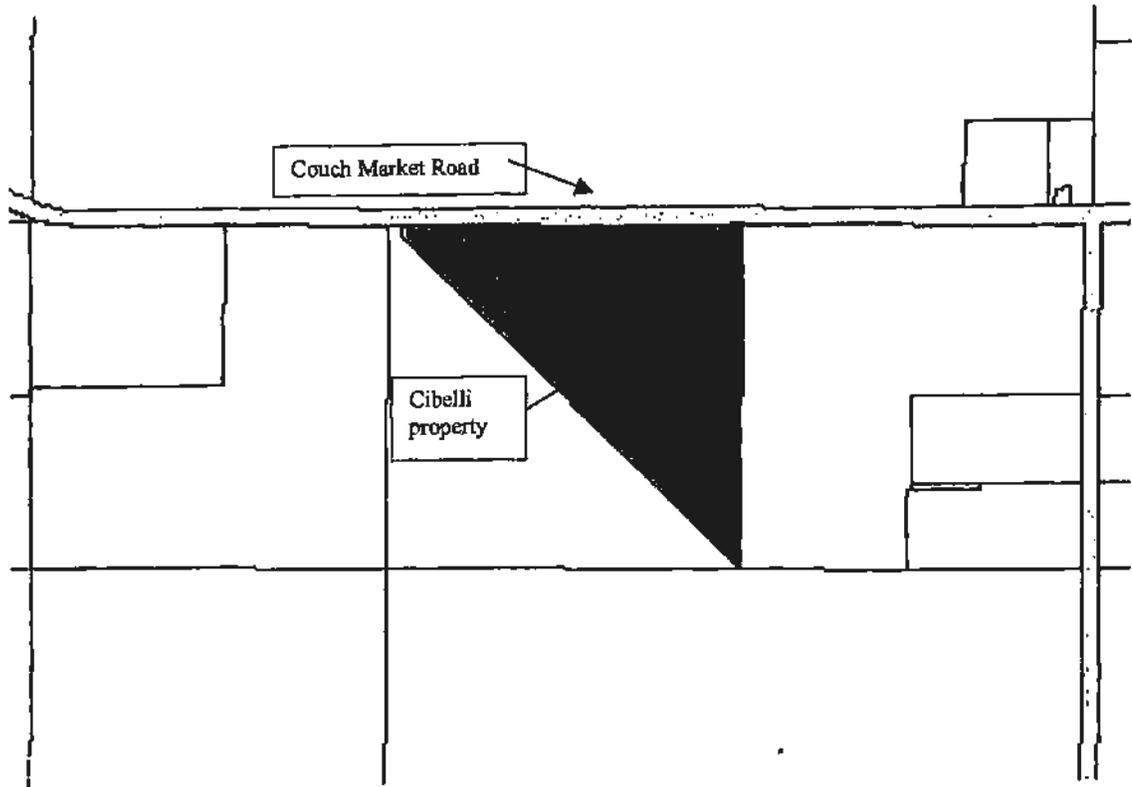
Photo 2: looking north from a point near the midpoint of the southwest boundary of the property, showing the cattail marsh area from canal seepage and the home in the background.



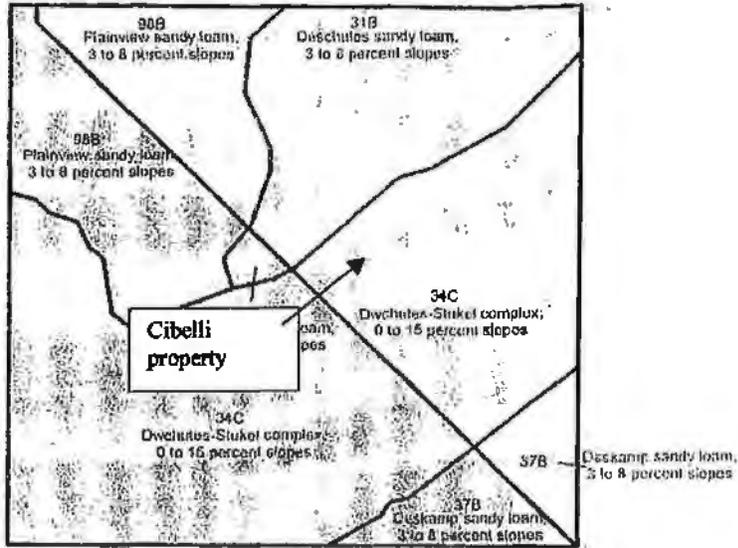
Photo 3. Looking south from a point just east of the the junction of the two irrigation canals, showing rank grasses and closely growing pines in seasonally wet area from canal seepage.



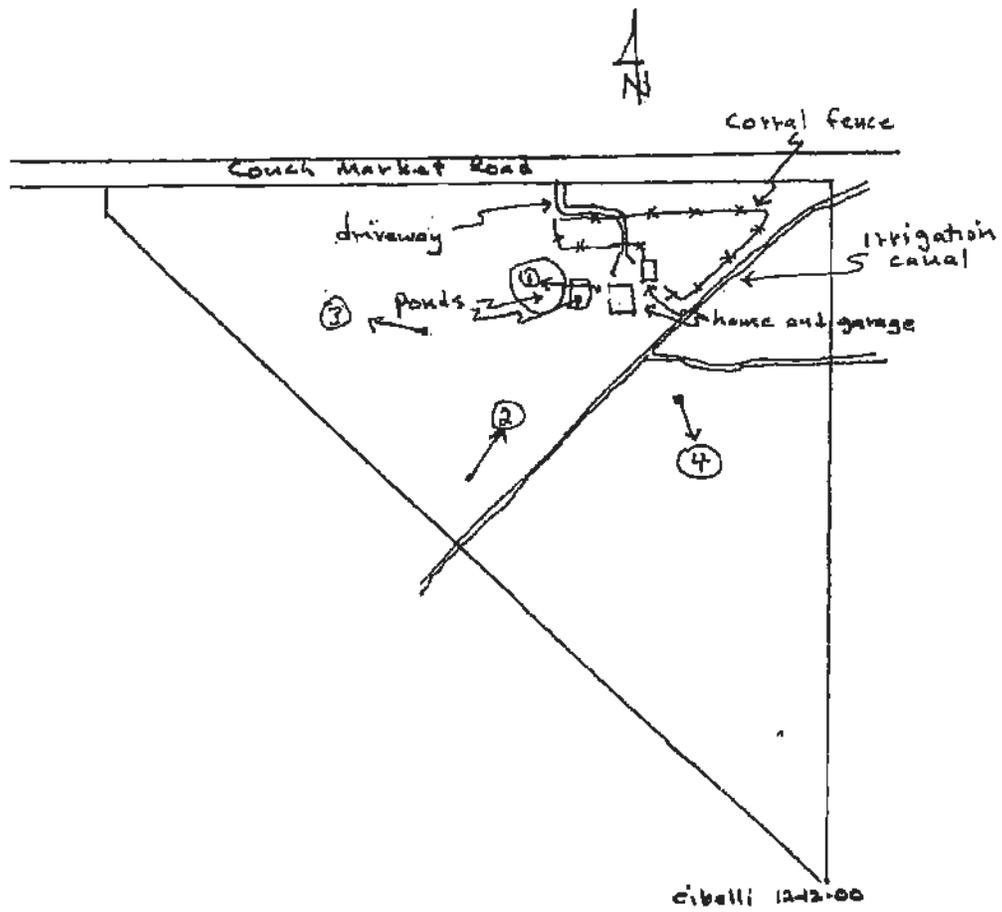
Photo 4: looking west from a point west of the large wildlife habitat pond, showing juniper woodland.



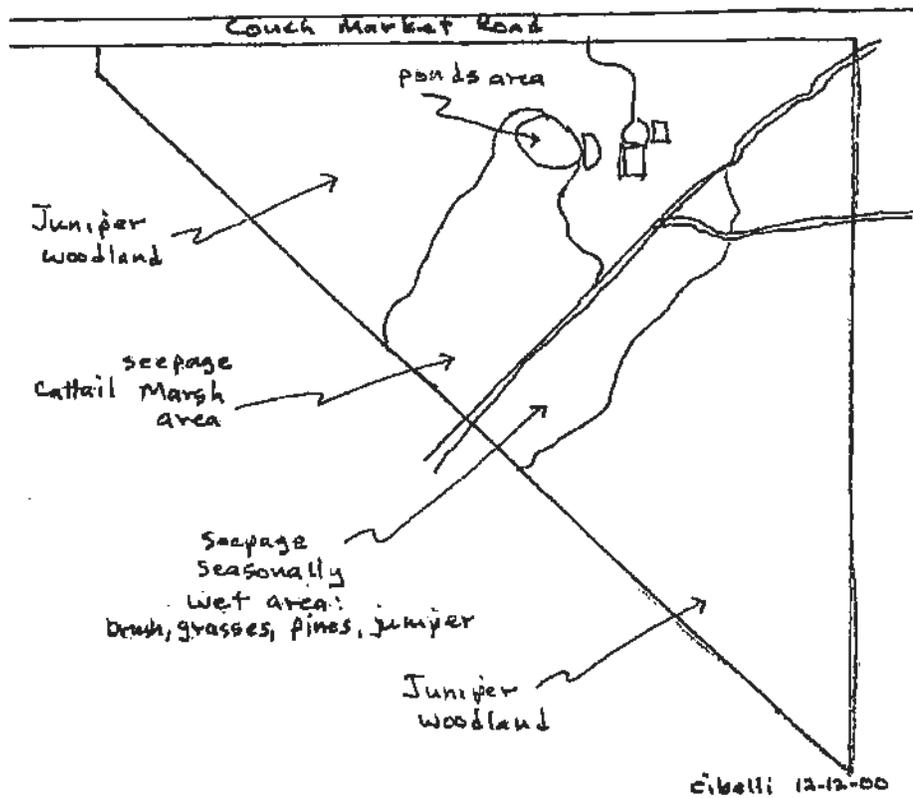
Map 1. County tax lot map of Cibelli property. Property is zoned EFU-TRB, exclusive farm use Tumalo-Redmond-Bend. Scale 1 inch= 640 feet.



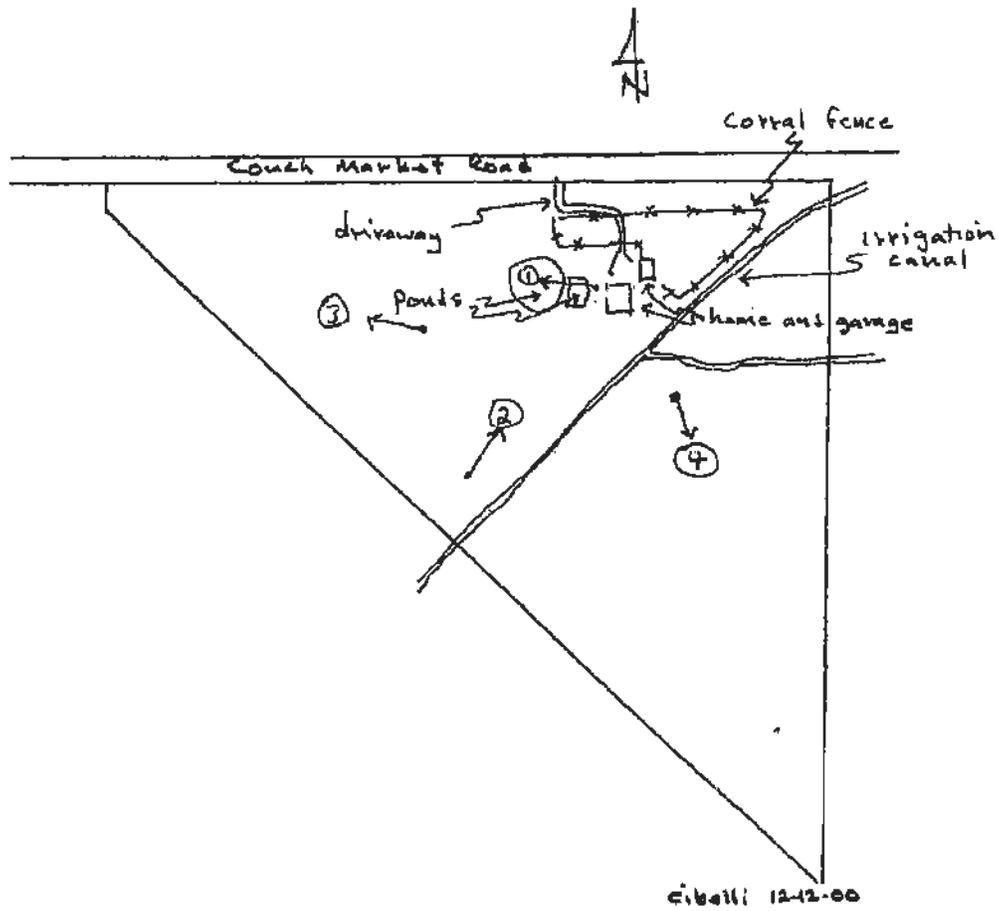
Map 2. Soil names and productivity classifications for Cibelli property. All four soils types on the property range from highest capability of 3E irrigated to lowest capability of 6E nonirrigated. Scale 1 inch=400 feet.



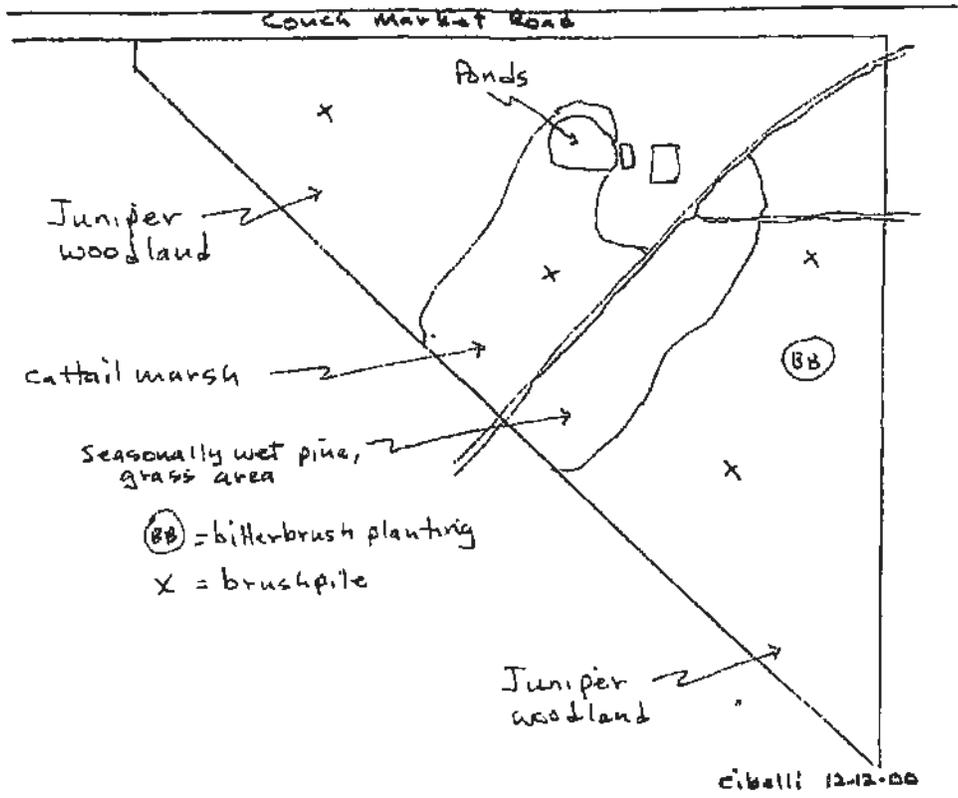
Map 3. Physical features of the Cibelli property at the time the plan was signed, and locations of photo points. Scale 1 inch=300 feet.



Map 4. Wildlife habitats existing on the Cibelli property at the time the plan was signed. Scale 1 inch=300 feet.



Map 5. Physical features of the Cibelli property as it will exist after the plan is implemented. No additional structures are planned. This map is the same as Map 3. Scale 1 inch=300 feet.



Map 6. Wildlife habitats that will exist on the Cibelli property after the plan is implemented. Four brushpiles and one bitterbrush planting area will be completed within two years of signing the plan. Cattail marsh and pond habitat, and juniper woodlands will be managed to protect existing habitat values. Scale 1 inch= 300 feet.

Exhibit 1. Cibelli Plan. 12-17-00.

Deschutes County Code 18.88.070.

Fence standards.

The following fencing provisions shall apply as a condition of approval for any new fences constructed as a part of development of a property in conjunction with a conditional use permit or site plan review.

A. New fences in the Wildlife Area Combining Zone shall be designed to permit wildlife passage. The following standards and guidelines shall apply unless an alternative fence design which provides equivalent wildlife passage is approved by the county after consultation with the Oregon Department of Fish and Wildlife:

1. The distance between the ground and the bottom strand or board of the fence shall be at least 15 inches.
2. The height of the fence shall not exceed 48 inches above ground level.
3. Smooth wire and wooden fences that allow passage of wildlife are preferred. Woven wire fences are discouraged.

B. Exemptions:

1. Fences encompassing less than 10,000 square feet which surround or are adjacent to residences or structures are exempt from the above fencing standards.
2. Corrals used for working livestock.
(Ord. 92-042 § 1, 1992)

Exhibit 2. Cibelli plan 12-17-00.

Chapter 6.08. ANIMAL CONTROL

6.08.010. Definitions.

6.08.015. Definition-At large.

6.08.020. Definition-Dangerous dog.

6.08.025. Definition-Keeper.

6.08.030. Definition-Livestock.

6.08.035. Definition-Livestock district.

6.08.040. Definition-Open range.

6.08.045. Definition-Unconfined.

6.08.050. Conditions when animals are nuisances.

6.08.060. Animals at large.

6.08.070. Dangerous dog.

6.08.080. Impermissible harboring.

6.08.090. Infractions.

6.08.100. When impoundment of dogs authorized.

6.08.010. Definitions.

As used in this chapter, the words and phrases are defined as set forth in DCC 6.08.015-045. (Ord. 95-031 § 1, 1995)

6.08.015. Definition-At large.

A. "At large" means a dog or other animal found off the premises of the owner or keeper while the dog or animal is not under the complete control of a capable person.

B. A dog shall not be considered to be at large under the following circumstances: (a) a dog in a duly recognized obedience school on field training exercises and under the direct supervision of a handler; (b) a dog within a vehicle; (c) a dog being used to hunt, chase, or tree wildlife while under the supervision of its owner or keeper; (d) use of a dog to control or protect livestock; and (e) use of a dog in other related agricultural activities.

C. Livestock on the open range shall not be considered to be at large. (Ord. 90-019 § 1, 1990)

6.08.020. Definition-Dangerous dog.

"Dangerous dog" means any dog:

A. Whose owner has been convicted or has admitted responsibility, or has in effect admitted responsibility on a charge that the dog without provocation impermissibly

placed a person in reasonable fear of imminent physical injury;

B. Whose owner has been convicted or has admitted responsibility, or has in effect admitted responsibility on a charge that the dog attacked a person or domestic animal without provocation; or

C. That is trained for or used in animal fighting. (Ord. 90-019 § 1, 1990)

6.08.025. Definition-Keeper.

"Keeper" means, in addition to its ordinary meaning, the parents or guardian of an animal owner when the owner is under the age of 18 years and when the owner resides with the parent or guardian on the date of the alleged violation of a provision of this chapter. (Ord. 90-019 § 1, 1990)

6.08.030. Definition-Livestock.

"Livestock" means any animal that is defined to be livestock by the petition or order establishing the livestock district in which the subject livestock was found. (Ord. 90-019 § 1, 1990)

6.08.035. Definition-Livestock district.

"Livestock district" means any geographic area wherein as established pursuant to state law it is unlawful for livestock to be at large. This definition shall apply only to those livestock districts or portions of livestock districts lying within the jurisdiction of Deschutes County. (Ord. 90-019 § 1, 1990)

6.08.040. Definition-Open range.

"Open range" means any area outside the boundaries of a city that is not within the boundaries of a livestock district, as defined in this chapter. (Ord. 90-019 § 1, 1990)

6.08.045. Definition-Unconfined.

"Unconfined" means not securely confined indoors or confined in a securely locked pen or structure upon the premises of the owner or keeper of a dangerous dog. Such pen or structure must be constructed in a manner adequate to ensure the confinement of the dangerous dog. (Ord. 90-019 § 1, 1990)

6.08.050. Conditions when animals are nuisances.

- A. An animal other than livestock is a public nuisance if it:
1. Bites, injures or attacks a person;
 2. Chases vehicles or persons;
 3. Damages or destroys property of persons other than the owner of the animal;
 4. Scatters garbage;
 5. Trespasses on private property of persons other than the owner of the animal;
 6. Disturbs any person by frequent or prolonged noises;
 7. Places a person in reasonable fear of imminent physical injury, when such incident takes place off the premises of the animal's owner or keeper;
 8. Injures or kills an animal or fowl belonging to a person other than the owner or keeper of the animal;
 9. Is found to be in violation of DCC 6.08.060.
- B. An animal shall not be considered to be a nuisance under this section if the subject animal bites a person or another animal wrongfully assaulting the subject animal or if the subject animal bites a person or other animal trespassing upon premises occupied by the dog's owner or keeper after being provoked by that person.
- C. The owner or keeper of an animal that is a public nuisance under DCC 6.08.050(A)(1) shall be liable under DCC 6.08.080.
(Ord. 98-008 § 1, 1998; Ord. 95-031 § 1, 1995; Ord. 90-019 § 1, 1990)

6.08.060. Animals at large.

- A. Any dog found at large is a public nuisance.
- B. Any livestock in a livestock control district found at large is a public nuisance.
- C. An owner or keeper of a dog or livestock shall be liable for a violation of this section only if such public nuisance resulted from the owner or keeper's negligent conduct.
(Ord. 98-008 § 1, 1998; Ord. 97-011 § 2, 1997; 95-031 § 1, 1995; Ord. 90-019 § 1, 1990)

6.08.070. Dangerous dog.

- A. No owner or keeper of a dangerous dog shall suffer or permit such dog to go unconfined on the premises of the owner or keeper.
- B. No owner or keeper of a dangerous dog shall suffer or permit such animal to go beyond the premises of such person unless such animal is humanely muzzled and securely leashed or otherwise securely restrained.
(Ord. 98-008 § 1, 1998; Ord. 95-031 § 1, 1995; Ord. 90-019 § 1, 1990)

6.08.080. Impermissible harboring.

No person shall own, harbor, or keep any dog with knowledge that, while off the premises owned or controlled by its owner or keeper and while not acting under the direction of its owner or keeper or employees or agents of such persons, the dog has killed or injured any person.
(Ord. 98-008 § 1, 1998; Ord. 90-019 § 1, 1990)

6.08.090. Infractions.

- A. Except as provided herein, violation of any provision of this chapter is a Class B infraction.
- B. Violation of DCC 6.08.050(A)(1), (7) and (8), and DCC 6.08.060, 6.08.070 or 6.08.080 is a Class A infraction.
(Ord. 98-008 § 1, 1998; Ord. 97-011 § 2, 1997; Ord. 95-031 § 1, 1995; Ord. 90-019 § 1, 1990)

6.08.100. When impoundment of dogs authorized.

When a dog is a public nuisance under this chapter, any peace officer or animal control officer may, in addition to citing the owner for a violation under DCC 6.08.070, impound the dog.
(Ord. 95-031 § 1, 1995; Ord. 90-019 § 1, 1990)

DIVISION 430

Wildlife Habitat Conservation and Management Program

635-430-0000

Purpose

The purpose of OAR Chapter 635, Division 430, is to implement Chapter 764 Oregon Laws 1993, as amended by Chapter 504, Oregon Laws 1997 which allows Oregon counties to develop programs for the conservation and enhancement of wildlife habitat. These rules:

- (1) Establish criteria and standards for Department review and monitoring of wildlife habitat conservation and management plans; and
- (2) Specify the form and content of a wildlife habitat and conservation management plan and the conservation and management practices that are appropriate to preserve, enhance or improve the structure or function of wildlife habitat.

635-430-0010

Definitions

For the purposes of OAR 635-430-0000 through 635-430-0100 only:

(1) "Cooperating agency" means the Oregon Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, the Natural Resources Conservation Service, the Oregon State University Extension Service or other persons with wildlife conservation and management training meeting the following qualifications:

(a) A degree or certification from an accredited educational institution in a field of study providing knowledge that may be applied to preserve, enhance or improve habitat for native wildlife. Such fields of study include, but are not limited to, wildlife biology, wildlife management, fisheries management, biology, zoology, limnology, botany, ecology, wetland ecology, forest ecology, ecosystem management, environmental engineering, soil science, other natural science; or landscape architecture; or

(b) Certification from a professional society (including but not limited to The Wildlife Society, American Fisheries Society, or Ecological Society of America) or licensure by the state in a field listed in subsection (1)(a) of this rule; or

(c) Evidence of professional experience in a field listed in subsection (1)(a) of this rule.

(2) "Department" means the Oregon Department of Fish and Wildlife.

(3) "Landowner" means the party or parties having the fee interest in land, except where land is subject to a real estate sale contract where "landowner" means the contract vendee.

- (4) "Lot" has the meaning given that term in ORS 92.010.
- (5) "Native vegetation" means vegetation that is indigenous to the subject property or to the physiographic province in which the subject property is located.
- (6) "Parcel" has the meaning given that term in ORS 215.010(1).
- (7) "Subject property" means a lot, parcel or tract that is subject to a wildlife habitat conservation and management plan.
- (8) "Tract" has the meaning given that term in ORS 215.010(2)
- (9) "Wildlife" means fish, shellfish, intertidal animals, wild birds, amphibians, reptiles, and wild mammals.
- (10) "Wildlife habitat conservation and management plan" or "plan" means a plan developed by a cooperating agency and landowner that specifies the conservation and management practices that will be conducted to preserve, enhance or improve the structure or function of wildlife habitat on the subject property.

635-430-0020

Wildlife Habitat Conservation and Management Plan Objectives

The objective of a wildlife habitat conservation and management plan is to preserve, enhance or improve the structure or function of habitat for native wildlife species, with emphasis on native habitats that:

- (1) Have been identified as scarce, becoming scarce or of special ecological significance within the county. Sources of information that may be used to identify these habitats include, but are not limited to, the Biodiversity Gap Analysis Program of the USGS Biological Resources Division and the Oregon Department of Fish and Wildlife, the Metropolitan Greenspaces Master Plan or equivalent Metropolitan Functional Plans, the Oregon Natural Heritage Program, the Oregon Biodiversity Project, the Oregon Wetlands Joint Venture, and the Oregon Plan.
- (2) Have been identified by state or federal resource agencies, local governments, regional governments, watershed councils, conservation organizations or other qualified entities as important habitats for ecological restoration to prevent additional loss of native habitats or species.
- (3) Are important to achieve the conservation or management objectives for native habitats or species in public or private land management plans covering multiple land ownerships.
- (4) Provide habitat for threatened or endangered species listed in or pursuant to 16 U.S.C. Section 1533, ORS 496.172(2), and OAR 635-100-0125;
- (5) Provide habitat for state sensitive species listed pursuant to OAR 635-100-0040; or
- (6) Are identified as significant wildlife habitat in the Goal 5 elements of county comprehensive plans.

(7) Areas that have been adopted by the Metropolitan Service District (Metro) as significant natural areas, open spaces or fish and wildlife habitats or regional resources under Goal 5 pursuant to OAR 660-023-0080.

635-430-0030

Wildlife Conservation and Management Practices

Conservation and management practices appropriate to achieve the objectives of OAR 635-430-0020 may include, but are not limited to:

- (1) Protecting existing native vegetation;
- (2) Planting native trees, shrubs, grasses and other native vegetation;
- (3) Removing invasive, non-native vegetation that threatens native plant communities;
- (4) Burning as prescribed by the Department to maintain fire-dependent native vegetation;
- (5) Fencing to protect wildlife habitat or plant communities;
- (6) Increasing habitat diversity by practices such as placing downed, woody material, preserving or creating standing dead trees, creating ponds, or other methods approved by the Department;
- (7) Placing boulders, logs and other appropriate materials in streams to enhance fish habitat;
- (8) Removing buildings, pavements and other man-made features;
- (9) Grading altered land areas to restore original hydrology and natural topography;
- (10) Restoring, enhancing or creating wetlands;
- (11) Establishing vegetative buffers or structural setbacks adjacent to wildlife habitats;
- (12) Amending farming and forestry management practices to preserve, enhance or improve the structure or function of wildlife habitat;
- (13) Locating new dwellings or structural improvements to minimize conflict with existing or proposed habitat for native wildlife species; or
- (14) Planting new riparian vegetation or protecting existing riparian vegetation through fencing or other means.

635-430-0040

Preparation and Content of a Plan

A wildlife habitat conservation and management plan shall be developed by the landowner and a cooperating agency as defined in OAR 635-430-0010(1). The plan shall include the following:

- (1) The name, home and business addresses and telephone number of the landowner.

- (2) The name, address, and telephone number of the cooperating agency.
- (3) The township, range, section and tax lot number(s) of the subject property.
- (4) The acreage of the subject property.
- (5) An aerial photograph of the subject property at a scale of 400 feet per inch, unless otherwise authorized by the Department.
- (6) Map(s) and written descriptions of the physical features, vegetation, and wildlife habitats that currently exist on the subject property. The map(s) shall be reproducible, and shall be at a scale of 400 feet per inch unless otherwise authorized by the Department. The map(s) shall display the following:
 - (a) Rivers and intermittent and perennial streams (including names);
 - (b) Lakes, ponds and other water bodies;
 - (c) Wetlands and riparian areas;
 - (d) Areas that contain threatened or endangered plant species listed under ORS 564.105(2) obtained from existing information available from the Oregon Department of Agriculture, Oregon Natural Heritage Database, a cooperating agency, or other source approved by the Department;
 - (e) Areas of native vegetation, such as oak woodlands or grasslands composed of native plant species;
 - (f) Location of federal threatened or endangered wildlife species or their critical habitats listed or identified pursuant to 16 U.S.C. Section 1533, obtained from existing information available from the Oregon Natural Heritage Database, a cooperating agency, or other source approved by the Department;
 - (g) Location of state sensitive species identified pursuant to OAR 635-100-0040, state threatened or endangered species listed pursuant to ORS 496.172(2) and OAR 635-100-0125, and sites identified pursuant to ORS 496.182(2) that are critical to the survival of state listed threatened or endangered species, obtained from existing information available from the Oregon Natural Heritage Database, a cooperating agency, or other source approved by the Department;
 - (h) Other areas identified in the local comprehensive plan as significant wildlife habitat;
 - (i) Areas currently managed for forestry;
 - (j) Areas currently farmed, including the location of all dikes, drainage ditches, or drainage tiles;
 - (k) Soil map units within the subject property from the Natural Resources Conservation Service Soil Survey.
 - (l) Dwellings, roads, fences and other artificial structures.
 - (m) Areas that have been adopted by the Metropolitan Service District (Metro) as significant natural areas, open spaces or fish and wildlife habitats or regional resources under Goal 5 pursuant to OAR 660-023-0080.
- (7) A description of:

(a) The wildlife habitat conservation and management objectives to be achieved; and

(b) The conservation and management practices that will be conducted to preserve, enhance or improve the structure or function of wildlife habitat on the subject property.

(8) Time frames to implement each conservation and management practice identified in section (7) of this rule.

(9) Map(s) and written descriptions of the physical features, vegetation, and wildlife habitats reasonably expected to exist on the subject property after implementation of the conservation and management practices described in section (7) of this rule, including the location of areas managed for farming or forestry, existing and proposed dwellings and other proposed structural improvements. The map(s) shall be reproducible, and shall be at a scale of 400 feet per inch unless otherwise authorized by the Department.

635-430-0050

Review Procedures for Plans

The Department will review wildlife habitat conservation and management plans and make decisions as follows:

(1) The landowner shall simultaneously submit the proposed plan to the appropriate district wildlife office of the Department and the appropriate county planning department.

(2) The county planning department may submit comments on the proposed plan to the appropriate district wildlife office of the Department within 15 working days of the county's receipt of the proposed plan.

(3) The Department will, within 90 days of receipt of a complete plan, make a decision to either approve, approve with modifications, or reject the plan, and will notify the landowner of its decision. If the plan is rejected, the Department will identify in writing the reasons for its decision. The landowner may accept the Department's proposed modifications or correct plan deficiencies identified by the Department and resubmit the plan for review.

(4) Department decisions on plans may be appealed to the Department under the provisions of ORS 183.310 to 183.550 governing contested cases.

(5) The Department will send one copy of an approved plan to the appropriate county planning department and county assessor.

635-430-0060

Approval Standards for Plans

The Department will approve plans that meet the following standards:

(1) The plan was developed by the landowner and a cooperating agency as defined in OAR 635-430-0010(1), and contains all of the elements required under OAR 635-430-0040.

(2) The plan is consistent with the objectives in OAR 635-430-0020.

(3) The wildlife conservation and management practices are appropriate and adequate to carry out the objectives of the plan.

(4) The plan emphasizes preservation, enhancement or improvement of native vegetation appropriate to the site.

(5) All new dwellings or structural improvements are located to minimize conflicts with existing wildlife habitats and avoid negative impacts to native wildlife species.

(6) The plan is consistent with the Fish and Wildlife Habitat Mitigation Policy (OAR Chapter 635, Division 415) and other applicable Department plans, policies, rules and statutes.

(7) The plan's proposed wildlife conservation and management practices will not increase wildlife damage on adjacent lands.

(8) Buffers needed to protect any new habitats created under the plan will be located on the subject property.

635-430-0070

Amendments to Approved Plans

(1) Landowners may request amendments to approved wildlife habitat conservation and management plans by contacting the appropriate Department district wildlife office.

(2) The landowner shall provide a copy of the approved plan and a description of the proposed amendments.

(3) The Department will follow the procedures in OAR 635-430-0050 when reviewing amendments to approved plans.

(4) Amendments shall meet the standards in OAR 635-430-0060.

635-430-0080

Implementation of Approved Plans

(1) For the purpose of making application to the county assessor for open space use assessment under ORS 308.740 to 308.790, a landowner may request the Department to determine whether an approved wildlife habitat conservation and management plan has been implemented.

(2) The Department will, within 90 days of receipt of such request, physically inspect the subject property and determine whether the plan has been implemented.

(3) The Department will consider the plan implemented when:

(a) The landowner is carrying out and maintaining the conservation and management practices identified in the plan in accordance with the time frames established in the plan; and

(b) The conservation and management practices are progressing toward the plan's objectives.

(4) If, based on its review, the Department determines the landowner is not implementing the plan as approved, the Department will notify the landowner in writing of the reasons for the decision and the compliance measures he or she must take. The Department will send a copy of this notice to the county assessor.

(5) If the Department determines the landowner is implementing the plan as approved, the Department will provide the landowner with a written declaration to this effect. The Department will send a copy of this declaration to the county assessor.

635-430-0090

Monitoring Approved Plans

(1) The Department will monitor an approved wildlife habitat conservation and management plan at least once in each two-year period to determine continued compliance with the plan.

(2) The Department's monitoring activities will include a physical inspection of the subject property.

(3) The Department will notify the landowner prior to initiating its monitoring activities.

(4) If the ownership of the subject property has changed since Department approval of the plan, the Department will provide the landowner with a copy of the approved plan.

(5) If, based on its monitoring activities, the Department determines the landowner is not implementing the plan as approved, the Department will notify the landowner in writing and identify the compliance measures that he or she must take within six months.

(6) If, at the end of the six-month period, the landowner is still not implementing the compliance measures required by the Department, the Department will notify the landowner and the appropriate county assessor.

635-430-0100

Compatibility with Existing Laws or Ordinances

Department approval of a wildlife habitat conservation and management plan does not authorize violation of federal or state laws or local ordinances, nor does it supersede any requirements to obtain permits or authorizations required by federal or state laws or local ordinances.

adopted Jan. 23, 1998

January 1998 Commission Adopted Rule

Adopted January 23, 1998

8 - Div. 430



Wildlife Habitat

Conservation and Management Program

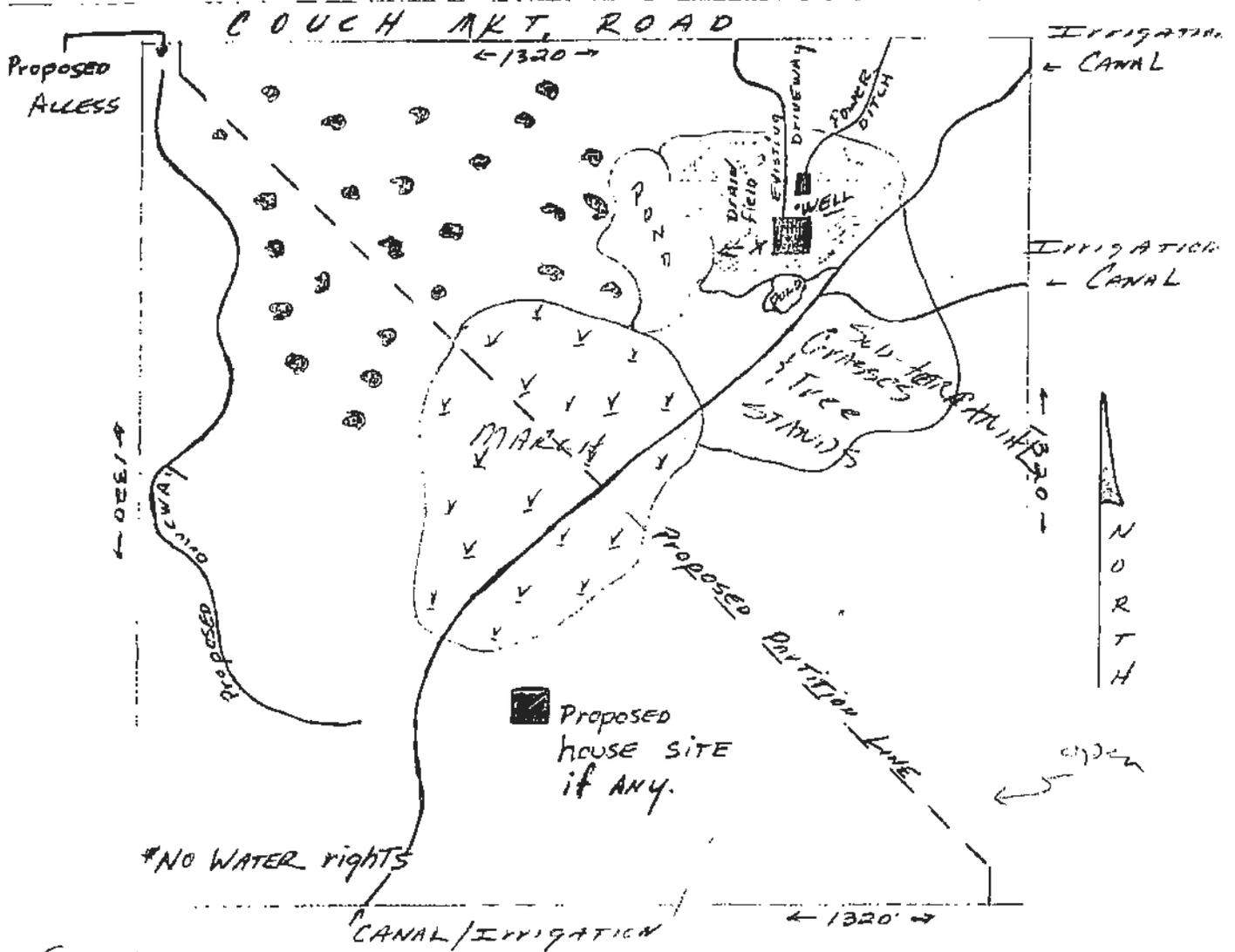
- **This new program** is an opportunity for landowners to manage for wildlife habitat on their property **while keeping a lower-value assessment** comparable to agriculture or open space.
- **A new Oregon law enacted in 1997** and administered by the Oregon Department of Fish and Wildlife and the Oregon Department of Revenue gives landowners this new opportunity.
- Property in Deschutes County zoned **EFU: exclusive farm use** is eligible for the new program.
- If you like wildlife, and are interested in providing habitat, **contact me, Gary Hostick with Ecological Services in Bend**, or the following government officials to get started: **Steven George**, Oregon Department of Fish and Wildlife in Bend; or **John Wurst**, Deschutes County Assessor's office in Bend.

Ecological Services telephone 541-330-8777 or Email to gghostick@hotmail.com, or mail to PO Box 1906, Sisters, OR 97759

PLOT PLAN

16-11-28-200

OWNER: 18381
17281 Couch Mkt Road
FRANK Cibelli
DATE: 5/1/95



SCALE
1/4" = 55' (or)
1" = 220'

ENGINEER AND SURVOR:
George Colvin

NOTES:

- Tumalo Fire district
- No water, power, or building is at this time proposed

Caroline House

From: Caroline House
Sent: Wednesday, May 03, 2017 3:45 PM
To: 'Jerry Nye'
Subject: RE: complaint on File Number 247-17-000293-AD
Attachments: marijuana production facility 2.pdf

Hi Jerry,

Thank you for submitting comments regarding pending application no. 247-17-000293-AD. The email included a two-page letter, which will be added to the record.

Feel free to contact me if you have additional questions about the status of the review.
Thanks!

Online Documents:

<http://dial.deschutes.org/Real/DevelopmentDocs/131452>



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

Disclaimer:

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From: Jerry Nye [<mailto:jenyemd@gmail.com>]
Sent: Wednesday, May 03, 2017 2:38 PM
To: Caroline House
Subject: complaint on File Number 247-17-000293-AD

Dear Caroline, Enclosed is a copy of my fax. Thank you for listening to my complaint. Jerry

5/2/17

Community Development Department

Planning Division

PO Box 6005 Bend Oregon 97708-6005

Re: File Number 247-00293-AD

Attention Caroline House, Assistant Planner

Dear Ms. House

My name is Jerry E. Nye, MD, property owner 65095 Collins Road, Bend, Or 97703. Concerns are about File Number: 247-17-000293-AD applicant by Frank Cibelli for request to establish marijuana production facility within the EFU zone for a 5000 square foot mature plant canopy area. This property is at 18281 Couch Market Road Map No. 16-11-28, Tax Lot 200.

Also I notified you by fax yesterday that other adjacent owners had not received notice because of very recent sales.

My complaint is about the particulars of the proposal, especially the site plan and the interference with the property possibly complying with its current status as Wild Life Habitat Management Plan, File Number 1611280000200PI.20010330092420 Serial 131452 approved by District Wild Life Biologist on 3/26/01 and ODFW Steve George. Currently the property is enjoying the tax benefits of that Wildlife management status. The status was set up to protect and manage wildlife in the 20 acre parcel, including 16 acres of woodlands. The application for the marijuana growing facility shows a plot map where the greenhouses are to be located in the wooded area, home to a herd of mule deer numbering ~25 by my personal observation. These deer are there daily in the winter months and a portion of the herd all year long. One can see when one observes the Wildlife Management plan, the plot for the Marijuana Growing facility and Google Earth that the exact site of the growing facility plan is the wooded area on the wildlife management plan. This facility is also immediately adjacent to the wet lands noted on the wildlife management plan. Of course the applicant wants to hide the facility away in the woods so it does not adversely impact his residence, but this is to the detriment of the wildlife that he has proposed to benefit by his Wildlife Management Plan. Putting the growing facility where it is planned also requires the building of an access road on his east boundary, further encroaching upon the wildlife. These two plans cannot coexist.

It seems that the best site for the facility would be in the northwest portion of the property, close to Couch Market Road and away from the wooded area and the wetlands. No access road would be required and the wooded area and the wetlands

would not be so significantly impacted. Of course then the applicant could then see, hear and smell the operation fully.

There are many sites that one can put such a facility that are not in an area of small farms and homes. Putting it in the middle of the home of a herd of mule deer and wet lands is not the best place.

I have heard that the residence is now a rental so I have concerns about the compliance of the regulations associated with such a facility .

Thank you,

Jerry E. Nye, MD

65095 Collins Road

Bend, Oregon 97703

503 701 3317

5/2/17

Caroline House

From: Kailie Haynes <kailie.elizabeth08@gmail.com>
Sent: Wednesday, May 03, 2017 9:25 AM
To: Caroline House
Subject: Proposed marijuana production facility
Attachments: Marijuana production facility.pdf

Dear Ms House,

I am writing you regarding the request to establish a marijuana production facility on 18281 Couch Market road. I have written a testimony of my opinion on the matter and mailed it today to both the listed street address and PO box of the Community Development Department. I am also sending a copy of the letter to you as a PDF to ensure that it gets to the right place so that my input may be heard before a decision is made. Thank you for your time.

Have a great day,
Kailie Haynes

Kailie Haynes

65125 Collins Road
Bend, Oregon 97703
541-410-0767
Kailie.elizabeth08@gmail.com

May 2, 2017

Deschutes County Community Development Department and whom it may concern,

I received the letter notifying me of the application to establish a marijuana production facility in my neighborhood at the address of 18281 Couch Market Road. I appreciate the notification and the opportunity to voice my strong opposition on the matter.

My first concern is neighborhood safety. I purchased my home with the intention of living here for the majority of my life and raising a family here. Given the current situation of marijuana being federally illegal, it is no secret that marijuana operations are businesses that deal strictly in cash. Marijuana producers are known to potentially be harboring large amounts of cash in their facilities which makes them targets for crime. It is my opinion that a marijuana operation in our neighborhood exposes us all to a higher likelihood of crime in our own homes. As of now, there's not a lot of draw out here for criminal mischief but allowing a marijuana production facility in our neighborhood would surely change this.

My second concern is loss of property value. This is a rural neighborhood with minimal traffic and an abundance of peace and quiet. I think the sentiments of many people who move out to rural Tumalo are similar to my own in that we move here to get away from the hustle and bustle of town. Knowing that there is a marijuana operation in the neighborhood that is leading to excessive noise, foul odors, heavy increase in traffic due to workers at the facility, and light pollution would certainly drive potential home buyers to look for homes in a different area.

Both Collins road and Couch Market road are part of the Oregon Scenic Bikeway, which as you know is Central Oregon's most popular road hike loop. Increased traffic in this area that does not have hike lanes would make this road bike loop significantly more dangerous and less enjoyable. As Central Oregon's economy is built on tourism and outdoor recreation, we need to protect our outdoor tourist attractions.

In conclusion, I believe that a rural neighborhood community in Central Oregon is absolutely not the place for a marijuana growing operation. Our winters and even cold nights in the summers are bound to require large HVAC equipment and potentially generators that will be loud and disruptive to our community, our livestock, and our wildlife.

I would like to request that we have a public hearing for our neighborhood to ask questions and voice our opposition against this facility disrupting our homes and families.

Sincerely yours,

Kailie Haynes

Caroline House

From: Greg Tomb <spurranch2@gmail.com>
Sent: Friday, May 05, 2017 2:09 PM
To: Caroline House
Subject: Re: May 4, 2017

Hi Caroline. I just read this and if the applicant is meeting all the requirements then I guess i don't have a say to stop this from being approved.

You can through away my letter - not worth it being in the file...

Thanks, Greg

Sent from my iPhone

> On May 4, 2017, at 10:02 AM, Caroline House <Caroline.House@deschutes.org> wrote:
>
> Hi Greg,
>
> Thank you for submitting comments regarding pending application no. 247-17-000293-AD. This email will be added to the record.
>
> Please provide a mailing address if you would like to receive future mailed notices for this application.
>
> Feel free to contact me if you have additional questions about the status of the review.
> Thanks!
>
> Online Documents:
> <http://dial.deschutes.org/Real/DevelopmentDocs/131452>
>
> Deschutes County Marijuana Production Regulations:
> <https://www.deschutes.org/cd/page/marijuana-production>
>
>
> Caroline House, Assistant Planner
> Community Development Department
> PO Box 6005 | 117 NW Lafayette Avenue
> Bend, Oregon 97708-6005
> Tel: (541) 317-3148
> www.deschutes.org/cd
> Disclaimer:
> Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.
>
>
> -----Original Message-----
> From: Greg Tomb [<mailto:spurranch2@gmail.com>]
> Sent: Thursday, May 04, 2017 8:53 AM

> To: Caroline House
> Cc: Valor Farm
> Subject: May 4, 2017

>
> Hi Caroline. Per the application notice sent out on the marijuana production facility, I want to formally contest it. Below is my letter. Do I also need to send a hard copy or is this email ok. Thanks in advance for the guidance.

>
> Regards,
> Greg
>
>

>
> May 4, 2017
>
> Subject: file number 247-17-000293-AD

>
> To: Caroline House, Assistant Planner

>
> Per the proposed land use application to put a marijuana production facility at 18281 Couch Market Road I do NOT support this land use.

>
> I own property close to this location both 65050 Collins Road and 65040 Collins Road. I appose this for several reasons:

>
> 1. This area in Tumalo is a farming community and also a family community. There are lots of families with younger children in this area. I have a 9 and 11 year old and I have lived in this area now for 7 years. Marijuana is not approved at the federal level and it is very, very addictive to children. Studies prove the addictive nature of marijuana and the long term, negative mental impact on individuals that become addicted.

>
> 2. In addition, I believe having a marijuana production facility producing a federally illegal substance greatly reduces the value of all the properties in the area. In addition to the two properties I mentioned above, I also own properties at 64610 Collins Road and 64550 Collins Road. I have massive investments in all these properties and do not want these investments to be compromised.

>
> Thus, to be clear I do NOT support this application.

>
> Regards
> Greg Tomb
> 659-842-0039.

>
>
> Sent from my iPhone

RECEIVED

MAY 06 2017

Kailie Haynes
Deschutes County CDD

65125 Collins Road
Bend, Oregon 97703
541-410-0767
Kailie.elizabeth08@gmail.com

May 2, 2017

Deschutes County Community Development Department and whom it may concern,

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My first concern is neighborhood safety. I purchased my home with the intention of living here for the majority of my life and raising a family here. Given the current situation of marijuana being federally illegal, it is no secret that marijuana operations are businesses that deal strictly in cash. Marijuana producers are known to potentially be harboring large amounts of cash in their facilities which makes them targets for crime. It is my opinion that a marijuana operation in our neighborhood exposes us all to a higher likelihood of crime in our own homes. As of now, there's not a lot of draw out here for criminal mischief but allowing a marijuana production facility in our neighborhood would surely change this.

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Both Collins road and Couch Market road are part of the Oregon Scenic Bikeway, which as you know is Central Oregon's most popular road bike loop. Increased traffic in this area that does not have bike lanes would make this road bike loop significantly more dangerous and less enjoyable. As Central Oregon's economy is built on tourism and outdoor recreation, we need to protect our outdoor tourist attractions.

In conclusion, I believe that a rural neighborhood community in Central Oregon is absolutely not the place for a marijuana growing operation. Our winters and even cold nights in the summers are bound to require large HVAC equipment and potentially generators that will be loud and disruptive to our community, our livestock, and our wildlife.

I would like to request that we have a public hearing for our neighborhood to ask questions and voice our opposition against this facility disrupting our homes and families.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Kailie Haynes', with a large, stylized flourish at the end.

Kailie Haynes

Kailie Haynes
65125 Collins Road
Bend, OR 97703

EUGENE OR 974

03 MAY 2017 PM 17



Community Development Department
117 NW Lafayette Avenue
Bend, OR 97708-6005

97703\$4510



Caroline House

From: Caroline House
Sent: Monday, May 08, 2017 1:45 PM
To: 'Triplett, Thomas'
Subject: RE: FW:

Hi Thomas,

I cannot open the attachment. Can you resend in a pdf version?

Thanks!



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

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From: Triplett, Thomas [<mailto:Ttriplett@SCHWABE.com>]
Sent: Monday, May 08, 2017 9:14 AM
To: Caroline House
Subject: FW:

I have attached a letter sent in connection with the east county application, I would ask that you put it in the reading file of the Laid Law Farm application 24717000293 AD. I will also send a draft op ed, which when completed will be published in the Bend Bulletin.

Schwabe Williamson & Wyatt

Thomas Triplett
Shareholder
Direct: 503-796-2901
ttriplett@schwabe.com

Ideas fuel industries, learn more at:
www.schwabe.com

From: Kirsch, Beth
Sent: Monday, May 08, 2017 8:49 AM

To: Triplett, Thomas
Subject: RE:

Under: Triplett / Personal / Tumalo Marijuana Opposition

Schwabe Williamson & Wyatt

Beth A Kirsch
Direct: 503-796-2433
bkirsch@schwabe.com

Ideas fuel industries, learn more at:
www.schwabe.com

From: Triplett, Thomas
Sent: Saturday, May 06, 2017 11:16 AM
To: Kirsch, Beth
Subject:

SEE IF YOU CAN FIND THE LETTERS I WROTE RE MARIJUANA TO THE COUNTY. LAST ONE WAS WITH THE LAST 2-3 MONTHS. THERE IS VERY LITTLE UNDER THE MARIJUANA IN FILE SITE

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Caroline House

From: Triplett, Thomas <Ttriplett@SCHWABE.com>
Sent: Monday, May 08, 2017 9:28 AM
To: Caroline House
Subject: 20671073_1
Attachments: 20671073_1.docx

Version for publication

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As the County struggles with its decisions to grant conditional use permits for growing and manufacture of marijuana, there is a critical factor that must be considered. That is the continued availability of water both to the enterprise and to its neighbors. There are three sources of water: rain/snow, irrigation districts, and wells. In Deschutes County, in contrast to western Oregon, rain water is scarce supply. The residue of snow generally becomes available through the irrigation districts or through recharging the aquifer. Some of the irrigation districts are subject to direct control of the Corp of Engineers and their need to comply with Federal regulations relating to beneficial uses of water. Others, such as Tumalo Irrigation District, are not directly subject to the same regulations. And, of course, well water is dependent upon the aquifer being adequately recharged and not overtaxed through non domestic usage..

Now the problem. Some properties are experiencing dry wells in east and west county. Thus some are required to drill deeper to have any water supply. The causes may be multiple: piping of main canals, dry seasons, improper utilization etc.

Substantially all agriculture in Deschutes County is seasonal and coincides with the Irrigation Districts' season Marijuana, however, is a year-long operation. Thus, of necessity, these growers will have to utilize tankers or well water. If the latter is used, it is unlawful, and will deplete the aquifer. Unfortunately such use is nearly impossible to police. If they use water tankers or fill portable water tanks, there is the temptation, observed by others, of growers filling tanks unlawfully from city fire hydrants..

The questions are the following:

- Will neighbors' wells run dry?
- If the marijuana growers' wells run dry, will they leave their unsightly infrastructure as an eternal eyesore?
- Isn't it time for the County to retain a hydrologist to answer these and related questions before blessing permits?

One final comment. Groups are being formed to sue the county commissioners under the federal law for violation of the Supremacy Clause provisions of the U.S. Constitution as well as for becoming a part of a conspiracy to facilitate a criminal enterprise. Wouldn't it be better for the county to put a hold on permitting, until the Attorney General of the United States determines whether to enforce the controlled substances laws; until a hydrologist has studied and made recommendations and/or resolution of the pending civil suit raising Constitutional and Rico issues.

Caroline House

From: Kirsch, Beth <BKirsch@SCHWABE.com>
Sent: Monday, May 08, 2017 2:21 PM
To: Caroline House
Cc: Triplett, Thomas
Subject: Emailing: 20671073_1.pdf
Attachments: 20671073_1.pdf

Version for publication

Schwabe Williamson & Wyatt

Beth A Kirsch
Direct: 503-796-2433
bkirsch@schwabe.com

Ideas fuel industries, learn more at:
www.schwabe.com

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Caroline House

From: Kirsch, Beth <BKirsch@SCHWABE.com>
Sent: Monday, May 08, 2017 2:23 PM
To: Caroline House
Cc: Triplett, Thomas
Subject: LT Deschutes Co. Commissioners signed_sent 3_8_17 re Piatt appeal.PDF
Attachments: LT Deschutes Co. Commissioners signed_sent 3_8_17 re Piatt appeal.PDF

I have attached a letter sent in connection with the east county application, I would ask that you put it in the reading file of the Laid Law Farm application 24717000293 AD. I will also send a draft op ed, which when completed will be published in the Bend Bulletin.

Schwabe Williamson & Wyatt

Thomas Triplett
Shareholder
Direct: 503-796-2901
ttriplett@schwabe.com

Ideas fuel industries, learn more at:
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March 8, 2017

THOMAS M. TRIPLETT
Admitted in Oregon
T: 503-796-2901
ttriplett@schwabe.com

VIA E-MAIL (JACOB.RIPPER@DESCHUTES.ORG)
VIA FIRST CLASS MAIL

Deschutes County Commissioners
c/o Jacob Ripper, Associate Planner
Deschutes County
P. O. Box 6005
Bend, Oregon 97708-6005

RE: Appeal of Deschutes County Administrative Determination
Approving Recreational Marijuana Production Facility
247-16-000600-AD Rubio Real Estate Investments, LLC, Owner
By Douglas R. White, Oregon Planning Solutions, Applicant/Agent
23105 Alfalfa Market Road, Deschutes County
Appellants - Lance and Monika Piatt

Dear County Commissioners:

I write in support of the Piatt appeal. Certainly the normal issues of noise, smell, appropriateness to the area, and safety are key and common issues with which you deal frequently. This appeal brings another, important issue to the fore.

I am sure each of you is aware that growth, manufacture and distribution of marijuana violates federal law. It is also certain that federal law trumps state law on this subject. The Oregon Supreme Court in *Seavers v. Emerald Steel Fab*, 348 OR. 159 (1940) was faced with the question of whether a disabled user of medical marijuana could be disciplined by his employer for usage of the prescribed dosage. The employer had a no drug policy applicable to its employees. The Oregon Supreme Court adopted the defendant's argument as follows:

- Marijuana, including medical marijuana, is a proscribed substance under the Federal Controlled Substances Act.
- Use, sale, or distribution of marijuana violates federal law.
- Under the supremacy clause to the United States Constitution, the Oregon medical marijuana statute was unconstitutional.
- In consequence, the employee had no justiciable rights under the ADA.

This decision is not an outlier. Rather it is the unanimous opinion of courts which have dealt with the subject. See *Coats v. Dish Network* from the Colorado Supreme Court; and *James v.*

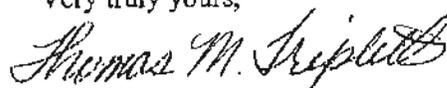
Deschutes County Commissioners
March 8, 2017
Page 2

City of California, among others. You should also recognize that the federal government recently refused to delist marijuana from the Controlled Substance list because of its grave and continuing health concerns.

Bottom line is that the land use applicant asks the County Commissioners to bless an activity which is unconstitutional and, which under federal law, is a crime. Nor may the Commissioners take solace under the Cole memoranda for two reasons. First, it is highly probable that Attorney General Sessions will withdraw the memoranda. But even more significant is the fact that civil liability can exist for the applicant, and potentially the Commissioners under the Federal RICO statute. Further, the County may be exposed under Section 1983 of the 1867 Civil Rights Act for damages sustained by the neighbors.

I strongly recommend that the County deny the land use applicant. At minimum, it should defer action pending clarification by the Attorney General.

Very truly yours,



Thomas M. Triplett

TMT:bak

cc: David Doyle, Esq. (david.doyle@deschutes.org)

RECEIVED
BY: Jennifer Lawrence

MAY 9 2017

Kailie Haynes

DELIVERED BY:

MAM

65125 Collins Road
Bend, Oregon 97703
541-410-0767
Kailie.elizabeth08@gmail.com

May 2, 2017

Deschutes County Community Development Department and whom it may concern,

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My first concern is neighborhood safety. I purchased my home with the intention of living here for the majority of my life and raising a family here. Given the current situation of marijuana being federally illegal, it is no secret that marijuana operations are businesses that deal strictly in cash. Marijuana producers are known to potentially be harboring large amounts of cash in their facilities which makes them targets for crime. It is my opinion that a marijuana operation in our neighborhood exposes us all to a higher likelihood of crime in our own homes. As of now, there's not a lot of draw out here for criminal mischief but allowing a marijuana production facility in our neighborhood would surely change this.

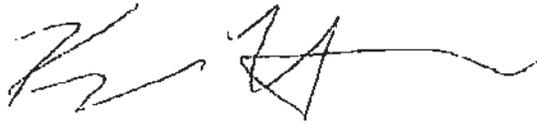
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Sincerely yours,

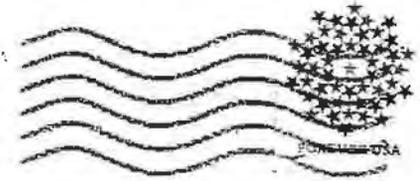
A handwritten signature in black ink, appearing to read 'Kailie Haynes', with a long horizontal flourish extending to the right.

Kailie Haynes

Kallie Haynes
65125 Collins Road
Bend, OR 97703

EUGENE OR 974

03 MAY 2017 PM 2 T



RECEIVED
MAY 03 2017
Deschutes County COJ

Community Development Department
P.O. BOX 6005
Bend, OR 97708-6005


Caroline
-JAR

97708\$6005



Caroline House

From: Caroline House
Sent: Tuesday, May 09, 2017 4:32 PM
To: 'Nancy Ring'
Subject: RE: Land Use Application for Laidlaw Farms, LLC

Hi Frank and Nancy,

Thank you for submitting comments regarding pending application no. 247-17-000293-AD. This email will be added to the record.

Please confirm your mailing address if you would like to receive future mailed notices for this application.

Feel free to contact me if you have additional questions about the status of the review.
Thanks!

Online Documents:

<http://dial.deschutes.org/Real/DevelopmentDocs/131452>

Deschutes County Marijuana Production Regulations:

<https://www.deschutes.org/cd/page/marijuana-production>



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

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From: Nancy Ring [mailto:nancyring10@gmail.com]
Sent: Tuesday, May 09, 2017 2:33 PM
To: Caroline House
Subject: Fwd: Land Use Application for Laidlaw Farms, LLC

----- Forwarded message -----

From: Nancy Ring <nancyring10@gmail.com>
Date: Tuesday, May 9, 2017
Subject: Land Use Application for Laidlaw Farms, LLC
To: Caroline.House@deschutes.org

Frank and Nancy Ring

65355 Tweed Rd
Bend, Oregon. 97703
541) 280-7231

nancyring10@gmail.com

May 9, 2017

Deschutes County Community Development Department and whom it may concern:

I have become aware of an application to establish a marijuana production facility in my neighborhood at 18281 Couch Market Rd. Thank you for the opportunity to voice my strong opposition to this request.

We purchased our property at 65355 Tweed Rd. in 1979. We moved here for the expressed purpose of living a rural lifestyle and raising our family in this tight-knit community. We have raised various livestock (cows, pig, chickens and horses) and our 4 boys participated in 4-H projects from fourth grade all the way through their high school years. We garden and raise vegetables as well.

My concerns for having this, or any marijuana production facilities are as follows:

The quality of our lifestyle is directly impacted by having this type of facility within a mile from our home.

1. Increased traffic and the potential for an increase in the crime rate. We have already witnessed fences that hold livestock being severed leaving our livestock at risk if/when they escape. In addition, there have been multiple incidences of vehicles randomly driving down our private gravel driveway (1/2 mile) while there are clearly marked "No Trespassing" signs. These vehicles often stop just short of our home and then leave for no apparent reason. After living a very quiet life on our very secluded 10 acres, We now feel uneasy about our isolated property and vulnerable to crime.

2. We have experienced more power outages this past year and suspect this is due to the increased need for power to the various growing operations that already exist on Tweed Rd and Couch Market. One outage lasted over 8 hours for us, but the pot growers seemed to get preferential treatment for recovery of their power.

3. We are very concerned that the water table that supplies our water from a private well will be affected by an increased demand for water for the pot plants. Our well is over 500' deep and each property in the area has wells that deep as well. Since our water table gets replenished from snow melt each year, and since our irrigation season runs from late April thru September, this increase in the demand for water will have to come from a well. Use of well water to irrigate plants that grow year round is unlawful and poses a threat to well users in and around the area.

4. We have been directly impacted by growing operations on both Tweed Rd and Couch Mkt by noise, light and odor pollution. In spite of the guidelines and restrictions the county has put in place, I wonder if the County has the resource and money needed to police the already occurring violations. My husband has not been able to sleep at times because of loud generators used to heat enormous green houses during the winter months.

We would very much appreciate the county taking into consideration our concerns when making a decision for this applicant. In light of the current climate and conflict between state and federal laws regarding marijuana, I strongly encourage this department to carefully consider the impact of such a facility in our rural neighborhood.

Sincerely,

Frank & Nancy Ring

Caroline House

From: Tom & Linda Denall <tdmfg@earthlink.net>
Sent: Tuesday, May 09, 2017 7:53 PM
To: Caroline House
Subject: Re: Laidlaw Farms, LLC Marijuana Facility

Thanks for the email, Caroline. We would like to receive future notices. Our address is 18380 Couch Market Rd. Bend, OR 97703

Sincerely,
Tom and Linda Denall

From: Caroline House
Sent: Tuesday, May 09, 2017 4:22 PM
To: 'Tom & Linda Denall'
Subject: RE: Laidlaw Farms, LLC Marijuana Facility

Hi Tom and Linda,

Thank you for submitting comments regarding pending application no. 247-17-000293-AD. This email will be added to the record.

Please confirm your mailing address if you would like to receive future mailed notices for this application.

Feel free to contact me if you have additional questions about the status of the review.
Thanks!

Online Documents:
<http://dial.deschutes.org/Real/DevelopmentDocs/131452>

Deschutes County Marijuana Production Regulations:
<https://www.deschutes.org/cd/page/marijuana-production>



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

Disclaimer:

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From: Tom & Linda Denall [<mailto:tdmfg@earthlink.net>]
Sent: Tuesday, May 09, 2017 10:04 AM
To: Caroline House
Subject: Laidlaw Farms, LLC Marijuana Facility

May 9, 2017

Reference File Number: 247-17-000293-AD

Laidlaw Farms, LLC Marijuana Production Facility

Dear Caroline House:

We are close neighbors of the proposed marijuana production facility on Couch Market Road. We live approximately 200 yards away, on the north side of Couch Market Rd.

Our concern is the well water usage. We have no idea how much water will be used in the production, and how this will affect the water table. If it is in operation year around, it seems like a significant amount of water would be needed to maintain a 5000 square foot greenhouse. Is it possible to have an evaluation by a hydrologist before granting a permit? It would offer reassurance to us and our neighbors if this could be done.

Thank you for considering our concerns.

Sincerely,

Tom and Linda Denall

18380 Couch Market Rd

Bend, OR 97703

Caroline House

From: Martha McGinnis <martha@themcginnisranch.com>
Sent: Wednesday, May 10, 2017 5:48 AM
To: Caroline House
Cc: VALOR FARM; Prudence Hammett
Subject: Re: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!

Dear Caroline:

At your request, I am writing about: File number: 247-17-000293-AD

Also at your request I looked at the original notification and only saw mention that a hearing might be possible ...I don't believe I have seen in any of our numerous email communications a mention that our particular case would or would not have a hearing. Please comment.

Of course because of the number of emails you are receiving from very concerned Tumalo residents, we assume that we WILL be given the benefit of a hearing.

Thanking you in advance for your assistance.

Sincerely, .Martha McGinnis

Sent from my iPad

> On May 9, 2017, at 4:27 PM, "Caroline House" <Caroline.House@deschutes.org> wrote:

>
> Hi Martha,
>
> Thanks for confirming the mailing address. I've added it to the list.
>
> Due to the high volume of applications and general inquires we are experiencing, I respectfully request you reference my original email for details on if the matter will be referred to a public hearing.

>
> Thanks,
>
> Caroline House, Assistant Planner
> Community Development Department
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>
> -----Original Message-----
> From: Martha McGinnis [mailto:martha@themcginnisranch.com]
> Sent: Tuesday, May 09, 2017 10:04 AM

> To: Caroline House
> Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

> Dear Caroline:

> Thank you for getting back to me... since I have sent out a number of letters to concerned Tumalo neighbors I think you have been hearing from quite a few with ALL STATING STRONGLY WE DO NOT WANT A MARIMUANA FACILTY AT FRANK CIBELLI'S HOME OR ANYWHERE ELSE IN TUMALO. Hopefully a hearing will be scheduled - when?

> Please note our address and send us all notices pertaining to this very sensitive matter.

> Martha and Tim McGinnis, 64980 Collins Road, Bend, Oregon 97703

> Thanking you in advance for your assistance.

> Sincerely, Martha McGinnis

> -----Original Message-----

> From: Caroline House [mailto:Caroline.House@deschutes.org]

> Sent: Tuesday, May 09, 2017 8:09 AM

> To: Martha McGinnis

> Cc: Prudence Hammett; Peter Hammett

> Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

> Good morning Martha,

> Please submit any comments by the end of the week. I've attached the email you submitted to the record last Friday for your reference.

> All applications are processed as required under the Deschutes County Code (DCC) Title 22 Procedures Ordinance, which includes the required radius for the notice of application (see DCC section below). However, if you provide a physical mailing address I can add you to the list to receive future notices. Notices cannot be emailed.

> Let me know if you have any additional questions.

> DCC 22.24.030. Notice of Hearing or Administrative Action.

> A. Individual Mailed Notice.

> 1. Except as otherwise provided for herein, notice of a land use application shall be mailed at least 20 days prior to the hearing for those matters set for hearing, or within 10 days after receipt of an application for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:

> a. The applicant.

> b. Owners of record of property as shown on the most recent property tax assessment roll of property located:

> 1. Within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;

> 2. Within 250 feet of the property that is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height; or

> 3. Within 750 feet of the property that is the subject of the notice where the subject property is within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height.

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> PO Box 6005 | 117 NW Lafayette Avenue
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> -----Original Message-----
> From: Martha McGinnis [mailto:martha@themcginnisranch.com]
> Sent: Monday, May 08, 2017 1:32 PM
> To: Caroline House
> Cc: Prudence Hammett; Peter Hammett
> Subject: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!!!
>
> Dear Caroline:
>
> We in Tumalo ARE VERY UPSET about the proposed marijuana facility. It seems as if very few neighbors were alerted of this and now time is running out. Could you please email me as to the deadline for submissions as well as when a meeting is to be scheduled to hear our concerns. A number of issues have arisen that are most unsettling - lack of water 12 months of the year, this land supposedly is a non-taxed nature preserve, Mr. Cibelli has some past history which is very troubling,,etc., etc.
>
> Please get back to me as soon as possible ...
>
> Cheers, Martha McGinnis
>
> Sent from my iPad
> <mime-attachment>

Caroline House

From: Caroline House
Sent: Wednesday, May 10, 2017 9:49 AM
To: 'Martha McGinnis'
Cc: VALOR FARM; Prudence Hammett
Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

Hi Martha,

All comments must be submitted by the end of the week Friday, May 12, 2017 no later than 5 PM (see email below dated Tuesday, May 09, 2017 8:09 AM).

The decision on whether this application is referred to a public hearing is at the discretion of the Planning Director, Peter Gutowsky. The decision must be made within 30 days of the date the application is accepted or deemed accepted as complete. This application has not been deemed complete. Please see the code section below.

DCC 22.20.010. Action on Land Use Action Applications.

A. Except for comprehensive plan amendments and zone changes and other instances where a hearing is required by state law or by other ordinance provision, the Planning Director may decide upon a land use action application administratively either with prior notice, as prescribed under DCC 22.20.020 or without prior notice, as prescribed under DCC 22.20.030 or he may refer the application to the Hearings Body for hearing. The Planning Director shall take such action within 30 days of the date the application is accepted or deemed accepted as complete. This time limit may be waived at the option of the applicant.

B. The Planning Director's choice between or among administrative or hearing procedures to apply to a particular application or determination shall not be an appealable decision.

Thanks,
Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

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-----Original Message-----

From: Martha McGinnis [mailto:martha@themcginnisranch.com]
Sent: Wednesday, May 10, 2017 9:22 AM
To: Caroline House
Cc: VALOR FARM; Prudence Hammett
Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

Dear Caroline:

Thanks for responding so quickly to this very sensitive matter.

We would like to know what is the criteria that determines who gets a hearing?

Once again could you confirm that people have one more week to send their e-mails to you.

Regards, Martha McGinnis

-----Original Message-----

From: Caroline House [mailto:Caroline.House@deschutes.org]
Sent: Wednesday, May 10, 2017 8:03 AM
To: 'VALOR FARM'
Cc: Prudence Hammett; Martha McGinnis
Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

Good morning,

It has not been determined if the matter will be referred to a public hearing as the application is still in the comment and completeness check period.

If the application is referred to a hearings officer for a decision you will be notified.

Thanks,

Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
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-----Original Message-----

From: VALOR FARM [mailto:valorfarm@gmail.com]
Sent: Wednesday, May 10, 2017 6:29 AM
To: Caroline House
Cc: Prudence Hammett; Martha McGinnis
Subject: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

Caroline:

I concur with Martha McGinnis' email regarding a public hearing. Please advise as to when this will take place.

As I am sure you are aware, the residents of Tumalo are not happy and our voice has a right to be heard.

Thank you,

Robin and Greg Tomb
65050 Collins RD
64610 Collins RD

> On May 10, 2017, at 5:47 AM, Martha McGinnis <martha@themcginnisranch.com> wrote:

>

> Dear Caroline:

>

> At your request, I am writing about: File number: 247-17-000293-AD

>

> Also at your request I looked at the original notification and only saw mention that a hearing might be possible ...I don't believe I have seen in any of our numerous email communications a mention that our particular case would or would not have a hearing. Please comment.

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> Thanking you in advance for your assistance.

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> Sincerely, .Martha McGinnis

>

> Sent from my iPad

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>> Hi Martha,

>>

>> Thanks for confirming the mailing address. I've added it to the list.

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>> Due to the high volume of applications and general inquires we are experiencing, I respectfully request you reference my original email for details on if the matter will be referred to a public hearing.

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>> Thanks,

>>

>> Caroline House, Assistant Planner

>> Community Development Department

>> PO Box 6005 | 117 NW Lafayette Avenue Bend, Oregon 97708-6005

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>> From: Martha McGinnis [mailto:martha@themcginnisranch.com]

>> Sent: Tuesday, May 09, 2017 10:04 AM

>> To: Caroline House

>> Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

>>

>> Dear Caroline:

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>> Thank you for getting back to me... since I have sent out a number of letters to concerned Tumalo neighbors I think you have been hearing from quite a few with ALL STATING STRONGLY WE DO NOT WANT A MARIJUANA FACILITY AT FRANK CIBELLI'S HOME OR ANYWHERE ELSE IN TUMALO. Hopefully a hearing will be scheduled - when?

>>

>> Please note our address and send us all notices pertaining to this very sensitive matter.

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>> Martha and Tim McGinnis, 64980 Collins Road, Bend,
>> Oregon 97703

>> Thanking you in advance for your assistance.

>> Sincerely, Martha McGinnis

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>> Sent: Tuesday, May 09, 2017 8:09 AM

>> To: Martha McGinnis

>> Cc: Prudence Hammett; Peter Hammett

>> Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

>> Good morning Martha,

>> Please submit any comments by the end of the week. I've attached the email you submitted to the record last Friday for your reference.

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>> Let me know if you have any additional questions.

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>> A. Individual Mailed Notice.

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>> Thanks,

>> Caroline House, Assistant Planner

>> Community Development Department

>> PO Box 6005 | 117 NW Lafayette Avenue Bend, Oregon 97708-6005

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>> -----Original Message-----

>> From: Martha McGinnis [mailto:martha@themcginnisranch.com]

>> Sent: Monday, May 08, 2017 1:32 PM

>> To: Caroline House

>> Cc: Prudence Hammett; Peter Hammett

>> Subject: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

>>

>> Dear Caroline:

>>

>> We in Tumalo ARE VERY UPSET about the proposed marijuana facility. It seems as if very few neighbors were alerted of this and now time is running out. Could you please email me as to the deadline for submissions as well as when a meeting is to be scheduled to hear our concerns. A number of issues have arisen that are most unsettling - lack of water 12 months of the year, this land supposedly is a non-taxed nature preserve, Mr. Cibelli has some past history which is very troubling,,etc., etc.

>>

>> Please get back to me as soon as possible ...

>>

>> Cheers, Martha McGinnis

>>

>> Sent from my iPad

>> <mime-attachment>

Caroline House

From: Matt Smith <mattsmithw14@gmail.com>
Sent: Wednesday, May 10, 2017 3:14 PM
To: Caroline House
Subject: RE: 247-17-000293-AD

Thanks Caroline

On May 10, 2017 3:11 PM, "Caroline House" <Caroline.House@deschutes.org> wrote:

Hi Matt,

This email will be added to the record.

Feel free to contact me if you have additional questions about the status of the review.

Thanks!



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue

Bend, Oregon 97708-6005
Tel: [\(541\) 317-3148](tel:(541)317-3148)

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From: Matt Smith [mailto:mattsmithw14@gmail.com]
Sent: Wednesday, May 10, 2017 11:54 AM
To: Caroline House
Subject: Re: 247-17-000293-AD

Hello Caroline,

My written comments are set out below. Given that today is cut off date for comments, I'd be grateful if you could acknowledge receipt.

Thanks

Matt

To: Deschutes County Planning Division

From: Matt Smith, 18209 Couch Market Road

Re: 247-17-000293-AD

Whilst I have no moral objection to the legalized use of marijuana (quite the contrary), the question of its production raises different issues. The relevant regulations are helpful in this regard but beyond that I would ask that the Planning Division weigh the following additional factors in its consideration of the application:

1. Is the applicant (or the applicant's corporate vehicle) a commercial farmer with a proven agricultural track record?
2. Is the applicant already using the subject property for commercial farming purposes?
3. If already or previously resident on the subject property, does the applicant intend to remain resident on the subject property if the application is granted? (I realize that for the EFU zone this is not a hard legal requirement as it is for the MUA-10 zone, but nonetheless it would seem axiomatic that what an individual does not wish to undertake on his own land while living on it, he should not be permitted to undertake once he has ceased to reside there.)
4. Would the proposed land use be consistent with the character and existing farming practices of the local area?
5. Would the proposed land use be consistent with the current supply and demand for utilities of the local area?

If any of the questions above could be answered in the negative, it would seem that a grant of the application would set a highly unfortunate precedent and would lead to a proliferation of backyard entrepreneurs seeking a quick profit. This opportunity should perhaps be reserved for those already running farming operations, as a valuable supplement to an exacting profession.

Also, given the particular characteristics of the local area, including its areas of natural beauty and seclusion, there appears to be a material risk that the proposed land use (and its long term consequences) would have a negative effect on the community, the quality of life of the local residents and the market value of their properties.

Kind regards

Matt Smith

On Fri, May 5, 2017 at 3:28 PM, Matt Smith <mattsmithw14@gmail.com> wrote:

Thank you Caroline.

On May 5, 2017 3:11 PM, "Caroline House" <Caroline.House@deschutes.org> wrote:

Hi Matt,

Below are two links that you may find helpful for background specific to pending application no. 247-17-000293-AD. The first is a link to the County's DIAL property information website. Documents associated with the application can be found here, including a site plan. I do not believe the applicant has specified the height of the proposed structure(s) at this time, but agricultural structures, as defined in DCC 18.04.030, can have a height up to 36 feet (reference DCC 18.120.040. Building Height Exceptions). The second link is to the Deschutes County Marijuana Production regulations.

1. <http://dial.deschutes.org/Real/DevelopmentDocs/131452>
2. <https://www.deschutes.org/cd/page/marijuana-production>

Feel free to contact me if you have any questions and please submit comments in writing (email is an acceptable format).

Thanks!



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue

Bend, Oregon 97708-6005
Tel: [\(541\) 317-3148](tel:(541)317-3148)

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From: Matt Smith [mailto:mattsmthw14@gmail.com]
Sent: Friday, May 05, 2017 2:24 PM
To: Caroline House
Subject: 247-17-000293-AD

Hello Caroline,

I'm the owner of 18209 Couch Market Road. With regard to the above application, would you be able to tell me the exact proposed location for the facility within the property and the proposed height of the building? Unfortunately I'm out of town until after the comment period.

Thanks

Matt Smith

Caroline House

From: Caroline House
Sent: Wednesday, May 10, 2017 3:08 PM
To: 'Greg Tomb'; VALOR FARM
Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!

Hi Greg,

I am not aware of any Deschutes County Code Zoning provision that requires a criminal background check in conjunction with a land use application. In addition to obtaining local land use approval, all recreational marijuana uses require licensing through the Oregon Liquor Control Commission (OLCC). Below are a couple of links that may be helpful. The second link covers the County's marijuana regulations.

Online Documents:

<http://dial.deschutes.org/Real/DevelopmentDocs/131452>

Deschutes County Marijuana Production Regulations:

<https://www.deschutes.org/cd/page/marijuana-production>

Thanks,



Caroline House, Assistant Planner
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From: Greg Tomb [mailto:spurranch2@gmail.com]
Sent: Wednesday, May 10, 2017 11:14 AM
To: VALOR FARM; Caroline House
Subject: Re: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!

Thanks Caroline!

Quick question.

If the applicant has been charged in the past with a drug felony are they allowed to get this type of permit?

Sent from my iPhone

On May 10, 2017, at 8:37 AM, VALOR FARM <valorfarm@gmail.com> wrote:

Begin forwarded message:

From: "Caroline House" <Caroline.House@deschutes.org>
Date: May 10, 2017 at 8:02:45 AM PDT
To: 'VALOR FARM' <valorfarm@gmail.com>
Cc: Prudence Hammett <prudence54@msn.com>, Martha McGinnis <martha@themcginnisranch.com>
Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

Good morning,

It has not been determined if the matter will be referred to a public hearing as the application is still in the comment and completeness check period.

If the application is referred to a hearings officer for a decision you will be notified.

Thanks,
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Caroline:

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As I am sure you are aware, the residents of Tumalo are not happy and our voice has a right to be heard.

Thank you,
Robin and Greg Tomb
65050 Collins RD
64610 Collins RD

On May 10, 2017, at 5:47 AM, Martha McGinnis
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Of course because of the number of emails you are receiving from very concerned Tumalo residents, we assume that we WILL be given the benefit of a hearing.

Thanking you in advance for your assistance.

Sincerely, Martha McGinnis

Sent from my iPad

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Due to the high volume of applications and general inquires we are experiencing, I respectfully request you reference my original email for details on if the matter will be referred to a public hearing.

Thanks,

Caroline House, Assistant Planner
Community Development Department

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-----Original Message-----

From: Martha McGinnis
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Sent: Tuesday, May 09, 2017 10:04 AM
To: Caroline House
Subject: RE: Cibelli marijuana facility -
URGENT!!!!!!!!!!!!!!!!!!!!

Dear Caroline:

Thank you for getting back to me... since I have sent out a number of letters to concerned Tumalo neighbors I think you have been hearing from quite a few with ALL STATING STRONGLY WE DO NOT WANT A MARIJUANA FACILITY AT FRANK CIBELLI'S HOME OR ANYWHERE ELSE IN TUMALO. Hopefully a hearing will be scheduled - when?

Please note our address and send us all notices pertaining to this very sensitive matter.

Martha and Tim McGinnis, 64980
Collins Road, Bend,
Oregon 97703

Thanking you in advance for your assistance.

Sincerely, Martha McGinnis

-----Original Message-----

From: Caroline House
[mailto:Caroline.House@deschutes.org]
Sent: Tuesday, May 09, 2017 8:09 AM
To: Martha McGinnis
Cc: Prudence Hammett; Peter Hammett
Subject: RE: Cibelli marijuana facility -
URGENT!!!!!!!!!!!!!!!!!!!!

Good morning Martha,

Please submit any comments by the end of the week. I've attached the email you submitted to the record last Friday for your reference.

All applications are processed as required under the Deschutes County Code (DCC) Title 22 Procedures Ordinance, which includes the required radius for the notice of application (see DCC section below). However, if you provide a physical mailing address I can add you to the list to receive future notices. Notices cannot be emailed.

Let me know if you have any additional questions.

DCC 22.24.030. Notice of Hearing or Administrative Action.

A. Individual Mailed Notice.

1. Except as otherwise provided for herein, notice of a land use application shall be mailed at least 20 days prior to the hearing for those matters set for hearing, or within 10 days after receipt of an application for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:

- a. The applicant.
- b. Owners of record of property as shown on the most recent property tax assessment roll of property located:

1. Within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;

2. Within 250 feet of the property that is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height; or

3. Within 750 feet of the property that is the subject of the notice where the subject property is within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height.

Thanks,

Caroline House, Assistant Planner

Community Development Department

PO Box 6005 | 117 NW Lafayette Avenue Bend,
Oregon 97708-6005

Tel: (541) 317-3148

www.deschutes.org/cd

Disclaimer:

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

-----Original Message-----

From: Martha McGinnis
[mailto:martha@themcginnisranch.com]

Sent: Monday, May 08, 2017 1:32 PM

To: Caroline House

Cc: Prudence Hammett; Peter Hammett

Subject: Cibelli marijuana facility -
URGENT!!!!!!!!!!!!!!!!!!!!

Dear Caroline:

We in Tumalo ARE VERY UPSET about the proposed marijuana facility. It seems as if very few neighbors were alerted of this and now time is running out. Could you please email me as to the deadline for submissions as well as when a meeting is to be scheduled to hear our concerns. A number of issues have arisen that are most unsettling - lack of water 12 months of the year, this land supposedly is a non-taxed nature preserve, Mr. Cibelli has some past history which is very troubling,,etc., etc.

Please get back to me as soon as possible ...

Cheers, Martha McGinnis

Sent from my iPad
<mime-attachment>

Caroline House

From: Caroline House
Sent: Wednesday, May 10, 2017 3:13 PM
To: 'Sue Martin'
Subject: RE: 18281 Couch Market marijuana growing proposal File 247-17-000293 A D

Hi Susan,

Thank you for submitting comments regarding pending application no. 247-17-000293-AD. This email will be added to the record.

Please confirm your mailing address if you would like to receive future mailed notices for this application.

Feel free to contact me if you have additional questions about the status of the review.
Thanks!

Online Documents:

<http://dial.deschutes.org/Real/DevelopmentDocs/131452>

Deschutes County Marijuana Production Regulations:

<https://www.deschutes.org/cd/page/marijuana-production>



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

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From: Sue Martin [<mailto:konafan2@gmail.com>]
Sent: Wednesday, May 10, 2017 12:36 PM
To: Caroline House
Subject: 18281 Couch Market marijuana growing proposal File 247-17-000293 A D

Again we face the loss of our pristine environment in Central Oregon and my Tumalo neighborhood. Please hold or stop approval on adding this property to allow the production of marijuana.

I now have two growing properties less than a quarter mile to the north and south of our 10 acre home. The increased traffic due to bicyclers, grower workers, & V B O units has increased traffic and noise. The odor, I believe at harvest time, made us believe we had a skunk issue. There are 3 more growers in a radius of a mile from our home, maybe others I don't know about. One grower is a heavy user of marijuana, which I believed was not supported by the growing guidelines.

There is a beautiful open park across the street from the proposed facility, owned by Bend Parks and Rec. It is open for hiking, flying airplanes, park events, and enjoying the amazing place we live. Marijuana production is not a compatible neighbor to a park.

We have lived on our 10 acres since 1980 and feel SO fortunate to be here. Profit seems to be the goal of our county's growth with less respect to maintaining the reason we want to live here....the spectacular natural environment.

Having seen the boom and bust nature of our community, I feel strongly that our leaders must guide us cautiously toward planning that serves its residents in maintaining the best environment for people, wildlife and natural beauty. Move SLOWLY, put forth strong guidelines, enforce the guidelines, connect with your community.

In concern,
Susan Martin
18340 Pinehurst Rd
Bend, OR 97703
541- 382- 7044

Caroline House

From: Caroline House
Sent: Wednesday, May 10, 2017 3:44 PM
To: 'Nancy Colton'
Subject: RE: Cibelli Marijuana Farm

Hi Nancy,

Thank you for submitting comments regarding pending application no. 247-17-000293-AD. This email will be added to the record.

Please confirm your mailing address if you would like to receive future mailed notices for this application.

Feel free to contact me if you have additional questions about the status of the review.
Thanks!

Online Documents:
<http://dial.deschutes.org/Real/DevelopmentDocs/131452>

Deschutes County Marijuana Production Regulations:
<https://www.deschutes.org/cd/page/marijuana-production>



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

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From: Nancy Colton [<mailto:nancycolton@gmail.com>]
Sent: Wednesday, May 10, 2017 3:24 PM
To: Caroline House
Subject: Cibelli Marijuana Farm

Dear Persons in Charge,

*I am writing in opposition to yet another marijuana production facility in the northwest Tumalo area. Initially, I had so hoped the county could see beyond merely potential tax revenue supposedly generated for "the good of the State (counties) of Oregon." I had also hoped that the overwhelming **urban** vote in favor of marijuana production and use would result in those voters accepting responsibility to grow what they want within their urban confines using city sources-as would any urban industry. While not necessarily opposed to medical marijuana facilities initially, I have actually become disgusted with the marijuana producing facilities I see developing in a beautiful agricultural area created by thoughtful land use laws designed to protect the intention and integrity of both agriculture and agricultural home and ranch property values.*

What I witness now are the likes of coiled barbed wire fences, announcement of security cameras, guns all over the properties designed (I assume) to be visible and accessible, nasty dogs bred to kill humans or any type of innocent trespasser, I see my neighbors being aggressively hassled on their own properties at all hours by what I would call paranoid, angry pot farmers or their "security guards", nighttime camp fires outside the facilities with armed "security guards" protecting their greenhouses, blasting music and loud threats to keep adjacent property owners from building on their own building sites or from freely moving around their own properties, increasing altercations between kids and farmers who threaten them and accuse them of trying to steal their pot crops, an increased number of DUI (pot) /stoned drivers (employees) speeding and recklessly driving etc... While I would want to be the last person to "profile" or stereotype the type of people and situations drawn to these facilities, it's becoming pretty difficult NOT to notice and feel the obvious changes in our neighborhood. Additionally, I have been informed that your current applicant has a record as a convicted felon for previous drug charges?

I am also very concerned regarding the amount of water used for these crops. I would be one of those citizens in favor of a study by a hydrologist to examine the effect of, specifically, marijuana crops water usage and its impact on the surrounding agricultural homes and ranches both in terms of surface water and wells in Deschutes County. I also have to wonder about the amount of federal funding or grant money to keep Tumalo Irrigation District solvent. Is that federal funding being used legally to assist in water production for the already numerous marijuana facilities in Tumalo?

Please reconsider yet another marijuana farm in Northwest Tumalo area. The effects of those already in place have not been favorable to the residents. It seems to me there are too many unknowns as to water and lifestyle/land use outcomes to simply keep plowing forward with granting so many more marijuana producing facilities.

I doubt you would want a marijuana producing facility as your neighbor. It does not seem right to keep granting those permits in our neighborhood.

Thank you,

*Nancy Engelhard
Northwest Tumalo Resident*

Caroline House

From: Peter Hammett <phhammett@hotmail.com>
Sent: Wednesday, May 10, 2017 6:02 PM
To: Caroline House
Subject: Re: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

Caroline,
Thanks for your reply. My mailing address and email address are both correct.
Peter Hammett

Sent from my iPhone

> On May 9, 2017, at 4:39 PM, Caroline House <Caroline.House@deschutes.org> wrote:
>
> Hi Peter,
>
> Thank you for submitting comments regarding pending application no. 247-17-000293-AD. This email will be added to the record.
>
> Can you confirm the address listed below is your mailing address. If yes, I will add it to the list of recipients for future notices.
>
> Feel free to contact me if you have additional questions about the status of the review.
> Thanks!
>
> Online Documents:
> <http://dial.deschutes.org/Real/DevelopmentDocs/131452>
>
> Deschutes County Marijuana Production Regulations:
> <https://www.deschutes.org/cd/page/marijuana-production>
>
> Caroline House, Assistant Planner
> Community Development Department
> PO Box 6005 | 117 NW Lafayette Avenue
> Bend, Oregon 97708-6005
> Tel: (541) 317-3148
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>
> -----Original Message-----
> From: Peter Hammett [mailto:phhammett@hotmail.com]
> Sent: Tuesday, May 09, 2017 3:40 PM
> To: Caroline House
> Cc: Martha Mc Ginnis; prudence Hammett
> Subject: Re: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!
>

> Caroline,
> As a homeowner in Tumalo, I am very concerned about well water being used for commercial purposes. I don't think people engaged in growing marijuana for sale, should be using well water, and thereby depleting our aquifer. We depend on that water for our domestic use.
> Peter Hammett
> 64880 Collins Rd
> Bend, OR 97703
>
> Sent from my iPhone
>
>> On May 9, 2017, at 8:09 AM, Caroline House <Caroline.House@deschutes.org> wrote:
>>
>> Good morning Martha,
>>
>> Please submit any comments by the end of the week. I've attached the email you submitted to the record last Friday for your reference.
>>
>> All applications are processed as required under the Deschutes County Code (DCC) Title 22 Procedures Ordinance, which includes the required radius for the notice of application (see DCC section below). However, if you provide a physical mailing address I can add you to the list to receive future notices. Notices cannot be emailed.
>>
>> Let me know if you have any additional questions.
>>
>> DCC 22.24.030. Notice of Hearing or Administrative Action.
>> A. Individual Mailed Notice.
>> 1. Except as otherwise provided for herein, notice of a land use application shall be mailed at least 20 days prior to the hearing for those matters set for hearing, or within 10 days after receipt of an application for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:
>> a. The applicant.
>> b. Owners of record of property as shown on the most recent property tax assessment roll of property located:
>> 1. Within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;
>> 2. Within 250 feet of the property that is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height; or
>> 3. Within 750 feet of the property that is the subject of the notice where the subject property is within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height.
>>
>> Thanks,
>> Caroline House, Assistant Planner
>> Community Development Department
>> PO Box 6005 | 117 NW Lafayette Avenue Bend, Oregon 97708-6005
>> Tel: (541) 317-3148
>> www.deschutes.org/cd
>> Disclaimer:
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>>
>> -----Original Message-----
>> From: Martha McGinnis [mailto:martha@themcginnisranch.com]

>> Sent: Monday, May 08, 2017 1:32 PM

>> To: Caroline House

>> Cc: Prudence Hammett; Peter Hammett

>> Subject: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

>>

>> Dear Caroline:

>>

>> We in Tumalo ARE VERY UPSET about the proposed marijuana facility. It seems as if very few neighbors were alerted of this and now time is running out. Could you please email me as to the deadline for submissions as well as when a meeting is to be scheduled to hear our concerns. A number of issues have arisen that are most unsettling - lack of water 12 months of the year, this land supposedly is a non-taxed nature preserve, Mr. Cibelli has some past history which is very troubling,,etc., etc.

>>

>> Please get back to me as soon as possible ...

>>

>> Cheers, Martha McGinnis

>>

>> Sent from my iPad

>> <mime-attachment>

Received
5-11-17
AR

Community Development Department May 9, 2017
Carolyn House

File Number: 247-17-000293-AD

Property owner: Frank Cibelli

Property address: 18281 Couch Mk. Rd.

We have lived here for 36 years, raising our family on 10 acres. We oppose the greenhouse that Frank Cibelli wants to build on his property, to raise marijuana. This crop requires a heavy use of electricity and copious amounts of water. In our arid climate, water is a precious commodity. The wells are for domestic use only in our area. With the water required for marijuana production, it is very possible there would be water right violations. Our aquifer level could drop dramatically and our well could go dry and our neighbors.

Our peaceful environment could see more traffic, trucks coming and going at all hours and unsavory people in our area.

We want our peaceful environment near the Tumalo Winter Range, to stay the way it is, so our grandchildren can enjoy the

country like our children did. We all enjoy the quiet evenings sitting on our deck, next to our pond, watching the deer, ducks, geese and flocks of birds. Because night lighting is restricted in our area, it is amazing how many stars and planets we can see. Please protect our rights and restrict this marijuana production that will be so close to us.

Thank you,
John and Nancy Towas
65160 Collins Rd.
Bend, Oregon
97703
phone: 541-388-4676

Please put us on the mailing list, to receive information concerning this property.

Caroline House

From: David Souther <davesouther@me.com>
Sent: Thursday, May 11, 2017 9:50 AM
To: Caroline House
Subject: Re: File #: 247-17-000293-AD

Follow Up Flag: Follow up
Flag Status: Completed

Thank you for your prompt reply. Yes, I would like to receive future mailed notices for this application. Here is my mailing address:

David Souther
1861 Couch Market Rd.
Bend, OR 97703

Respectfully,

David W. Souther

> On May 10, 2017, at 3:14 PM, Caroline House <Caroline.House@deschutes.org> wrote:

>
> Hi David,
>
> Thank you for submitting comments regarding pending application no. 247-17-000293-AD. This email will be added to the record.

>
> Please confirm your mailing address if you would like to receive future mailed notices for this application.

>
> Feel free to contact me if you have additional questions about the status of the review.

>
> Online Documents:
> <http://dial.deschutes.org/Real/DevelopmentDocs/131452>

>
> Deschutes County Marijuana Production Regulations:
> <https://www.deschutes.org/cd/page/marijuana-production>

>
> Thanks,
> Caroline House, Assistant Planner
> Community Development Department
> PO Box 6005 | 117 NW Lafayette Avenue
> Bend, Oregon 97708-6005
> Tel: (541) 317-3148
> www.deschutes.org/cd

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>
> -----Original Message-----

> From: David Souther [<mailto:davesouther@me.com>]

> Sent: Wednesday, May 10, 2017 2:07 PM

> To: Caroline House

> Subject: File #: 247-17-000293-AD

>

> Dear Ms. House,

>

> I am writing to to express my objection to Laidlaw Farms, LLC, application to establish a marijuana production facility at 18281 Couch Market Rd. My wife, Connie Souther, and I live at 18611 Couch Market Rd. I believe you have received other emails and letters from concerned neighbors who also object to this application. I could go through the many reasons to support my objections - water use, light and noise pollution, obnoxious smells, etc., but I know that you are probably already familiar with these and other objections. Suffice to say, not one neighbor who owns property in Tumalo ever imagined marijuana would be allowed to be grown in their neighborhood. To imagine otherwise is simply absurd.

>

> Therefore, I respectfully submit that you deny the application.

>

> Sincerely,

>

> David W. Souther

> 18611 Couch Market Rd.

> Bend, OR 97703

Caroline House

From: Caroline House
Sent: Thursday, May 11, 2017 2:00 PM
To: 'Susan Narber'
Subject: RE: Land Use Application from Laidlaw Farms, LLC c/o Frank Cibelli

Hi Susan,

Thanks for submitting your comments in writing. This email will be added to the record.

As I mentioned yesterday, below are two links that you may find helpful for background on the Deschutes County Land Use regulations for marijuana production uses and specifics for the applicant's proposal.

Application Documents:

<http://dial.deschutes.org/Real/DevelopmentDocs/131452>

Deschutes County Marijuana Production Regulations:

<https://www.deschutes.org/cd/page/marijuana-production>

Feel free to contact me if you have additional questions about the status of the review.
Thanks!



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

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From: Susan Narber [<mailto:snarber@gmail.com>]
Sent: Wednesday, May 10, 2017 4:00 PM
To: Caroline House
Subject: Land Use Application from Laidlaw Farms, LLC c/o Frank Cibelli

Caroline,

Thank you for contacting me today. I called about the marijuana production facility land use application at 18281 Couch Market Road, Bend, OR 97703.

As I explained today, one of the things I am concerned about is the amount of water usage. We have a private well that is adequate for our needs, but it is not deep. We have neighbors who have shared their tales of woe regarding their wells and I think that year-round growing operations of this type are short sighted.

Caroline House

From: Caroline House
Sent: Thursday, May 11, 2017 2:01 PM
To: 'Pete and Gretchen'
Subject: RE: proposed marijuana property

Hi Pete and Gretchen,

Thank you for submitting comments regarding pending application no. 247-17-000293-AD. This email will be added to the record.

Please confirm your mailing address if you would like to receive future mailed notices for this application.

Feel free to contact me if you have additional questions about the status of the review.
Thanks!

Application Documents:

<http://dial.deschutes.org/Real/DevelopmentDocs/131452>

Deschutes County Marijuana Production Regulations:

<https://www.deschutes.org/cd/page/marijuana-production>



Caroline House, Assistant Planner
Community Development Department
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From: Pete and Gretchen [<mailto:pandg@nwlink.com>]
Sent: Wednesday, May 10, 2017 5:14 PM
To: Caroline House
Subject: proposed marijuana property

We are writing to express concerns about the need to have careful consideration for the development of marijuana growing facilities as this industry explodes here in Central Oregon.

A new operation (File number: 247-17-000293-AD (Frank Cibelli, 18281 Couch Market Road) is proposed not far from where we live.

An increase in traffic will require more maintenance on local roads. Fire protection and law enforcement associated with any developments of this type will be supported by taxpayers.

We are particularly alarmed by the year-round need that marijuana plants have for water in our high-desert landscape. Tumalo Irrigation District is concerned about limits to their water due to the endangered spotted frog. Climate change is affecting our region, so the stability of water sources may become unreliable. We, like others in rural neighborhoods, use well water. If marijuana growers use large amounts of this commodity, our well could run dry.

We purchased our land with the expectation that zoning would protect our quality of life and the rural character of the surroundings. The growing of pot on land zoned Exclusive Farm Use (EFU) is legal, although the statewide marijuana measure (Measure 91) was passed in Deschutes County by only 51% and was opposed by 53% of unincorporated voters. That is not a resounding endorsement.

Our fears are that there is not yet a tried and proven protocol to control the industry in a way that will prevent problems that are disruptive to neighboring residents and other community members. Regulations are in currently in place, but they need to be well-enforced to prohibit excessive noise, light pollution, offensive smells, pollution, crime, and to forbid the development of tourist developments on the land.

We urge you to carefully consider not only the positive aspects of this region becoming a burgeoning mecca for the marijuana industry, but also the many negative impacts that may affect established home owners and their futures.

Sincerely,

Robert and Gretchen Pederson
Deschutes County residents

Caroline House

From: Caroline House
Sent: Thursday, May 11, 2017 2:04 PM
To: 'Terri Silliman'
Subject: RE: File number: 247-17-000293-AD (Frank Cibelli, 18281 Couch Market Road)

Hi Teresa,

Thank you for submitting comments regarding pending application no. 247-17-000293-AD. This email will be added to the record.

Please confirm your mailing address if you would like to receive future mailed notices for this application.

Feel free to contact me if you have additional questions about the status of the review.
Thanks!

Application Documents:
<http://dial.deschutes.org/Real/DevelopmentDocs/131452>

Deschutes County Marijuana Production Regulations:
<https://www.deschutes.org/cd/page/marijuana-production>

Caroline House, Assistant Planner
Community Development Department
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-----Original Message-----

From: Terri Silliman [<mailto:tsilliman2@gmail.com>]
Sent: Thursday, May 11, 2017 10:56 AM
To: Caroline House
Subject: File number: 247-17-000293-AD (Frank Cibelli, 18281 Couch Market Road)

I am writing in regards to a marijuana grow facility being proposed on Couch Market. My concerns are many, but the most pressing, and ultimately, most damaging to all community members, is the use of well water to support the crop in the TID off season. We have a grow facility already in process on Mock Rd which is close to my property. I would really like to see this critical matter discussed and appropriately addressed as it will affect all families that draw from the aquifer.

Thank you for taking this seriously.

Sincerely,
Teresa Silliman
18945 Pinehurst Rd.

Caroline House

From: Nancy Baldrick <nbaldrick@gmail.com>
Sent: Thursday, May 11, 2017 2:04 PM
To: Caroline House
Subject: RE: file # 247-17-000293-AD

Nancy Baldrick
18555 Walton Rd.
Bend, Oregon 97703

On May 11, 2017 2:02 PM, "Caroline House" <Caroline.House@deschutes.org> wrote:

Hi Nancy,

Thank you for submitting comments regarding pending application no. 247-17-000293-AD. This email will be added to the record.

Please confirm your mailing address if you would like to receive future mailed notices for this application.

Feel free to contact me if you have additional questions about the status of the review.

Thanks!

Application Documents:

<http://dial.deschutes.org/Rcal/DevelopmentDocs/131452>

Deschutes County Marijuana Production Regulations:

<https://www.deschutes.org/cd/page/marijuana-production>



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue

Bend, Oregon 97708-6005

Tel: [\(541\) 317-3148](tel:541-317-3148)

www.deschutes.org/cd

Disclaimer:

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From: Nancy Baldrick [mailto:nbaldrick@gmail.com]
Sent: Thursday, May 11, 2017 10:21 AM
To: Caroline House
Subject: file # 247-17-000293-AD

The purpose of this email is to state my husband's and my opposition to the Cibelli marijuana facility on Couch Mkt Rd.

It would have a great negative impact on our water supply (especially when there is no irrigation), power, traffic and general

way of life. We are already experiencing these problems with nearby existing facilities. Please do not add to this.

Nancy Baldrick

Brad Smith

18555 Walton Rd.

Bend, Oregon

nbaldrick@gmail.com

Caroline House

From: Wadsworth <wadsdd@aol.com>
Sent: Friday, May 12, 2017 2:39 PM
To: Caroline House
Subject: Cibelli sign

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Caroline, Thank you for responding to my call.

I would like to be on the notice list
Diane Wadsworth
65555 Tweed Rd
Bend Or 97703

Have a nice vacation
Diane

Caroline House

From: Caroline House
Sent: Sunday, May 14, 2017 1:56 PM
To: 'Martha McGinnis'
Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!

Comments needs to be received by 5PM on May 22, 2017.

Thanks,
Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

Disclaimer:

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-----Original Message-----

From: Martha McGinnis [mailto:martha@themcginnisranch.com]
Sent: Saturday, May 13, 2017 7:28 AM
To: Caroline House
Cc: VALOR FARM; Prudence Hammett
Subject: Re: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!

Thank you Caroline Does this mean we have until 5:00 p.m. on Friday, May 19th?

Cheers, Martha

Sent from my iPad

> On May 12, 2017, at 2:47 PM, "Caroline House" <Caroline.House@deschutes.org> wrote:
>
> Hi Martha,
>
> It has come to my attention that the Proposed Land Use sign Mr. Cibelli posted was stolen. A new sign should be posted today.
>
> Therefore, the comment period will be extended an additional 10 days.
>
> Thanks,
> Caroline House, Assistant Planner
> Community Development Department
> PO Box 6005 | 117 NW Lafayette Avenue
> Bend, Oregon 97708-6005
> Tel: (541) 317-3148
> www.deschutes.org/cd

> Disclaimer:

> Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

>

> -----Original Message-----

> From: Caroline House

> Sent: Wednesday, May 10, 2017 9:49 AM

> To: 'Martha McGinnis'

> Cc: VALOR FARM; Prudence Hammett

> Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

>

> Hi Martha,

>

> All comments must be submitted by the end of the week Friday, May 12, 2017 no later than 5 PM (see email below dated Tuesday, May 09, 2017 8:09 AM).

>

> The decision on whether this application is referred to a public hearing is at the discretion of the Planning Director, Peter Gutowsky. The decision must be made within 30 days of the date the application is accepted or deemed accepted as complete. This application has not been deemed complete. Please see the code section below.

>

> DCC 22.20.010. Action on Land Use Action Applications.

> A. Except for comprehensive plan amendments and zone changes and other instances where a hearing is required by state law or by other ordinance provision, the Planning Director may decide upon a land use action application administratively either with prior notice, as prescribed under DCC 22.20.020 or without prior notice, as prescribed under DCC 22.20.030 or he may refer the application to the Hearings Body for hearing. The Planning Director shall take such action within 30 days of the date the application is accepted or deemed accepted as complete. This time limit may be waived at the option of the applicant.

> B. The Planning Director's choice between or among administrative or hearing procedures to apply to a particular application or determination shall not be an appealable decision.

>

> Thanks,

> Caroline House, Assistant Planner

> Community Development Department

> PO Box 6005 | 117 NW Lafayette Avenue

> Bend, Oregon 97708-6005

> Tel: (541) 317-3148

> www.deschutes.org/cd

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>

>

> -----Original Message-----

> From: Martha McGinnis [mailto:martha@themcginnisranch.com]

> Sent: Wednesday, May 10, 2017 9:22 AM

> To: Caroline House

> Cc: VALOR FARM; Prudence Hammett

> Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

>

> Dear Caroline:

>

> Thanks for responding so quickly to this very sensitive matter.

>

> We would like to know what is the criteria that determines who gets a hearing?

>

> Once again could you confirm that people have one more week to send their e-mails to you.

>

> Regards, Martha McGinnis

>

> -----Original Message-----

> From: Caroline House [mailto:Caroline.House@deschutes.org]

> Sent: Wednesday, May 10, 2017 8:03 AM

> To: 'VALOR FARM'

> Cc: Prudence Hammett; Martha McGinnis

> Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

>

> Good morning,

>

> It has not been determined if the matter will be referred to a public hearing as the application is still in the comment and completeness check period.

>

> If the application is referred to a hearings officer for a decision you will be notified.

>

> Thanks,

> Caroline House, Assistant Planner

> Community Development Department

> PO Box 6005 | 117 NW Lafayette Avenue

> Bend, Oregon 97708-6005

> Tel: (541) 317-3148

> www.deschutes.org/cd

> Disclaimer:

> Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

>

> -----Original Message-----

> From: VALOR FARM [mailto:valorfarm@gmail.com]

> Sent: Wednesday, May 10, 2017 6:29 AM

> To: Caroline House

> Cc: Prudence Hammett; Martha McGinnis

> Subject: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

>

> Caroline:

>

> I concur with Martha McGinnis' email regarding a public hearing. Please advise as to when this will take place.

>

> As I am sure you are aware, the residents of Tumalo are not happy and our voice has a right to be heard.

>

> Thank you,

> Robin and Greg Tomb

> 65050 Collins RD

> 64610 Collins RD

>> On May 10, 2017, at 5:47 AM, Martha McGinnis <martha@themcginnisranch.com> wrote:
>>
>> Dear Caroline:
>>
>> At your request, I am writing about: File number: 247-17-000293-AD
>>
>> Also at your request I looked at the original notification and only saw mention that a hearing might be possible ...I don't believe I have seen in any of our numerous email communications a mention that our particular case would or would not have a hearing. Please comment.
>>
>> Of course because of the number of emails you are receiving from very concerned Tumalo residents, we assume that we WILL be given the benefit of a hearing.
>>
>> Thanking you in advance for your assistance.
>>
>> Sincerely, Martha McGinnis
>>
>> Sent from my iPad
>>
>>> On May 9, 2017, at 4:27 PM, "Caroline House" <Caroline.House@deschutes.org> wrote:
>>>
>>> Hi Martha,
>>>
>>> Thanks for confirming the mailing address. I've added it to the list.
>>>
>>> Due to the high volume of applications and general inquires we are experiencing, I respectfully request you reference my original email for details on if the matter will be referred to a public hearing.
>>>
>>> Thanks,
>>>
>>> Caroline House, Assistant Planner
>>> Community Development Department
>>> PO Box 6005 | 117 NW Lafayette Avenue Bend, Oregon 97708-6005
>>> Tel: (541) 317-3148
>>> www.deschutes.org/cd
>>> Disclaimer:
>>> Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.
>>>
>>> -----Original Message-----
>>> From: Martha McGinnis [mailto:martha@themcginnisranch.com]
>>> Sent: Tuesday, May 09, 2017 10:04 AM
>>> To: Caroline House
>>> Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!
>>>
>>> Dear Caroline:
>>>
>>> Thank you for getting back to me... since I have sent out a number of letters to concerned Tumalo neighbors I think you have been hearing from quite a few with ALL STATING STRONGLY WE DO NOT WANT A MARIJUANA FACILITY AT FRANK CIBELLI'S HOME OR ANYWHERE ELSE IN TUMALO. Hopefully a hearing will be scheduled - when?
>>>

>>> Please note our address and send us all notices pertaining to this very sensitive matter.

>>>

>>> Martha and Tim McGinnis, 64980 Collins Road, Bend,
>>> Oregon 97703

>>>

>>> Thanking you in advance for your assistance.

>>>

>>> Sincerely, Martha McGinnis

>>>

>>>

>>>

>>> -----Original Message-----

>>> From: Caroline House [mailto:Caroline.House@deschutes.org]

>>> Sent: Tuesday, May 09, 2017 8:09 AM

>>> To: Martha McGinnis

>>> Cc: Prudence Hammett; Peter Hammett

>>> Subject: RE: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!!!!!!

>>>

>>> Good morning Martha,

>>>

>>> Please submit any comments by the end of the week. I've attached the email you submitted to the record last Friday for your reference.

>>>

>>> All applications are processed as required under the Deschutes County Code (DCC) Title 22 Procedures Ordinance, which includes the required radius for the notice of application (see DCC section below). However, if you provide a physical mailing address I can add you to the list to receive future notices. Notices cannot be emailed.

>>>

>>> Let me know if you have any additional questions.

>>>

>>> DCC 22.24.030. Notice of Hearing or Administrative Action.

>>> A. Individual Mailed Notice.

>>> 1. Except as otherwise provided for herein, notice of a land use application shall be mailed at least 20 days prior to the hearing for those matters set for hearing, or within 10 days after receipt of an application for those matters to be processed administratively with notice. Written notice shall be sent by mail to the following persons:

>>> a. The applicant.

>>> b. Owners of record of property as shown on the most recent property tax assessment roll of property located:

>>> 1. Within 100 feet of the property that is the subject of the notice where any part of the subject property is within an urban growth boundary;

>>> 2. Within 250 feet of the property that is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height; or

>>> 3. Within 750 feet of the property that is the subject of the notice where the subject property is within a farm or forest zone, except where greater notice is required under DCC 22.24.030(A)(4) for structures proposed to exceed 30 feet in height.

>>>

>>> Thanks,

>>> Caroline House, Assistant Planner

>>> Community Development Department

>>> PO Box 6005 | 117 NW Lafayette Avenue Bend, Oregon 97708-6005

>>> Tel: (541) 317-3148

>>> www.deschutes.org/cd

>>> Disclaimer:

>>> Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

>>>

>>> -----Original Message-----

>>> From: Martha McGinnis [mailto:martha@themcginnisranch.com]

>>> Sent: Monday, May 08, 2017 1:32 PM

>>> To: Caroline House

>>> Cc: Prudence Hammett; Peter Hammett

>>> Subject: Cibelli marijuana facility -URGENT!!!!!!!!!!!!!!!

>>>

>>> Dear Caroline:

>>>

>>> We in Tumalo ARE VERY UPSET about the proposed marijuana facility. It seems as if very few neighbors were alerted of this and now time is running out. Could you please email me as to the deadline for submissions as well as when a meeting is to be scheduled to hear our concerns. A number of issues have arisen that are most unsettling - lack of water 12 months of the year, this land supposedly is a non-taxed nature preserve, Mr. Cibelli has some past history which is very troubling,,etc., etc.

>>>

>>> Please get back to me as soon as possible ...

>>>

>>> Cheers, Martha McGinnis

>>>

>>> Sent from my iPad

>>> <mime-attachment>

Caroline House

From: Mary Campbell <mary@wspi.net>
Sent: Monday, May 15, 2017 10:26 AM
To: Caroline House
Subject: 247-17-000293-AD (Frank Cibelli, 18281 Couch Market Road)

Follow Up Flag: Follow up
Flag Status: Flagged

Caroline –

I am writing to comment on the above referenced file application for a marijuana grow facility at 18281 Couch Market Road. My husband David and I live at 18740 Ridgecrest Road (corner of Tweed and Ridgecrest) – not too far from the applicant.

We request that you deny the application for the following reasons:

- Bend Metro Park District owns a property across the street from Mr. Cibelli called Tillicum (or Chase Ranch). It is an undeveloped site, but it a public park. People use the park to ride horses, hike through, fly model planes and a children's pumpkin hunt has taken place there around Halloween in years past. It seems inappropriate for a facility to be located close to a public park (and is not allowed in other jurisdictions).
- There is currently another large grow facility at 18560-18600 Couch Market Road (Laurence Dyer, owner). Adjoining neighbors complain of trespassers coming through their properties to get to this site; seeing armed guards and more. According to the Sheriff's office, they filed a code ordinance violation against this property this year. It has created an unsettled and unsavory element to what was previously a family friendly and close-knit community neighborhood. Adding another similar facility in close proximity may exacerbate the current problems.
- Wetlands - what will the impact be on the wetlands on the applicant's property? Has a DEQ study been done or will one be done to understand the effects of pesticide use and fertilizer use on wetlands? And how will the waste water be disposed of? Will it be just dumped into the ground? There is not enough information in the application to determine the impacts; nor is the county code clear enough with regard to waste water requirements in order to protect land, wetlands, wells, and aquifer.
- - This property is subject to a Wildlife Habitat Conservation and Management Plan as filed by the property owner in 2001. No subsequent filings are on record to remove or discontinue the plan. As part of the plan, the applicant states that the entire property is within an area of historical big game winter range according to the Oregon Department of Fish and Wildlife biologists. How will the growing of marijuana (specifically the pesticides and fertilizer and waste thereof) affect the big game? His plan states that "the entire property will be managed to protect and preserve big game winter range habitat values." Finally, this habitat management plan states "This habitat management plan does not authorize violation of federal or state laws or local ordinances, nor does it supersede any requirements to obtain permits or authorizations required by federal, state, or local entities."
- Water – The applicant has 2 acres of water rights through Tumalo Irrigation District. Their water usage only runs from mid-April to end of September/early October. This means Mr. Cibelli would need to draw on his well for water the other 6 months of the year. This could have a potential negative affect on the local aquifer and consequently affect other properties close by.

Thank you.

Mary Campbell
18740 Ridgecrest Road
Bend, OR 97703
541-382-6691 office
541-480-7408 cell
Mary@wspl.net

Caroline House

From: Jennifer Bragar <jbragar@tomasilegal.com>
Sent: Friday, May 19, 2017 6:02 PM
To: Caroline House
Cc: Nick Lelack
Subject: Land Use File No. 247-17-000293-AD
Attachments: Email Correspondence Extending Comment Period to 5-22-17.PDF

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Caroline,

This office represents Martha and Timothy McGinnis who own property located at 64980 Collins Road in Deschutes County. Please include these comments in the record for the Deschutes County Land Use File No. 247-17-000293-AD.

On April 26, 2017, the County mailed Mr. and Mrs. McGinnis notice of the above-referenced application. The comment deadline was extended to May 22, 2017 because the posted land use sign was stolen from Laidlaw Farms, LLC's property. See email string attached hereto. Thereafter, on May 15, 2017, the County sent Mr. Cibelli an incompleteness letter in connection with the application.

Under DCC 22.20.020.B, Mr. and Mrs. McGinnis are permitted to submit comments within 10 days of submittal, or longer if the County so designates. Since the application is not complete, Mr. and Mrs. McGinnis cannot provide comments because they do not know the full extent of the proposal, nor how the County's Code should be applied to the full application.

Therefore, Mr. and Mrs. McGinnis request that the County issue a new notice when the applicant provides complete application materials, or leave the record open for comment under DCC 22.20.020.B until at least 10 days after the application is complete. Please confirm how the public comment period will proceed so that Mr. and Mrs. McGinnis have their due process opportunity to comment on the complete application.

Please add my contact information to the notice list:

Jennifer Bragar
Tomasi Salyer Martin
121 SW Morrison Street, Suite 1850
Portland, OR 97204

As I understand you are out of the office until after the current public comment deadline of May 22, 2017, I am copying Nick Lelack.

Thank you for your prompt attention to this matter.

Jennifer Bragar | jbragar@tomasilegal.com

Tomasi Salyer Martin | 121 SW Morrison Street, Suite 1850 | Portland, Oregon 97204

Tel: 503-894-9900 | Fax: 971-544-7236 | blog: <http://www.tomasilegal.com/news>



Named as one of America's "Up and Coming" (Oregon) Lawyers
by *Chambers USA* 2016 in Real Estate: Zoning/Land Use

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Tax Advice Notice: IRS Circular 230 requires us to advise you that, if this communication or any attachment contains any tax advice, the advice is not intended to be used, and cannot be used, for the purpose of avoiding federal tax penalties. A taxpayer may rely on professional advice to avoid federal tax penalties only if the advice is reflected in a comprehensive tax opinion that conforms to stringent requirements.

Caroline House

From: Pattie Vakovsky <digitalredhead@vakovsky.com>
Sent: Sunday, May 21, 2017 9:24 AM
To: Caroline House
Subject: From the desk of Pattie Vakovsky

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Caroline, I am writing about the proposed grow facility by Frank Cabelli on Collins. I know it's legal to grow and we have friends in Clark county that have a huge grow operation. That's the Las Vegas area. It's a big regular building that is climate controlled etc. but it's not one of the huge white green houses that stand out like a sore thumb and what about grow lights at night. That sucks as does the electrical usage and the water.

Anyway so many neighbors out here are up in arms about the changing of the area we bought property in 20 yrs. ago.

I don't know what else to say.

If I supported something like this my neighbors would not talk with me. It is a hot issue. Da!

Thanks, Pattie Vakovsky
18484 Walton Rd.

Caroline House

From: Jerry Nye <jenyemd@gmail.com>
Sent: Sunday, May 21, 2017 3:24 PM
To: Caroline House; martha@themcginnisranch.com
Subject: Cibelli Marijuana Growth application on couch market road
Attachments: addendum to marijuan op.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. House,
I have included an addendum with further information that I have become aware of. Jerry Nye

5/21/17

Caroline House
Community Development Department
Planning Division
PO Box 6005
Bend, Oregon 97708-6005

RE: File Number 247-00293-AD
Addendum to my previous letter

Dear Ms. House,

When I previously wrote to you, I had completely forgotten about the public park directly across the street from the applicant (Cibelli) property on Couch Market road. The applicants property is across the street directly to the south of the Tillicum Park. The Park is used frequently by equestrians, flyers of small motorized airplanes, and other activities. As the area becomes more populated the development of the large acreage will increase the usage.

The Deschutes County regulation of separation of marijuana growth facilities from 'National Monuments and state parks' should obviously also mean local and city parks. That is the way the common man would interpret the regulation.

For reasons I put forth in my initial communication and added to by the proximity of adjacent park I urge you to deny the application for this marijuana growth operation that would not only conflict with a wildlife habitat and wetlands, but would be within 60 feet of a public park. It would be difficult to chose a less appropriate property for this planned marijuana growing operation.

Sincerely,

Caroline House

From: Michael Schneegas <michael.schneegas805@gmail.com>
Sent: Monday, May 22, 2017 10:56 AM
To: Caroline House
Cc: Martha@themcginnisranch.com
Subject: Comments on application 247-17-0000293-AD

Follow Up Flag: Follow up
Flag Status: Flagged

Regards application 247-17-0000293-AD

Oregon's long and progressive history of land use planning- the land use planning that created the very beauty and rural environment that many of us live here to enjoy, is quickly being degraded by the county's less than thoughtful regulations. The county commissioners were cautioned to go slow and thoughtfully thinking through opening the county to the marijuana industry. The commissioner's moved ahead full speed with minimal regulation and we are now paying the price throughout the county.

Currently those of us living in the rural areas are dealing with several related issues:

Neighbors and marijuana growers and processing plant owners (and their workers) are fighting over incompatible lifestyles and/ or businesses. The rural lifestyle and neighborhood many of us enjoy is changing to an industrial chain link and razor wire fence, armed guard, landscape. Confrontations between neighbors and growers or their armed guards are not uncommon. Law enforcement action is often required.

The rural life style we all enjoy, is shared by many recreationalists from throughout Oregon and beyond... bicyclists using the scenic bike route, walkers, horseback riders, even classic car tour groups are a frequent sight in the Tumalo area. They come here because of the beauty, the quite rural

farming and ranching lifestyle...not in my opinion, to see the marijuana grows and processing plants.

The farming and ranching lifestyle provides critical wildlife habitat for many species of birds, reptiles and small mammals, and to deer and elk. The open spaces are especially critical to deer and elk being pinched out of other areas. Marijuana facilities do not contribute to this habitat and in fact degrade habitat by building industrial facilities, introducing a heavier load of herbicides and pesticides, and more vehicular traffic.

The water issues are not insignificant and are by most accounts are not fully understood. The county commissioners failed to grasp the significance of this issue in their original regulations and state regulators seem more interested in tax dollars generated than understanding the issues and providing thoughtful regulation. They seem to be totally absent from the process.

The county park across the road from the proposed facility is used by considerable numbers of people year round and though it is an undeveloped county park, it is a park and will be developed at some point in the future.

This permit application should be denied.

Thank you for your consideration.

Michael Schneegas

Caroline House

From: Nancy Skinner <nskinner73@gmail.com>
Sent: Monday, May 22, 2017 12:15 PM
To: Caroline House
Cc: martha@themcginnisranch.org; Nancy Engelhard
Subject: 247-17-000293-AD permit application on Couch Mkt Rd

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Caroline House,

I am writing to comment on the file application for a marijuana grow facility at 18281 Couch Market Road. I urge you to deny the permit.

Many people who live in Tumalo chose this place because of the characteristics of the land: open, rural and agriculturally based, where hay grows and livestock graze. And, they appreciate the nature of the community: open and friendly, where neighbors help neighbors. Without belaboring the attributes of Tumalo I'd like to point out that it is part of Bend, our address is Bend, Oregon and we share many values with the residents of Bend as well as those who live in other rural Deschutes County communities.

On any given day during the week from May to October numerous bicyclists ride out into Tumalo presumably to enjoy the terrain, open spaces, and livestock grazing in green pastures. It is a pastoral landscape that provides respite from a fast-paced, stressful, 21st-century lifestyle. It is a pleasure to take in these sights, whether one lives here or just down the road. This landscape offers recreation, not only for the muscles but also for the mind.

As a resident of northwest Tumalo, I am concerned about the proliferation of marijuana facilities in our neighborhood and the resultant degradation of the qualities that make Tumalo so attractive. The marijuana industry is poised to reap tremendous profits now that the product is legal in Oregon. But it is still a federal offense to grow or sell this product. The price disparity between this product and the livestock and hay grown in our neighborhood (at about \$250/ton for hay) is enormous! When people have this much money to make on a product they take extraordinary measures to protect it due to the value on both legal and black markets. These extraordinary protective measures are in a stark contrast to the existing land uses and lifestyle of their neighbors. Measures include protective fences, canines, armed guards, exterior lighting, security cameras and more. We have seen several 'grow' properties emerge since the Commissioners decision to permit this activity and existing regulations fall short of protecting our way of life.

Marijuana farms and production sites in proximity to regular agricultural neighborhoods are just not a good mix. In addition to the extreme infrastructure that when built (a 5,000 square foot facility) will alter the landscape forever. We don't need controlled substances and all the 'protective behavior' of the people in the industry in our neighborhood. This behavior ranges from unfriendly to aggressive toward neighbors. It will quickly transform life in Tumalo into life found in big cities, where people must look out for criminal activity around their own homes all the time. Will we need to install big fences, lights, security cameras, guard dogs and the like to protect ourselves from this industry?

I think anyone who lives in Bend, no matter where, would be disheartened to have this industry with all its attendant infrastructure move in next door to them. The sheer volume of infrastructure required to protect the product results in industrialization of a farming landscape. Once lost it will not be regained.

There are other concerns with the application related to degradation of the resources in our area that I believe are the responsibility of the county to address proactively on behalf of the existing residents. These include but are not limited to; adequate electrical power supply, water demands, and sanitary waste removal as it relates to air and water quality.

Tumalo Irrigation District is only operational 6 months of the year. How much water demand will this permit applicant require the other 6 months of the year? Would use of ground water take place? How will the applicant be monitored to ensure water is legally obtained and applied? What would the effects be on nearby residential wells if the applicant's water use was not monitored? I would urge the county to obtain the services of a professional hydrologist to address these and other questions.

I understand the applicant has a Wildlife Habitat Conservation Plan in place on the property and has enjoyed tax relief from such for decades. Is this a revocable agreement? Does the applicant address the issue of impacts to wildlife given the infrastructure needed to build a 5000 sq. foot facility? How extensive and how tall will the fences be and will they allow passage of deer and elk? There are wildlife friendly fence standards developed for ungulates and I'd urge you to ensure their needs are met through consultation with a wildlife biologist.

There are also wetlands on the property, most likely part of the habitat conservation plan. Wetlands play a crucial role in ecosystem function including providing important breeding and brood-rearing habitat for waterfowl, migratory birds, and amphibians. Depending on the nature and extent of the wetland, they also may provide soil moisture recharge, and important flood flow attenuation, that if impacted, could have negative downstream effects on neighboring properties.

I urge the county to deny the subject permit.

This is our neighborhood.

Respectfully, Nancy Skinner

Caroline House

From: Prudence Hammett <prudence54@msn.com>
Sent: Monday, May 22, 2017 12:30 PM
To: Caroline House
Subject: Marajuana Growing Permit for 18281 Couch Market Road Tumalo, OR

Dear Caroline,

I know that you have been inundated with negative mail regarding this property in Tumalo, but I do ask that you be kind enough to read yet another.

I am usually a live and let live individual, but learning of the request for a permit to grow marijuana at 18281 Couch Market Road, Tumalo, OR, I had to state to you, and hopefully more will read this, my MOST AVIDE OBJECTIONS to a growing facility on this property.

The acreage across from 18281 is a PUBLIC PARK. It has not as yet been developed as it could be, but the presence of PARKS AND RECREATION installed picnic tables for public use, and they ARE used, clearly illustrates that P and R see it as a park under their jurisdiction. I have witnessed children's birthday celebrations there; hula hoops, yard darts, cake and ice cream; groups picnicking lunchtime and evening; even a group class with easels set up to paint. Model airplane enthusiasts are regularly there on good days to meet, fly their planes and sit afterwards. It is a favorite place for people to walk their dogs, ride horse back, and just sit at the tables or on the benches to contemplate a quiet, beautiful and safe PARK. I don't have to elaborate to you on the specific rules of the proximity of a marijuana facility to a PARK, although the rule addresses a State Park, it is important to take into consideration the ramifications of a growing facility next to ANY PUBLIC PARK. THIS PARK IS ALREADY BORDERED ON TWO NEARBY SIDES by marijuana growing facilities! I beseech you and any others, DO NOT further surround this PARK which has so much potential for enjoyment in the near future for the citizens of Bend and the surrounding areas.

My sincerest appreciation,
Prudence Hammett
Bend, Oregon

Sent from my iPad

Caroline House

From: Charlene Hunt <charalpaca@gmail.com>
Sent: Monday, May 22, 2017 4:36 PM
To: Caroline House
Subject: Fwd: Delivery Status Notification (Failure)
Attachments: Error Icon.png

Follow Up Flag: Follow up
Flag Status: Flagged

----- Forwarded message -----

From: Martha McGinnis <martha@themcginnisranch.com>
Date: Wed, May 17, 2017 at 12:36 PM
Subject: Re: Delivery Status Notification (Failure)
To: Charlene Hunt <charalpaca@gmail.com>

Hi...Caroline's address is; Caroline.House@deschutes.org (not.com)

Thanks for writing to her ...we need all the help we can get..

Cheers, Martha McGinnis
Sent from my iPad

On May 12, 2017, at 3:31 PM, "Charlene Hunt" <charalpaca@gmail.com> wrote:

----- Forwarded message -----

From: Mail Delivery Subsystem <mailer-daemon@googlemail.com>
Date: Fri, May 12, 2017 at 3:27 PM
Subject: Delivery Status Notification (Failure)
To: <charalpaca@gmail.com>

Message not delivered

Your message couldn't be delivered to caroline.house@deschutes.com because the remote server is misconfigured. See technical details below for more information.

The response from the remote server was:

554 5.7.1 <caroline.house@deschutes.com>: Relay access denied

----- Forwarded message -----

From: Charlene Hunt <charalpaca@gmail.com>

To: "caroline.house@deschutes.com" <caroline.house@deschutes.com>

Cc:

Bcc:

Date: Fri, 12 May 2017 22:27:10 +0000

Subject: Marijuana Production

This is in regards to application for a marijuana production facility by Frank Cibelli on Couch Market Rd. I was not able to get this out before 5/10/17.

I live at 18460 Couch Market Rd. We already have a neighbor east of our property installing a large marijuana grow.

Our main concern is the water supply in our area. Our property is already short 2 acres of irrigation due to prior owners selling off the irrigation rights illegally.

Marijuana is a year long operation and requires a large amount of year round water. What do we do when the well runs dry.

Thanks for your consideration.

Gary and Charlene Hunt
18460 Couch Market Rd.
Bend, OR. 97703

Caroline House

From: Linda McMahon <maclin@earthlink.net>
Sent: Monday, May 22, 2017 8:24 PM
To: Caroline House
Subject: Opposition

Follow Up Flag: Follow up
Flag Status: Flagged

I am sorry this email did not get to you in a timely fashion but I had health issues that kept me in San Francisco for quite some time.

My name is Linda McMahon and as owner and resident of 18660 Tumalo Reservoir Road ,I am writing to voice my opposition to the application the is being made for a grow facility on Collins Road. I feel like this email will go on deaf ears because it is not the only email or letter I have written...and each time the grow factory was approved. As I've experienced with another neighbor who is also in the "grow" business (and now I find out another facility is going up across the road from me) I have had nothing but bad encounters with the process. These encounters consist of the following:

- The element of the people involved in the grow process. There already was a theft and they told me their solution was to sleep outside with a gun. Would that make you feel good..?
- the abuse of my easement road.
- the stench of the produce,
- the lighting (which doesn't seem to have the same rules as regular landscaping lighting)
- and excess use of irrigation and use of well water which can have an adverse affect on all of us who depend upon well water for daily living .

I know this process is legal in Oregon but this has gone beyond fairness and consideration to the rest of the community. The State has passed the law without regard to other residents and how it affects their quality of living...and now the County is no better. These problems have made what was a great place to live, into a place where rules do not seem to apply. I have had to add security to my ranch to feel safe, a place that once was idyllic to live....cameras, locked gates etc.,now are part of daily living. These grow factories are riddled with invisible ramifications. This is after all, a controlled substance, no different than alcohol. This can't be

considered farming, as nobody wants to steal corn like they will steal marijuana...and the cash that is ultimately made is an easy target for theft...which puts my safety at risk. With so little control, it will be pitting neighbor against neighbor and put many of us in harms' way. The County has the ability to make living here safe and good for all of us...and not just the grow factory. Although the State may think we have no voice right now, it will grow to a very large shout. If these grow factories spread throughout the County and water shortage issues or dangerous life threatening situations occur, it will be the State and the County that people will hold responsible and accountable.....Your decisions are huge as they impact our lives.

Please, please hear my words. The grow factories should be in a commercial building in a commercial district. At least Washington has made some concessions to appease everyone...and not just the growers....!!!!

Regards
Linda McMahan

Caroline House

From: Linda McMahon <maclin@earthlink.net>
Sent: Monday, May 22, 2017 8:26 PM
To: Caroline House
Subject: IN addition to my last email

Follow Up Flag: Follow up
Flag Status: Flagged

I inadvertently typed the wrong address in my email, Te opposition is for

File number: 247-17-000293-AD (Frank Cibelli, 18281 Couch Market Road).

Linda McMahon

Caroline House

From: Triplett, Thomas <Ttriplett@SCHWABE.com>
Sent: Friday, June 02, 2017 2:36 PM
To: Caroline House
Subject: RE: LT Deschutes Co. Commissioners signed_sent 3_8_17 re Piatt appeal.PDF

Follow Up Flag: Follow up
Flag Status: Completed

Hi, Caroline. My address is 360 sw bond, suite 500, Bend, Ore 97702. Please let me know if you require additional information.

Schwabe Williamson & Wyatt

Thomas Triplett
Shareholder
Direct: 503-796-2901
ttriplett@schwabe.com

Ideas fuel industries, learn more at:
www.schwabe.com



From: Caroline House [mailto:Caroline.House@deschutes.org]
Sent: Friday, June 02, 2017 1:33 PM
To: Kirsch, Beth <BKirsch@SCHWABE.com>
Cc: Triplett, Thomas <Ttriplett@SCHWABE.com>
Subject: RE: LT Deschutes Co. Commissioners signed_sent 3_8_17 re Piatt appeal.PDF

Can you confirm the mailing address and the requested recipients in your office for future notices specific to file no. 247-17-000293-AD?



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 317-3148
www.deschutes.org/cd

Disclaimer:

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: Kirsch, Beth [mailto:BKirsch@SCHWABE.com]
Sent: Monday, May 08, 2017 2:23 PM
To: Caroline House

Cc: Triplett, Thomas

Subject: LT Deschutes Co. Commissioners signed_sent 3_8_17 re Piatt appeal.PDF

I have attached a letter sent in connection with the east county application, I would ask that you put it in the reading file of the Laid Law Farm application 24717000293 AD. I will also send a draft op ed, which when completed will be published in the Bend Bulletin.

Schwabe Williamson & Wyatt

Thomas Triplett

Shareholder

Direct: 503-796-2901

ttriplett@schwabe.com

Ideas fuel industries, learn more at:

www.schwabe.com

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Caroline House

From: Jim Petsche <hotwireranch@gmail.com>
Sent: Wednesday, June 21, 2017 4:49 PM
To: Caroline House
Subject: Re: Review of marijuana regulations

Thanks, but no. I've experienced so much pain and suffering from this subject over the past three years I'd rather move on. Also don't want my current mailing address in the public record.

Best of Luck,
Jim Petsche

On Wed, Jun 21, 2017 at 2:02 PM, Caroline House <Caroline.House@deschutes.org> wrote:

Hi Jim,

Thanks for submitting comments regarding pending file no. 247-17-000293-AD. This email will be added to the record.

I wanted to confirm if you would like to receive notices associated with this review? If yes, please provide your preferred mailing address.

Let me know if you have any additional questions!



Caroline House, Assistant Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue

Bend, Oregon 97708-6005
Tel: (541) 317-3148

www.deschutes.org/cd

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From: Jim Petsche [mailto:hotwiraneranch@gmail.com]
Sent: Wednesday, June 14, 2017 9:24 AM
To: Tammy Baney; Tony DeBone; Phil Henderson
Cc: Nick Lelack; Caroline House
Subject: Review of marijuana regulations

Dear commissioners,

I am writing this letter since the commission is soliciting feedback on how the county regulations concerning marijuana have been working out since being implemented about 1 year ago and is also currently reviewing an application for another grow facility near Couch Market Rd - Frank Cibelli (filc# 247-17-000293-AD).

You may remember me as one of the rural residents that was very involved in the process of creation of the rules. While I was not on the actual marijuana committee I testified before the commission several times and wrote numerous comments during the process.

My name is Jim Petsche and I was the rural resident that was very impacted by the large grow facility built only 39 feet from my property line at 66145 Becker Rd. Several of the commissioners have been to this property so know firsthand the big impact it has had on my quality of life. This particular greenhouse was built after I had started construction on my home. I still do not understand why this neighbor (who owns 40 acres) chose to build it so close to the property line. Does not matter now as there is another greenhouse built further south on the site and I have moved out.

It's no secret I was not happy with the regulations that the county ended up implementing as I felt they did not go far enough-- especially concerning setbacks. I felt the setbacks should have been closer to 500 ft from any existing house.

In any case, as soon as the commission finalized the rules I realized I would never be

pleased with this beautiful retirement home that I had just finished building since in my view it was a toxic situation that I was presented with. Between the noise, smells, 10' electric fence, trash, 18 wheeler on the property line with junk under it and the close direct views of the exterior and interior of the greenhouse --**I had enough!** 'Happily ever after' was not in the cards at this location for me anyway.

I put the property on the market... and after 10 months, 43 unique qualified buyer showings (unprecedented at this price point)..... I had to settle for a price over \$250,000 below my out-of-pocket cost to build. This is a big hit to my retirement funds. I bought the site near the low point of the market and contracted before the run up in construction cost so did not overpay. Not only did I lose a large sum of out-of-pocket money I got NO

APPRECIATION over the last 3 years when almost every other property in Deschutes country appreciated 20% or so.

Most people that have been to this home say the house was just stunning and the 40 acre site with 10 mountain views was also amazing. It should have commanded a premium price but didn't because of the proximity to a marijuana facility.

All I am saying is that having a MJ facility anywhere near your home greatly affects property values by 20% or more. The closer it is, the more it affects the property negatively. Most existing rural residents do not want these facilities anywhere near them. Anyone that tells you that marijuana facilities don't adversely affect property values is ill informed.

Once I finally sold this property (last month) I moved to a house in town and am hesitant to EVER own another rural property in Oregon anywhere since there would be the probability of another greenhouse popping up near it. Up to this point I had owned rural land in Oregon and farmed liked many others for 35 years.

Anyway, I don't recommend making any changes to the current regulations except actually increasing the setback to 250ft from any property line and 500ft to any existing home.

Just wanted to close the loop so you know how this new industry negatively affected my family and is, I am sure, negatively affecting many other families in Deschutes and other counties in Oregon. They win, existing rural residents lose.

Best of luck with your process,

Jim Petsche

Previously resided at:

66145 Becker Rd

Bend, OR 97703

Caroline House

From: Carol Wallace <cawallacemd@gmail.com>
Sent: Tuesday, July 11, 2017 9:30 AM
To: Caroline House
Subject: Proposed Marijuana Farm near us

Dear Ms House - I am very opposed to having a marijuana grow facility near my home on Couch Market Road on the property owned by Mr. Frank Cibelli. As I understand it, the facility will be large, require purchase of more irrigation water and have armed guards and concertina wire. This is not the type of activity that should be occurring on Couch Market Road, or for that matter across from Tilicum Park. Our area is a deer migration protected area, as well as a designated area of environmental concern to protect Peck's Milk Vetch.

I frequently walk, ride bicycles and cross country ski on Couch Market and into Tilicum Park with my grandchildren. We fly model airplanes in Tilicum Park as do other enthusiasts. Tilicum Park is also used for many child and youth events year round. Additionally, our road is used by walkers, bicyclists and horse back riders.

Please let me know how I can further work to block a marijuana grow facility near my home.

Thank you,

Carol A Wallace
541-389-4269
18009 Couch Market Rd
Bend, OR 97703

fillers

247-17-001017-AD

Zechariah Heck

From: Fox~Fox <foxon@cbbmail.com>
Sent: Saturday, January 20, 2018 1:05 PM
To: Zechariah Heck
Subject: File No. 247-17-001017-AD

Dear Zech,

Following are a few more thoughts related to the property 26695 Horsell Road, to be added to my earlier email that you have on file from Jacob.

The building "going south to north on Horsell" was a hay storage building by the previous resident on the property. The sidewalls, which were mostly open, have been sealed with corrugated plastic "windows" just below the roof line. The wood fence and entry gate block views of the three hoop houses so it's not possible to see if there is anything growing in them. Other neighbors have commented on the obvious odor and conjecture, as do I, that it comes from the modified hay storage building. If they have any odor control system in that building it is not effective and does interfere with neighbor's use and enjoyment of their property.

I am aware of several cannabis grows in Alfalfa where there have been odor concerns and complaints even though the applicants have said that they will have an effective odor control system in their Application. If this Application is approved I urge you to, of course, get the mechanical engineer's report but to have County code enforcement check it in real life, ensuring that it is efficient.

Thanks. Let me know if you have questions or need more information.

Dave

Zechariah Heck

From: Fox~Fox <foxon@cbbmail.com>
Sent: Saturday, January 20, 2018 2:17 PM
To: Zechariah Heck
Subject: File No. 247-17-001017-AD

Zech,

One other topic of concern about this Land Use Application is in Section 18.1167.330-- 13. WATER Exhibit #E does not show their Water Right Certificate with OWRD.

Where can I find a copy of their certificate?

Late last Summer or Fall they installed two field irrigation pivots going north from Alfalfa Market and west of the proposed cannabis grow project. It would be interesting to know what their plan is for that field irrigation since there has been no agricultural production there in recent years. COID will provide water during the irrigation season. I wonder how far 6 gallons per minute per acre will go in those two pivots.

Will they be using ground water for the cannabis grow?

Have they given you any projections of how much will they need?

Hopefully you are aware that ground water from domestic wells in the area have been impacted by the surge of cannabis grows in the past 18 months. Seven went dry in 2017 so we are sensitive to additional demands on the aquifer.

Looking forward to hearing from you.

Dave

Zechariah Heck

From: Jacob Ripper
Sent: Monday, January 22, 2018 12:05 PM
To: 'Monika Piatt'
Cc: Nick Lelack; Zechariah Heck
Subject: RE: File 247-17-001017-AD

Hello Monika,

I've copied my colleague Zechariah Heck on this email as this file was reassigned to him. He will be reviewing the application and maintaining the record of comments we receive. If you have further comments regarding this application, please contact Zech directly.

Thank you,



Jacob Ripper, Associate Planner
Community Development Department
PO Box 6005 | 117 NW Lafayette Avenue
Bend, Oregon 97708-6005
Tel: (541) 385-1759
www.deschutes.org/cd

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From: Monika Piatt [mailto:monika@rescueresponse.com]
Sent: Monday, January 22, 2018 11:54 AM
To: Jacob Ripper <Jacob.Ripper@deschutes.org>
Cc: Nick Lelack <Nick.Lelack@deschutes.org>
Subject: File 247-17-001017-AD

File/Application 247-17-001017-AD owned by Jeff & Jen Fillers, Eureka, Missouri

As I am writing this letter, there are at least 2 additional applications in to the county, which are also in Alfalfa! Please note these property owners are from out of the state. Consequently, your stamp of approval directly aids the black market out of state, to places where this plant is federally illegal. Typically, the growers do not live on site. The pungent odors, constant noise, unmonitored waste, environmental impacts, high water and electrical consumption, increased traffic/accidents do not impact their lives or their futures, or their future generations.

Rural area culture has drastically changed for the residents who have invested for decades, building homes, barns and shops after passing rigorous inspections and enormous fees/property taxes to our county. Residents went through approval and final inspection processes, making certain they have complied to our counties regulations/codes. As you have heard in testimonies, wells are going dry in our high desert, for residents in Alfalfa and Tumalo, where you have allowed clusters of grow operations.

We need to balance home, livestock, agricultural and now Commercial/Nursery use with a focus on water conservation. You are trusted to steward this precious resource, as opposed to blatantly wasting in on a plant (not a crop) that uses 3 times more water than crops, livestock and most of all this counties' residents.

As you appear to be focusing on the potential of dollar signs over the voices of the people, keep in mind only the sale of cannabis is taxed, not growing it. These growers have nothing to lose in sucking the county dry and turning rural properties into commercial buildings, surrounded by noxious weeds (spreading rampantly) and bare dirt/dust.

Please, oh Please note, Other states require cannabis to be grown in industrial zones, where residents are not impacted by the commercial and other impacts. You know we are growing more than dispensaries need, the underground marijuana market is skyrocketing. In industrial/commercial areas, these can and should be monitored like other businesses. Have you considered OSHA standards and impacts to the employees? I personally know a former employee, who had to wear a respirator and now has asthma, after working in these unregulated, 'substandard working conditions. Will this bring future law suits to our county, as workman's comp claims?

You have the ability to learn from Colorado, Washington and California, as well as from counties, like Marion County who chose to opt out.

Lastly, S20, also in Alfalfa, has not been complying with the regulations our county has in place. Other grow operations are watching to see if you allow them to expand, in spite of this, not to mention, approve yet another grow in an area of cluster grows impacting residents, with great expenses to their wells! Please deny this application.

Sincerely,

Monika Piatt

MAR 06 2018

2/20/18

Wachs/Fillers Application 247-17-

001017-AD

MR Zechariah Heck, Assoc Planner
Deschutes County Community Development
117 NW Lafayette Av
Bend OR 97703

Dear Mr Heck -

First of all, I'm writing to you as I can't
notification of any actions taken or changes
to this file regarding this matter.

In reviewing their application I have
several questions as well as concerns.
That needs to be addressed before
moving forward.

There are 3 existing greenhouses
on the 26 acres in production of the
marijuana. In adding a 4th one, wouldn't
this exceed the 10,000 sq foot maximum
allowed for this size of property? I can't
help but feel the shop is also used for
production as I have had several
neighbors tell me they can smell it when
they walk by.

Second, I am concerned about
exhibit D with regards to the fans that
will be in the greenhouses. The report
talks about the fans on the east side.
Are there going to be fans on the west
side? Even though there are structures
between the greenhouses and Horsell Road,

my parents property is closer on the east side than the neighbors property line to the west. I don't think they took this into consideration (meaning Colebreit Engineering). We will get back to this issue further along in my letter.

The letter from COID confuses me. The address given in the letter 26295 Willard Rd, does not match the address on the application, 26695 Horsell Rd. So which property does this letter pertain to? COID water only runs from 4/1 to 10/31. The application does not state what they will be using for water outside of this time period. This letter states "water rights are subject to the laws and rules... the federal government." Wait a minute here, isn't marijuana against the federal law? So COID can not technically ^{provide} ~~provide~~ the water for this place.

OK, so are you familiar with alfalfa and their weather patterns for the summer? My parents have lived in alfalfa since 1978 at 22690 Horsell Rd which is right across the road from this proposed marijuana grow. My dad is 91 years old and is still farming the property. My mom is 85 years old, however back to the subject

here. During the summer there is a breeze that comes up every afternoon from the west. Now if you add in the noise (from the fans), add in the skunk smell of the marijuana who in their right mind want to live east of the proposed grow? Did Colebrecht Engineering take this into consideration? Probably not!

I feel a moratorium needs to be placed on these applications for Deschutes County for several reasons!

The existing places have proven they are exempt from the regulations established by Deschutes County. These places have kept their lights on after 7:00 at night. When driving from my house to my parents house I can smell the marijuana from the place at the intersection of Johnson Ranch Rd. & A Halfa Market Rd. It is an extremely very strong smell. I have heard complaints from the neighbor (who shall be un-named per their request) the noise is terrible as the fans run 24 hours per day. Also, these places are fenced, razor wire and locked! Now, how are these places subjected to yearly inspections are available (without notice) for ODC to enter their property? No one can enter their property.

I moved out to alfalfa because I like the quiet, like the fresh country clean air, like the dark when its night time. Like the country roads without the traffic jams. Do you realize there are or

actually within 8 miles of alfalfa places within 3 miles of alfalfa market road? These places are noisy, they smell, they create light pollution at night and add a lot

more traffic out here between the prepare tracks, garbage trucks, and employees. These places do not require

farm land for their farms. Why is our way of life being compromised because of your allowing for them to be here instead of an industrial zone area?

The value of our property is also being compromised because of these places no one wants to live next to a marijuana place unless its another marijuana place. Who is going to want to purchase my parents place or my place when there is smell, noise, light pollution and traffic. Shame on you, Deschutes County!

Sincerely,
Liam Brink
25352 Elk
Bend OR 97701

cc: Tammy Briney, Shane Nelson, Phil Henderson, COJD, Tony DeBane, Bill Williams, Nick Laack

Leone

247-17-000993-CU

**HART
WAGNER^{LLP}**
TRIAL ATTORNEYS

Erika L. Wilson
elw@hartwagner.com
Admitted in Oregon and Washington

439 S.W. Umatilla Avenue
Redmond, Oregon 97756
Telephone (541) 548-6044
Fax (541) 548-6034

December 28, 2017

*Via E-Mail Isabella.liu@deschutes.org
and First Class Mail*

Isabella Liu
Community Development Department
Planning Division
PO Box 6005
Bend, OR 97708-6005

**Re: Proposed Land Use at 3278 NE 33rd Street in Redmond, OR
Your File No. 247-17-000993-CU
Our File No. 27534**

Dear Ms. Liu:

I am writing on behalf of Micah and Tammy Burkley, homeowners and residents in Lake Park Estates in Redmond. The Burkleys have received notice of an application for a proposed land use by Daniel Leone on his property which adjoins their property. Mr. Leone has submitted an application seeking approval to build a commercial recreational marijuana production facility on his property. My clients strongly oppose allowing any such proposed facility in their residential neighborhood.

Please note that the proposed commercial recreational marijuana production facility would be located in a residential neighborhood where families and young children reside. My clients have a 9-year-old daughter. In fact, a 4-year-old boy lives in the house on the property where the proposed marijuana production facility would be located. A commercial recreational marijuana production facility is not the type of facility that belongs in a residential neighborhood where young children and families reside. This neighborhood is already located outside the urban growth boundary and the Redmond city limits, and as such the neighborhood's coverage by law enforcement and other essential services is already compromised. The addition of such a facility would further compromise these services and leave residents of the neighborhood feeling less safe and protected.

In addition, my clients are extremely concerned – as they should be – that a commercial recreational marijuana facility in this neighborhood will, in general, negatively impact the value

of the property in Lake Park Estates and, specifically, will negatively impact the value of their property in particular as it is adjacent to the property on which this facility would be constructed. Mrs. Burkley has been a real estate agent for 20 years as of 2018 in the State of Oregon and she has first-hand knowledge that marijuana grow facilities negatively impact neighboring property values. No one wants to live next to a commercial recreational marijuana production facility.

The proposed commercial recreational marijuana production facility is also prohibited by the CC&Rs for Lake Park Estates. The CC&Rs specifically provide that “no obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood.” A commercial recreational marijuana production facility in this residential neighborhood is obnoxious and offensive, as well as an annoyance and nuisance to the neighborhood. Further, the applicant references “employees” which is a further annoyance and nuisance with multiple additional people, i.e., “employees” coming and going from this residential property and residential neighborhood.

Another concern is with regard to the increased traffic such a facility may cause, not only with regard to “employees” of the facility, but also potential purchasers as well. The homeowners in Lake Park Estates are tasked with maintaining the roads in the neighborhood, which are not county roads. The roads are mostly gravel. The HOA collects dues from the property owners to maintain the road, but it collects barely enough to cover snow removal, grading and an ongoing paving project. The additional traffic that a commercial recreational marijuana production facility will cause in this residential neighborhood will be a financial and maintenance hardship to the homeowners.

My clients also take issue with some of the representations made in the application for the conditional use permit. First, the application is dated July 9, 2017 and the applicant stated that the property had been a medical grow site for 2 years at that time. However, at the time the application was signed, the applicant had not even owned the property for 2 years. Second, the applicant states that there is already fencing in place. However, the fencing is very old and constructed of post and wire. It is not sufficient to screen the proposed commercial recreational marijuana grow facility. Third, the applicant identified two people who will be residing at the property and who will be registered with the OHA to be producers on the property. The applicant failed to mention the fact that his 4-year-old grandson (the son of the “producers” on the property) also resides at the property. Fourth, the applicant states that he will be applying for .5 acres of groundwater for nursery use through the Oregon Water Resource Department but, in the meantime, will be purchasing water with Bend Water Hauling. It should be noted that the applicant’s property has a well easement to a well located on my clients’ property for residential use. My clients have serious concerns about the well water, which is intended for residential use, being used to support the proposed commercial recreational marijuana production facility and thereby straining the water source in the face of an already diminishing water table. Fifth, the applicant states that the property is currently being used as a home for his son and grandson, as well as for farming. However, there is no farming being conducted on the property.

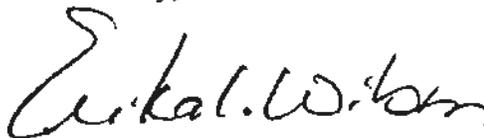
Isabella Liu
December 28, 2017
Page 3

Finally, my clients are very concerned with the proximity of the proposed commercial recreational marijuana production facility to their adjoining property and they have concerns that the distance from the proposed facility to their house is closer than depicted on the drawing submitted by the applicant. As discussed above, my clients have a young daughter and they are rightly concerned about her safety and security with a commercial marijuana production facility in such close proximity to their property and their house.

My clients and many of their neighbors have very serious concerns about a commercial recreational marijuana production facility being allowed in their residential neighborhood. There are many reasons, as discussed above, why this type of facility is not appropriate in Lake Park Estates.

Should you have any questions or need any further information, please do not hesitate to contact me. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Erika L. Wilson". The signature is written in a cursive style with a large, looping initial "E".

Erika L. Wilson

ELW

cc: Tony DeBone (via e-mail only, Tony.DeBone@deschutes.org)
Tory Allman (via e-mail only, Tory.Allman@ci.redmond.or.us)
OLCC (via e-mail only, Marijuana@oregon.gov)
Daniel Leone (via e-mail okdannv@hotmail.com and first class mail)

Isabella Liu

From: gmapet1@aol.com
Sent: Wednesday, December 27, 2017 2:56 PM
To: Isabella Liu
Subject: Lake Park estates

PLEASE REGISTRATE MY COMPLAINT AGAINST ANY MARIJUANA GROWING FACILITY IN OUR DEVELOPEMENT.
WE DO NOT HAVE WATER FOR THIS KIND OF OPERATION, NOR DO WE CONDONE IT'S USE.
BESIDES WE HAVE MOSTLY DIRT ROADS HERE, THE DUST, TRAFFIC WOULD PUT UNDUE PRESSURE FOR UP
KEEP, DODGING CARS BY OUR CHILDREN.
THANK YOU, Bernadine Pete, 3411 NE Butler Ave. , Redmond, OR
Just off 33rd. which is proving to be a major artery and is the bus stop for our school children.

Isabella Liu

From: Carl W Nolte <cwnolte@gmail.com>
Sent: Thursday, December 28, 2017 7:45 PM
To: Isabella Liu
Cc: 'Micah Burkley'; 'Linda Nolte'; gandds77@gmail.com
Subject: Application for CU, File # 247-17-000993-CU, Property Address - 3278 NE 33rd St, Redmond, OR 97756

Dear Ms. Liu,

I am a resident of Lake Park Estates where the above reference Conditional Use is being requested for a recreational cannabis production facility.

I have attempted to review the Burden of Proof (narrative) provided with the application as compared to the County Code and it does not appear to address all the sections in County Code ie. Chapter 18.32 Multiple Use Agricultural Zone – MAU, Chapter 18.116.320 Medical Marijuana Dispensary, Chapter 18.116.330 Marijuana Production, Processing and Retailing, & Chapter 18.116.340 Marijuana Production Registered by the Oregon Health Authority. I have the following questions and concerns:

- From reading the application and attached narrative I cannot determine if they are meeting all the conditions provided in the code Chapters reference above.
- I am having difficulty determining the type of marijuana production operation being proposed for the property. In the application it lists recreational cannabis production facility while in the attached narrative it references a medical production facility.
- If they have a medical production facility does that also mean there will be a dispensary on site? if so then the Lake Park Estates needs to be notified as they are responsible for the maintenance of the roads in the subdivision.
- In the narrative water and electrical utilities are referenced and it is state they will be providing services to the site. No documentation has been provided that these utilities can provide the necessary services to meet the demands of the production operations.
- Does the property have a well as the narrative states they will be trucking in water for production operations?
- In the narrative it states they will be applying for .5 acre of ground water for irrigation. No documentation is provided that there is ground water available for irrigation in this area. I know over the past 5 years several homes in the subdivision have had to drill new wells as the water table dropped below their intake pipes.
- The attached site drawing showing the various existing buildings as well as the location of the proposed production facility with distances to various buildings does not appear to be correct.
 - The distance shown for the width of the property, East-West, is 500 feet (340+40+120). Per the county assessors map for Tax Lot 1400 the property width is approximately 333 feet.
 - In viewing the site from the road the dimensions shown on the application drawing do not appear to be correct and need to be verified by a surveyor.
 - As a result of the various dimensions being incorrect it is difficult to determine if the production facility meets the 300 foot setback provided for in the code.
- There appear to be additional omissions in the application but without going through it in great deal and completely redoing the narrative and creating a true Burden of Proof I cannot identify all the omissions in the application, that is the applicants responsibility.

Finally, while I know the code allows cannabis production facilities in the MAU zone. I believe it is inappropriate to allow them in residential subdivisions with small lots such Lake Park Estates. Five and ten acre lots are not large enough for such facilities.

If you have any questions regarding my comments please feel free to e mail or call me.

Thank you for your time and consideration of my input on this application.

Carl W. Nolte P.E.
PO Box 1564
Redmond, OR 97756

mobil - 541-419-1147
e-mail - cwnolte@gmail.com

Isabella Liu

From: Debbie Names <gandds77@gmail.com>
Sent: Tuesday, December 26, 2017 6:07 PM
To: Isabella Liu
Subject: Grow house NE33RD REDMOND Leona

Hello Issi

I just wanted to follow up with phone call regarding this issue. We are (lake park estates) an HOA with private roads. We are not farm land, or agricultural. The wells in the area are domestic only for house hold use only. This area has begun to develope into a nicer neighborhood. Property values have increased due to new development of newer, nicer homes.

There is no access to irrigation.

We would like to keep this trend going. Please let me know the process involved with this proposal ?

Thank you

Debbie Stumbaugh

541-977-4367

Isabella Liu

From: Debbie Names <gandds77@gmail.com>
Sent: Tuesday, December 26, 2017 7:25 PM
To: Isabella Liu
Subject: NE 33rd grow house

Also the measurements for purposed site is not right. The dimension for the location is wrong as the east west measurements for property lines is 340' how can you have 120' from road and another 340?

Thank you for your time.
Debbie

Isabella Liu

From: GARY SEAY <PSEAY054@msn.com>
Sent: Wednesday, December 27, 2017 10:12 PM
To: Isabella Liu
Subject: Recreational Marijuana/Lake Park Estates

Dear Ms. Liu,

It has come to my attention that the county is considering an application for a recreational marijuana grow operation in Lake Park Estates. I would like to put in my objections to such a business in this area for several reasons:

1. Our HOA bylaws state no businesses are to be operated here that hinder any of the other residents, which this would.
2. Our wells are for domestic use not agricultural. We do not have access to irrigation water in this area. I also worry how this might impact our water quality as we have had wells contaminated in the recent past from the rendering plant that was here off of O'Neal Highway for so many years.
3. Our roads are private, partially paved and maintained by all the residents of Lake Park Estates, again, the bylaws state no business is to be operated here that negatively impacts any other residents of Lake Park Estates.
4. Many families here have children that must walk to the school bus stop and wait there for their school bus to arrive. It seems unfair the those children might be exposed to this type of culture which their parents are trying to remove them from.
5. I fear this would negatively impact the value of our home. We are retired people living on our social security. It is frightening to think what we have worked for and taken care of for nearly 30 years could be devalued so easily.

Thank you for your time and attention,
Margaret and Gary Seay
3685 NE Butler Ave.
Redmond, OR 97756
541-408-4843

Isabella Liu

From: J Harrang <jonharrang@yahoo.com>
Sent: Friday, December 29, 2017 8:46 AM
To: Isabella Liu
Subject: Letter of Opposition to proposed marijuana production facility at 3278 NE 33rd St, Redmond, OR 247-17-000993-cu

To Whom it May Concern,

I am writing in opposition to the proposed commercial marijuana production facility at 3278 NE 33rd St, Redmond, OR.

As stated in **Deschutes County Code Chapter 18.32.010**, *"The purposes of the Multiple Use Agricultural Zone are to preserve the rural character of various areas of the County while permitting development consistent with that character and with the capacity of the natural resources of the area..."*

In my opinion, establishing a commercial marijuana growing operation in a residential area does not preserve it's rural character, it degrades it. People choose to live out here precisely because of the rural lifestyle. Now as we walk, ride bikes, or travel by horse through the neighborhood we can expect to see razor wire due to the security precautions that will surely be necessary for this type of activity. Clearly, this type of development is not consistent with the rural character of the area.

I would respectfully submit that allowing people to establish commercial marijuana growing operations on 5-acre parcels located in amongst where people work, live, and play is unwise. The land base is simply too small for this type of commercial operation to conduct day-to-day operations in a manner that is not going to be offensive and problematic to surrounding neighbors. Lake Park Estates is not farm ground, it's a subdivision.

Furthermore, growing marijuana requires a great deal of water which far exceeds "the capacity of the natural resources of the area." If a property has water rights that's fine, but if they don't, then it's a big problem. The application states that this "grow operation" will use hauled water. If this commercial marijuana production facility is approved by Deschutes County, there is no way to verify whether or not the facility will in fact actually use hauled water once it is operational and no way to monitor the amount of water used. Only minimal enforcement tools are available if they do take more water than they are supposed to, but with zero oversight there's no way to ever know if they are doing so or not. What we do know is that groundwater reserves in this area are under increasing stress; I am aware of numerous wells in the neighborhood that have gone dry or had to be drilled deeper over the past few years, invariably at great expense. Although there is little hard scientific data on how much water is available underground in this area, well drillers in the area anecdotally report that the aquifer is dropping by about 1 foot per year. When I think about the potential cost of having to drill a new well on my property, and if that fails, the ongoing expense of having to haul water for my own family to drink someday, it's scary. How much would my property value drop if there were no water?

I am not against someone trying to make a buck. But if in doing so it causes my well to go dry, significantly lowers my property value, and degrades the character and livability of the neighborhood as a whole, then I must object. This proposed project has the very real potential to do all of these things and more.

In closing I am asking you not to approve this application for a commercial marijuana growing operation, as it is in clear violation of the stated purpose of the Multiple Use Agricultural Zone and a poor fit for a residential neighborhood.

Sincerely,

Jon Harrang
4554 NE 40th Street
Redmond, OR 97756

Isabella Liu

From: Kristine Olin <kristineolin@gmail.com>
Sent: Wednesday, December 27, 2017 9:23 AM
To: Isabella Liu
Subject: Objection

Isabella,

I am writing to express my strenuous objection to the conditional use permit application for a marijuana production facility in Lake Park Estates, located north of Upas and east of 17th. This is a private neighborhood, a residential development with a homeowners association that maintains the private roads in the development. Water is domestic wells only. There are a lot of families here with children. Many of the homeowners, including me, own horses and ride through the neighborhood to access the adjacent BLM property. It doesn't seem appropriate to have a commercial marijuana facility in a private residential development. This could make our property values go down and cause more traffic and wear and tear on our roads. Nobody wants that to happen.

Thank you for taking note of my objection to this proposal.

Sincerely,

Kris Olin
3456 NE 45th St.
Redmond, OR 97756
541-496-4770

Isabella Liu

From: Linda Nolte <lindaj nolte@gmail.com>
Sent: Thursday, December 28, 2017 10:01 AM
To: Isabella Liu
Cc: Tony DeBone; Tory Allman; Katie Hammer
Subject: Re: Objection to proposed recreational marijuana facility in Lake Park Estates - 3278 NE 33rd Street, Redmond, Oregon 247-17-000993-cu

The approval of private use and growing seems to have morphed into allowing anyone and everyone to grow for sale and commercial use. Please help stop this trend in our family neighborhoods. This is becoming a public issue and is too contentious to be approved by an administrative decision. If you deny this application, great. But if not, we respectfully request a public hearing to insure this approval is defeated

Thank you again for your thoughtful consideration of our concerns, Linda

Linda J. Nolte
PO Box 1564
Redmond, Oregon

On Thu, Dec 28, 2017 at 9:10 AM, Linda Nolte <lindaj nolte@gmail.com> wrote:

I am in strong opposition to the proposed facility in my neighborhood, Lake Park Estates for the following reasons

1. Inappropriate water usage is a threat to the already diminishing water table in our neighborhood. Any well-driven irrigation will be excessive and diminish our water table. Homes without adequate well water for normal home based living will lose value and/or suffer financial hardship if they have to dig new or deeper wells.
2. The plan to haul water in seems to violate the Oregon Water Resource Department's rules around municipal water.
3. This business is not a fit for our family residential neighborhood where children are able to wander in safety and families can feel safe. Being outside the UGB and the city limits already compromises our coverage by already stretched law enforcement officials and this would be an additional strain on their resources and our safety and well-being.
4. Our Lake Park Estates CCR's stipulate no offensive businesses... this one is offensive
5. The facility has already begun production, instead of waiting for approval.
6. The proximity to the popular recreation area, the Radlands, is a concern. Folks ride their horses, hike, walk, jog, bicycle, play golf, soccer, softball, fly remote control airplanes, shoot archery, etc in the area. We have concerns about safety and unwanted traffic so close by.
7. The proximity to neighbors violates zoning code 18.116.330 marijuana production processing and retailing. That's the section being referenced by the county and it does deal with 5 acre plots. The main issue that I see right now is there drawing is wrong that they submitted with their application. They are claiming that on the east side of their lot it's a hundred twenty feet to the property line from the proposed grow facility and 340 ft to the property line from The Grow facility on the east side. The problem is their lot is only in the middle of about 333 ft wide so they may violate the 300-foot

separation between adjacent buildings on adjacent properties on the east. Also read chapter 18. 32. 030 paragraph C of the development code

8. Lake Park estates has roads that we must maintain, as they are not county roads. They are mostly gravel. We collect a small amount of dues from our 180 properties. This barely covers snow removal, grading and a paving project that may take 20 years to complete (budget wise) ...added traffic to this commercial facility will be a financial and maintenance hardship. Our road board is volunteer and they have a tough job and do not need more headaches.

I am confident there are many more reasons that I am not aware of. Not being a code official or a legal professional. I am doing the best I can to articulate everything possible to help Deschutes County to make a wise decision in the best interests of our modest neighborhood.

Thank you for reading this and I trust you will decide to decline this application.

I also want to say that in another, more remote location that does not affect water availability to family homes, nearby recreation, or personal safety... such a facility might be appropriate. BUT NOT HERE

Sincerely,

Linda J. Nolte
PO Box 1564
Redmond, Oregon
541-788-5547

Isabella Liu

From: autumnloewen@aol.com
Sent: Saturday, December 30, 2017 7:08 PM
To: Isabella Liu
Subject: Application for CU, File # 247-17-000993-CU, Property Address - 3278 NE 33rd St, Redmond, OR 97756, Property Owner: Daniel J. Leone

Dear Ms. Liu- I, along with my husband and two young children, own a home in Lake Park Estates located in NE Redmond. I am writing because of the proposal of a recreational cannabis production facility by Daniel J. Leone at 3278 NE 33rd St located in Lake Park Estates.

My family and I feel that Lake Park Estates is not an appropriate location for such a facility. Each resident pays for road maintenance and the gravel roads already have large amounts of wash board at all times, pot holes and litter without having the extra vehicles that a facility like this would add to.

In addition to this, each small acreage lot's water source is from a well, could a facility that grows large amounts of plants be supported by just a well, or would it be facilitated by trucking water to, which would add to the already stressed roads in Lake Park Estates.

Along with these impactful reasons why this recreational cannabis facility should not be allowed in Lake Park Estates, there should not be a commercial operation in a residential area. We are home owners and want to have other home owners, not businesses, in our neighborhood.

I could go on and on about why this proposal is a bad decision. Please feel free to contact myself or my husband if you have any questions or need anything else from us to stop this proposed facility from coming into our neighborhood.

Thank you,
Autumn Loewen

Nick and Autumn Loewen, Homeowners
3923 NE 40th St.
Redmond, OR 97756
541-620-4319
autumnloewen@aol.com

Isabella Liu

From: Julie and Craig Miller <cnjmiller2015@gmail.com>
Sent: Thursday, December 28, 2017 8:07 PM
To: Isabella Liu
Subject: Continuation of email from cnjmiller2015@gmail.com

Craig and Julie Miller
3730 NE 33rd Street
Redmond, OR 97756

Re: Notice of Proposed Land Action Use 247-17-000993-CU

Dear Ms. Liu,

(I am sorry that my email was sent to you before it was finished. I did not mean to SEND. Following is the entire letter in opposition to the marijuana grow on NE 33rd St. and Upas in Redmond, CA.)

Dear Ms. Liu:

I am writing to express my concerns and submit my opposition to the proposed marijuana grow by Mr. Leone on the corner of NE 33rd St and NE Upas in Redmond, OR. My husband and I live exactly one third of a mile north of this property on NE 33rd St and we do not wish to see this enterprise come to fruition. We live in a neighborhood/residential development called Lake Park Estates. We have CCR's which state in the bylaws that there are to be no commercial businesses. Everyone is charged an annual fee to provide financial means to keep our roads in shape for the use of the residents. Employees and other traffic that would be coming into this neighborhood for such businesses do not financially support the upkeep and maintenance of our roads. The element that a marijuana business might attract is not desirable either. We already have some known "drug houses" that are being watched by law enforcement. We, personally, have witnessed two recent apprehensions of drug related individuals, who were apprehended directly behind and adjacent to our property. It was a fact that they were attempting to reach locations that were in connection to their activity when chased at high speeds trying to evade police.

The traffic, possible noise, the actual building and upkeep of this facility, which at this time, is not a professional looking set-up by any stretch, can only detract from the property values of residents who live clean, quiet lives and take pride in the general appearance and quality of their homes and properties. A number of people, including my husband and I, own and ride horses or enjoy walking and hiking on the roads and out onto the BLM. We do not feel safe with the knowledge that people involved in the growing, manufacturing or selling of drugs, regardless of what they are to be used for, are in such close proximity to our home.

Another aspect that is extremely important to consider is the use of water. The Oregon codes stated that only 1/2 acre is to be watered from private ground wells and only for yards and gardens for personal use, not commercial enterprises. The Leone's application states that they will be trucking water in from Bend. While that sounds like a solution, it seems that it does not actually follow the code, since that water is still being removed from another location. It also sounds good for the application but even if it were legal, how would that be enforced or proven to actually be taking place once they are in operation? As far as I know there would be no way to monitor that as resources and man power are not available by the county for scrutinizing and observing whether they would be trucking in water or just pumping it out of the ground while no one is watching. This area already has experienced an increased drop in the water, causing many residents to drill deeper wells or install new pumps. With our changing climate and unknown forecasts for precipitation it is not fair nor in the best interests of the residents living here to have more water being used for business purposes. This particular property's well was known to have gone dry within the last three years. Marijuana requires a lot of water to produce healthy, vigorous plants and we are not interested in supporting the growing of a plant that does not really have proven health or nutritional properties. It is not food for humans or animals and medical reasons do not require a vast quantity to be grown in this fashion.

We believe that as members of an HOA that does not condone or permit private enterprises, especially those that require employees. The bylaws which were set forth many years ago, should continue to be respected and followed. Our neighborhood is comprised of families, retirees, and normal hardworking individuals from all walks of life. This sort of "business" invites an undesirable element and a dicey future, opening the door for more of the same. It detracts from the environment which we value and wish to keep safe and desirable for a long, long time.

Thank you for your consideration.

Sincerely
Craig and Julie Miller

December 27, 2017

Izze Liu,

My name is Nick Swagger and I am the president of the Lake Park Estates Road Board and a resident in LPE. I am writing you to comment on the posted Notice of Proposed Land Use Action for a marijuana production facility located at NE 33rd street and Upas Ave (247-17-000993-CU, Leone).

I have several concerns with this type of operation in Lake Park Estates some of which are personal concerns and others concern the management of privately maintained roads in the subdivision.

As per our CC&R's, residents are not permitted to use properties for commercial type uses and or conduct business from residential properties. This use certainly falls under a business type use. It would increase road traffic, noise pollution, and impact visuals in the neighborhood.

Wells within LPE are to be utilized for private domestic water sources. There is no access to irrigation within that portion of LPE. If irrigation is utilized from a domestic well it strains the entire aquifer in the neighborhood and may impact other adjacent wells.

Roads within Lake Park Estates are public roads with private maintenance. At this time the road board can barely keep up on the maintenance of our 10.4 miles of roads. Having a commercial business utilizing roads will have a significant impact to road conditions and maintenance that is being funded by all residents. Deliveries of supplies, employees accessing their workplace, and general curious motorists will all increase with this type of operation.

Over the years several other businesses have been removed from the neighborhood by the county due to all of these concerns. One of which was a business in similar nature that grew plants in greenhouses without approved irrigation. Please take into consideration all of these concerns as this application is processed. Please send a copy of the final decision to myself when available to share with residents at our next annual meeting held in spring of 2018. Thank you.

/s/ Nick Swagger

Lake Park Estates Road Board President

Isabella Liu

From: oneonri1@gmail.com
Sent: Saturday, January 06, 2018 8:11 PM
To: Isabella Liu
Subject: Planning for Upas grower

>
> Hello, thank you for getting back to me. Sorry that we couldn't connect.
>
> My husband and I are a bit concerned about having a grower in the neighborhood and the different affects it will have.
>
> The house is on a well, as is everyone else in this area. Several houses have had to have wells dug deeper in the last year. What kind of water usage are we looking at? What kind of impact will it have on the water table in the area? We didn't realize it was an agricultural zoned development when we bought.
>
> On the same note, this area has been working at making improvements and what are we homeowners looking at when it comes to property values? We already have enough issues with the road, the blm, and the sheriffs department out here. I do not think adding a grower to the neighborhood is gonna help. What typically happens when a grower moves in? Security in this area is not great. Are we looking at more issues in regards to safety? How does the city of Redmond feel about this with all of the land management issues they have going on, with dumping and riding? Will there be more traffic in the neighborhood due to buying and selling of product? The only sign posted was on the corner of the property, but people at the beginning of the street are gonna have the traffic to deal with. We also have an HOA or road board, has this been addressed with them?
>
> I live at the end of the road. I realize I didn't get to you sooner. I love my home and my property. I hate the fact that there is shooting, and motorized riding on the blm that is not motorized vehicle or shooting permitted. We've had gates and fences broke. No one cares to fix it. No one maintains the land. We've had high speed and foot chases. The Redmond pd have a name for the area. I'm sure the sheriffs do to. As a teacher and a parent of 3, this is not what I want to see near my home. Not only that but I am not sure that this is a wise move for this area. Even though they were probably already doing it.
>
> Thank you for listening/reading.
>
> Oni
>
> Sent from my iPhone

To Whom it May Concern:

I am writing to inform you of my opposition to the proposed land use action of building a marijuana production facility at 3278 NE 33rd Street in Redmond, Oregon.

When I moved in to Lake Park Estates in 2005, I was under the impression that all the properties in our subdivision were Rural Residential. And that the bylaws clearly state that no business are to operate in the subdivision. But, this proposal is stating that the land is Multiple Use Agricultural, with a 10 acre minimum. The property in question is 5.32 acres, so does not fall under that zoning.

Assuming that the properties in Lake Park Estates are in fact MUA, this type of business would not adhere to the code established by such a zoning. As stated in the Deschutes County Code Chapter 18.32.010, "*The purposes of the Multiple Use Agricultural Zone are....to maintain and improve the quality of the air, water and land resources of the county...*". Can you honestly tell me that air and water quality will be "improved" by such a facility?

The property in question lies right across the street from land owned and managed by Redmond Parks and Recreation District. Although there is not significant development of that property to date, there are many people who enjoy the use of it through bicycling, running, walking, horseback riding and the like. As Redmond grows, the use of that land will grow. Do you think people will want to bring their families out to a place adjacent to a marijuana grow operation?

And if approved, it would open the "floodgate" to many more operations like this. After all if you say "yes" to one property, you likely will have to say "yes" to everyone. Do we really want to see multiple grow operations in this area?

My biggest concern is the water usage. Although they state in their application that they will have water trucked in, who will police it? What if the roads are bad and a water truck cannot safely bring them water. You and I both know that they WILL be using their well, which inevitably puts a strain on everyone else's wells. I know of several neighbors who had to drill their wells deeper because of the continual drop in the water table. This type of activity will put a huge logistical and financial burden on the homeowners in the area, if they have to have a well driller come out to dig deeper. We are talking about many thousands of dollars. Most people that live out here do not have the resources to afford such a burden.

I am not opposed to someone wanting to have a business and grow marijuana, but **this area does not have the proper resources** to successfully run such an operation. There are plenty of properties in Deschutes County that are larger and have the proper water rights for tending to such a water intensive crop. I would suggest the residents of 3278 NE 33rd Street, Redmond, Oregon find a larger, more suitable property.

I am confident that Deschutes County will do the right thing for its residents and NOT APPROVE this proposal.

Sincerely,
Shawn Harrang
Resident of Lake Park Estates

Isabella Liu

From: Tammy Burkley <burkleyrealty@gmail.com>
Sent: Thursday, December 21, 2017 10:21 PM
To: Isabella Liu
Cc: swaggern@hotmail.com; Bonita; tammyburkley1@gmail.com
Subject: December 21st, 2017

December 21st, 2017

Izze,

We are sending you this email to voice our concerns and opposition regarding the proposed land use action #247-17-000993, applicants name "Leone".

My wife and I are strongly opposed to the marijuana grow being located and approved in our residential area. We live in a non irrigated small acreage residential subdivision and it is not suitable for this type of activity and business. Not only do we have an elementary age child living in our home, which is adjacent to the proposed site, but we also take care of other family children on a daily basis at our home.

This proposed action from our neighbor would take away from the beneficial enjoyment of our life and our property. It would also devalue our home and property.

We are in the process of building a replacement home which will be worth substantially less if this grow operation is approved.

Not only would the above things be true, but the water is not abundant in our area...this is not irrigated farmland. This is dry land and the amount of water to sustain a legal grow operation would tax not only our well but other wells in our area.

Next, but certainly not the last reason we are opposed, is our subdivision has CC&Rs, which the county does not enforce, but certainly should take into consideration regarding this issue as they prohibit this use in our neighborhood. If the applicant stated that his property is suitable and approved for this type of business he has lied on the application. For us as homeowners, and not affluent homeowners, it will put great financial strain for us to have to fight Mr. Leone in court and we simply do not have the resources to be able to do that.

Mr. Leone does not reside at the property so he has nothing to lose by this action. His property is occupied by a tenant, his son I believe, and is in disarray, full of debris and unclean. This is strictly an action for his monetary gain which will cause serious financial loss to us and loss of the use of our home and property. Lastly I'd like to say that not only is this use not suitable for this residential neighborhood, but the health and safety unknowns would put an unfair burden on us and other neighbors.

Please advise us as to the next step in this process and when we may have a judge hear our side..

Our next step on our end will be to contact the 176 land owners in our subdivision to make them aware of this situation as the posted sign on the neighbors property is not visible to most people. We will also contact a land use attorney to do everything in our power to stop this action from being approved.

Thank You,

Micah and Tammy Burkley
3407 NE Upas Ave
Redmond, OR. 97756

Micah & Tammy Burkley
Sent from our mobile office

Fager

247-16-000751-SP

247-16-000752-CM

Anthony Raguine

From: Heid Harris <heidiharris1@hotmail.com>
Sent: Thursday, February 23, 2017 9:30 AM
To: Anthony Raguine
Subject: Regarding marijuana dispensary at the corner of HWY 97 and Tumalo Place

Dear Mr. Raguine,

We are writing as a concerned parents from Three Sisters Adventist Christian School (TSACS) to express my deep concern over the proposed marijuana dispensary that is under consideration at the corner of Highway 97 and Tumalo Place. While this rural locale may seem inconsequential for a marijuana dispensary, its proximity to TSACS without the buffer provided by the buildings in a higher-density location makes it a poor choice for this type of business.

The underlying principles on which a Christian school and a marijuana dispensary rest couldn't be more contrary and, although a Christian school may not have any negative impact on a marijuana dispensary, the opposite claim cannot be honestly made. There is significant apprehension within our school and church family. We are concerned that the negative impact to our central mission would be significant and our appeal within the community would be seriously compromised.

There are many other locations more suitable for a marijuana dispensary, and I strongly urge you to deny the application before you.

**Please notify me of any public meeting or hearing at which this application will be discussed:
2049 NW Ivy Pl.
Redmond, OR 97756**

**Sincerely,
Daniel and Heidi Harris**

Anthony Ragaine

From: Jonathan and Janelle K <jonathanandjanelle@hotmail.com>
Sent: Thursday, February 23, 2017 10:18 AM
To: Anthony Ragaine
Subject: Proposed Mariguana Dispensary
Attachments: 20170223102325874.pdf

Mr. Ragaine,

Please see the attached letter. Thank you.

Janelle Kasabasic

Janelle Kasabasic
2325 NE Mary Rose Place, #2
Bend, OR 97701

Via Email: anthony.raguine@deschutes.org.

Anthony Raguine
Deschutes County Community Development Department

Re: Proposed Marijuana Dispensary

Dear Mr. Raguine,

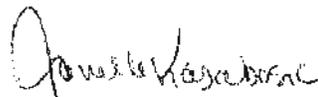
I am writing as a concerned parent of a student attending Three Sisters Adventist Christian School (TSACS) to express my deep concern over the proposed marijuana dispensary that is under consideration at the corner of Highway 97 and Tumalo Place. While this rural locale may seem inconsequential for a marijuana dispensary, its proximity to TSACS without the buffer provided by the buildings in a higher-density location makes it a poor choice for this type of business.

The underlying principles on which a Christian school and a marijuana dispensary rest couldn't be more contrary and, although a Christian school may not have any negative impact on a marijuana dispensary, the opposite claim cannot be honestly made. There is significant apprehension within our school and church family. We are concerned that the negative impact to our central mission would be significant and our appeal within the community would be seriously compromised.

There are many other locations more suitable for a marijuana dispensary, and I strongly urge you to deny the application before you.

Please notify me of any public meeting or hearing at which this application will be discussed.

Sincerely,



Janelle Kasabasic

Anthony Raguine

From: Stephanie Brusett <mom2thebest2@gmail.com>
Sent: Monday, February 27, 2017 6:36 AM
To: Anthony Raguine
Subject: Marijuana dispensary and our school

Dear Mr. Raguine,

I am writing as a .concerned parent of a student attending Three Sisters Adventist Christian School (TSACS) to express my deep concern over the proposed marijuana dispensary that is under consideration at the corner of Highway 97 and Tumalo Place. While this rural locale may seem inconsequential for a marijuana dispensary, its proximity to TSACS without the buffer provided by the buildings in a higher-density location makes it a poor choice for this type of business.

The underlying principles on which a Christian school and a marijuana dispensary rest could not be more contrary and, although a Christian school may not have any negative impact on a marijuana dispensary, the opposite claim cannot be honestly made. There is significant apprehension within our school family. We are concerned that the negative impact to our central mission would be significant and our appeal within the community would be seriously compromised. This could threaten the well being of our school by directly impacting enrollment

There are many other locations more suitable for a marijuana dispensary, and I strongly urge you to deny the application before you.

Please notify me of any public meeting or hearing at which this application will be discussed: 64140 Pioneer Loop
Bend OR 97701

Sincerely,

Stephanie Brusett

Concerned parent and citizen

Anthony Raguine

From: Brent Brusett <brentbrusett@gmail.com>
Sent: Monday, February 27, 2017 8:26 AM
To: Anthony Raguine
Subject: Re: Marijuana dispensary and our school

Dear Mr. Raguine,

I am writing as a .concerned parent of a student attending Three Sisters Adventist Christian School (TSACS) to express my deep concern over the proposed marijuana dispensary that is under consideration at the corner of Highway 97 and Tumalo Place. While this rural locale may seem inconsequential for a marijuana dispensary, its proximity to TSACS without the buffer provided by the buildings in a higher-density location makes it a poor choice for this type of business.

The underlying principles on which a Christian school and a marijuana dispensary rest could not be more contrary and, although a Christian school may not have any negative impact on a marijuana dispensary, the opposite claim cannot be honestly made. There is significant apprehension within our school family. We are concerned that the negative impact to our central mission would be significant and our appeal within the community would be seriously compromised. This could threaten the well being of our school by directly impacting enrollment

There are many other locations more suitable for a marijuana dispensary, and I strongly urge you to deny the application before you.

Please notify me of any public meeting or hearing at which this application will be discussed: 64140 Pioneer Loop Bend OR 97701

Sincerely,

Brent Brusett

Concerned parent and citizen

On Feb 27, 2017 6:38 AM, "Stephanie Brusett" <mom2thebest2@gmail.com> wrote:

Have you sent this letter on?

Send to anthony.raguine@deschutes.org

I have personalized it so you just have to copy and paste

Dear Mr. Raguine,

I am writing as a .concerned parent of a student attending Three Sisters Adventist Christian School (TSACS) to express my deep concern over the proposed marijuana dispensary that is under consideration at the corner of Highway 97 and Tumalo Place. While this rural locale may seem inconsequential for a marijuana dispensary, its proximity to TSACS without the buffer provided by the buildings in a higher-density location makes it a poor choice for this type of business.

The underlying principles on which a Christian school and a marijuana dispensary rest could not be more contrary and, although a Christian school may not have any negative impact on a marijuana dispensary, the opposite claim cannot be honestly made. There is significant apprehension within our school family. We are

concerned that the negative impact to our central mission would be significant and our appeal within the community would be seriously compromised. This could threaten the well being of our school by directly impacting enrollment

There are many other locations more suitable for a marijuana dispensary, and I strongly urge you to deny the application before you.

**Please notify me of any public meeting or hearing at which this application will be discussed: 64140 Pioneer Loop
Bend OR 97701**

Sincerely,

Brent Brusett

Concerned parent and citizen

Anthony Raguine

From: Robin Sanchez <ejarsanchez@gmail.com>
Sent: Tuesday, February 28, 2017 10:28 AM
To: Anthony Raguine
Subject: Marijuana Dispensary

Dear Mr. Raguine,

I am writing as a concerned parent of a student attending Three Sisters Adventist Christian School (TSACS) to express my deep concern over the proposed marijuana dispensary that is under consideration at the corner of Highway 97 and Tumalo Place. While this rural locale may seem inconsequential for a marijuana dispensary, its proximity to TSACS without the buffer provided by the buildings in a higher-density location makes it a poor choice for this type of business.

The underlying principles on which a Christian school and a marijuana dispensary rest couldn't be more contrary and, although a Christian school may not have any negative impact on a marijuana dispensary, the opposite claim cannot be honestly made. There is significant apprehension within our school and church family. We are concerned that the negative impact to our central mission would be significant and our appeal within the community would be seriously compromised.

There are many other locations more suitable for a marijuana dispensary, and I strongly urge you to deny the application before you.

Please notify me of any public meeting or hearing at which this application will be discussed: 876 SE Kristin Way, Madras, OR 97741.

Sincerely,
Robin Sanchez

Anthony Raguine

From: Karmen Behm <karmenbehm@gmail.com>
Sent: Tuesday, February 28, 2017 1:16 PM
To: Anthony Raguine
Subject: Marijuana dispensary

Dear Mr. Raguine,

I am writing as a long time supporter of Three Sisters Adventist Christian School (TSACS) to express my deep concern over the proposed marijuana dispensary that is under consideration at the corner of Highway 97 and Tumalo Place. While this rural locale may seem inconsequential for a marijuana dispensary, its proximity to TSACS without the buffer provided by the buildings in a higher-density location makes it a poor choice for this type of business.

The underlying principles on which a Christian school and a marijuana dispensary rest couldn't be more contrary and, although a Christian school may not have any negative impact on a marijuana dispensary, the opposite claim cannot be honestly made. There is significant apprehension within our school and church family. We are concerned that the negative impact to our central mission would be significant and our appeal within the community would be seriously compromised.

There are many other locations more suitable for a marijuana dispensary, and I strongly urge you to deny the application before you.

Please notify me of any public meeting or hearing at which this application will be discussed.

Sincerely,
Karmen Behm
836 NE 9th St
Bend, OR 97701



Mailing Date:
Wednesday, June 14, 2017

Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

DECISION OF HEARINGS OFFICER

FILE NUMBERS: 247-16-000751-SP
247-16-000752-CU

SUBJECT: The applicant requests conditional use permit and site plan approval to establish a marijuana retail store in an existing building on the subject property.

APPLICANT: Kelly King
4335 S. Highway 97
Redmond, OR 97756

OWNER: Harry & Beverly Fagen
53 NW Tumalo Avenue
Bend, OR 97703

STAFF CONTACT: Anthony Raguine, Senior Planner

HEARING DATE: April 4, 2017

HEARINGS BODY: Liz Fancher, Hearings Officer

I. **APPLICABLE CRITERIA:**

Title 18 of the Deschutes County Code, the County Zoning Ordinance
Chapter 18.74, Rural Commercial Zone (RC)
Chapter 18.80, Airport Safety Combining Zone (AS)
Chapter 18.84, Landscape Management Zone (LM)
Chapter 18.113, Destination Resort Combining Zone (DR)
Chapter 18.116, Supplementary Provisions
Chapter 18.124, Site Plan Review
Chapter 18.128, Conditional Use.

Title 22, Deschutes County Development Procedures Ordinance

II. **BASIC FINDINGS:**

- A. **LOCATION:** The subject property has an assigned address on 21280 Tumalo Place, Bend, and is further identified on Assessor map 16-12-26B as tax lot 500.
- B. **ZONING:** The majority of the subject property is zoned Multiple Use Agricultural (MUA10). The portion of the property proposed to include the marijuana retail facility is

zoned RC. The northwest corner of the property is within the AS Combining Zone associated with the Redmond Municipal Airport. A majority of the property is within a DR Combining Zone.

- C. **LOT OF RECORD:** The subject property is a legal lot of record pursuant to several land use approvals detailed below.
- D. **SITE DESCRIPTION:** The property is approximately 29.04 acres in size and is irregular in shape. The portion of the property subject to the requested land use permits is approximately 22,913 square feet in size and is zoned RC. This lease area is located in the southeast corner of the property, fronts on Tumalo Place, and is developed with a two-story building. Existing vegetation consists primarily of grasses and a few mature trees along Tumalo Place.
- E. **PROPOSAL:** The applicant requests conditional use permit and site plan review to establish a marijuana retail facility on the first floor of the existing building on-site. Access to the lease area would be from the existing driveway off of Tumalo Place. The proposal includes four paved parking spaces to the west of the building.
- F. **SURROUNDING LAND USE:** To the north and northwest are properties zoned MUA10 and Rural Residential (RR10) developed primarily with single-family dwellings. Highway 97 forms the property's east border. Across Highway 97 to the east are lands zoned Exclusive Farm Use (EFU) which are developed with rural residences and some farm uses. To the southeast across Highway 97 are lands zoned Rural Industrial (RI) developed with a number of industrial uses including Willamette Graystone (masonry blocks), Jack Robinson & Sons, Inc. (excavation), 4-R Equipment, LLC (aggregate processing). To the south across Tumalo Place are lands zoned EFU developed with farm uses, rural residences and the Three Sisters Adventist Christian School.
- G. **PUBLIC AGENCY COMMENTS:** The following comments were received from public agencies.

Deschutes County Building Division. The Deschutes County Building Safety Divisions code required Access, Egress, Setbacks, Fire & Life Safety, Fire Fighting Water Supplies, etc. will be specifically addressed during the plan review process for any proposed structures and occupancies. All Building Code required items will be addressed, when a specific structure, occupancy, and type of construction is proposed and submitted for plan review.

Deschutes County Environmental Soils Division. This proposal will require an Authorization Notice for the change in use and potential impact to the septic system. Our records show the old system is relatively small and consists of a steel tank. The steel tank will need to be replaced at a minimum, but the exact location of the system will have to be confirmed to make sure all setbacks are being met. The system cannot be located under an area impacted by vehicular traffic. If the system has to be relocated that would require an installation permit and we would have to determine minimum system requirements as part of the authorization notice process.

Deschutes County Senior Transportation Planner. I have reviewed the transmittal materials for 247-16-000751-SP/752-CU to develop a recreational marijuana retail dispensary of 1,070 square feet in the ground floor of an existing building in

Unincorporated Community Rural Commercial (RC) zone at 21280 Tumalo Place, aka 16-12-26B, Tax Lot 500.

The most recent edition of the Institute of Traffic Engineers (ITE) Trip Generation Handbook has no specific category for this use; therefore after discussions between Planning and the Road Department, the County decided to use Specialty Retail Center (Land Use 826) for marijuana retail. The ITE indicates a Specialty Retail Center generates at 44.32 weekday trips per 1,000 square feet. Deschutes County Code (DCC) at 18.116.310(C)(3)(a) states no traffic analysis is required for any use that will generate less than 50 new weekday trips. The proposed land use will not meet the minimum threshold for additional traffic analysis.

Board Resolution 2013-020 sets a transportation system development charge (SDC) rate of \$3,852 per p.m. peak hour trip. Specialty Retail Centers after accounting for pass-by (trips already on the system) generates 1.06 trips per 1,000 square feet. Therefore, the applicable SDC is \$4,122 (\$3,852 X 1.07). The SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

Bend Fire Department. Regarding use of this existing structure as a retail or mercantile occupancy: If the building had received a certificate of occupancy from Deschutes County as a mercantile occupancy and this use has not changed since it was issued, then there will be no additional requirements from the Bend Fire Department. If, however there is no certificate of occupancy or other legal documentation attesting to the approved use, then see the following requirements: (2014 Oregon Fire Code Section 102.3, Change of use or occupancy)

FIRE APPARATUS ACCESS ROADS

- Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. 2014 OFC 503.1.1
- Fire apparatus roads shall have an unobstructed width of not less than 20 feet, exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches. Where a fire hydrant is located on a fire apparatus road, the minimum width shall be 26 feet, exclusive of shoulders. Traffic calming along a fire apparatus road shall be approved by the fire code official. Approved signs or other approved notices or markings that include the words NO PARKING-FIRE LANE shall be provided for fire apparatus roads to prohibit parking on both sides of fire lanes 20 to 26 feet wide and on one side of fire lanes more than 26 feet to 32 feet wide. 2014 OFC 503.2.1, D103.1, 503.4.1, 503.3
- Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus (60,000 pounds GVW) and shall be surfaced (asphalt, concrete or other approved driving surface) as to provide all weather

driving capabilities. Inside and outside turning radius shall be approved by the fire department. All dead-end turnarounds shall be of an approved design. Bridges and elevated surfaces shall be constructed in accordance with AASHTO HB-17. The maximum grade of fire apparatus access roads shall not exceed 10 percent. Fire apparatus access road gates with electric gate operators shall be listed in accordance with UL325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200. A Knox® Key Switch shall be installed at all electronic gates. 2014 OFC D102.1, 503.2.4, continued.

FIRE PROTECTION WATER SUPPLIES

- An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. 2014 OFC 507.1.
- Fire flow requirements for buildings or portions of buildings shall be determined by an approved method. Documentation of the available fire flow shall be provided to the fire code official prior to final approval of the water supply system.
- Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official. For Group R-3 and Group U occupancies the distance requirement shall 600 feet. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.3.1.2, the distance requirement shall be 600 feet. Fire hydrants shall be provided along required fire apparatus roads and adjacent public streets. The minimum number of fire hydrants shall not be less than that listed in table C105.1 of the 2010 OFC. Existing fire hydrants on public streets are allowed to be considered as available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. The average spacing between fire hydrants shall not exceed that listed in Table C105.1 of the 2014 OFC.
- ORS 811.550(16) prohibits parking within 10 feet of a fire hydrant. Provide approved signs or other approved markings to prohibit parking within 10 feet of a fire hydrant. OAR 860-024-0010 limits the placement of a fire hydrant a minimum of 4 feet from any supporting structure for electrical equipment, such as transformers and poles. Maintain a minimum 4 foot clearance of fire hydrants to any supporting structure for electrical equipment. Where fire hydrants are subject to impact by a motor vehicle, guard posts or other approved means shall comply with Section 312 of the 2014 OFC.
- In areas without water supply systems, the fire code official is authorized to use NFPA 1142 in determining fire flow requirements. 2014 OFC B107.1

OTHER FIRE SERVICE FEATURES

- New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum 4 inches high with a minimum stroke width of 0.5 inch. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole, or other sign or means shall be used to identify the structure. Address numbers shall be visible under low light conditions and evening hours.
- Provide illumination to address numbers to provide visibility under all conditions. Address signs are available through the Deschutes Rural Fire Protection District #2. An address sign application can be obtained from the City of Bend Fire Department website or by calling 541-388-6309 during normal business hours. 2014 OFC 505.1
- A KNOX-BOX® key vault is required for all newly constructed commercial buildings, facilities or premises to allow for rapid entry for emergency crews. A KNOX® Key Switch shall be provided for all electrically operated gates restricting entry on a fire apparatus access road. A KNOX® Padlock shall be provided for all manually operated gates restricting entry on a fire apparatus road and security gates restricting access to buildings. 2014 OFC Section 505

Codes and Referenced Standards:
2014 Oregon Fire Code (OFC)
2012 NFPA 1142

No comments were received from the following agencies. Deschutes County Assessor, Deschutes County Road Department, Oregon Department of Transportation, and Oregon Liquor Control Commission.

- H. PUBLIC COMMENTS:** The Planning Division sent notice of this application to property owners within 250 feet of the subject property. In addition, the applicant submitted a Land Use Sign Affidavit indicating the land use action sign was posted on the property on December 16, 2016. As of the date of this staff report, a total of 13 emails and letters were received in opposition to the proposal expressing the following concerns:
- Lack of buffers from buildings between the subject property to the Three Sisters Adventist Christian School (TSACS)
 - Conflicting principles between a Christian school and marijuana dispensary
 - Lack of negative impact a Christian school will have on a marijuana dispensary versus the negative impact the dispensary will have on TSACS
 - Impact on enrollment at TSACS
 - The proposed marijuana retail use is more suited to other locations
- I. LAND USE HISTORY:** The property has been the subject of a number of land use decisions, as detailed below.

Z-77-53: Approval to change the zone of approximately .67 acres of the 29-acre property from Exclusive Agriculture (A-1) to Rural Service Center (A-S).

SP-78-18: Site Plan approval to allow the establishment of a welding repair shop and retail store.

SP-82-22: Site Plan approval to allow an addition to the existing two-story building; allow the establishment of a flea market; and allow the sale of collectibles and furniture.

PA-92-8, ZC-92-3: Approval to change the Comprehensive Plan Map designation of approximately 4.15 acres of the 29-acre property from RR10 to Rural Service Center/Commercial, and to change the zone of the same 4.15 acres from MUA10 to Rural Service Center.

SP-05-28: Site Plan approval to allow the establishment of a retail and wholesale landscaping use.

LL-06-121: Approval to allow the adjustment of a common property line between the subject property and tax lot 600 on Assessor map 16-12-16B.

DR-10-3: Declaratory Ruling determining that the existing two-story structure on-site is not a permanent residential dwelling unit.

Deschutes County has also opened code enforcement files to address a number of alleged code violations on the subject property including complaints that the property has been used to operate businesses without required land use approvals. A written code enforcement complaint was filed by neighboring property owner Duane Porter and filed in the record of this case. Mr. Porter alleges that subject property is being used by a number of businesses without County land use or other permit approvals. Parties to this review, including Mr. Porter, have also provided evidence that the property is being used by a number of businesses and to store heavy motor vehicles and storage containers.

- J. PROCEDURAL HISTORY AND REVIEW PERIOD:** The subject applications were submitted on December 1, 2016. An Incomplete Letter was mailed on December 28, 2016 detailing necessary information that must be submitted by the applicant. On February 16, 2017, the applicant submitted a response to the Incomplete Letter. The application was deemed complete on that day. On February 23, 2017, the applicant tolled the running of the 150-day decision clock for a period of seven days.

The land use hearing was held on April 4, 2017. The record was kept open until May 4, 2017. A seven day period to May 11, 2017 was allowed for rebuttal and the applicant was given until May 18, 2017 for the applicant to file final argument. The applicant agreed to these post-hearing periods at the April 4, 2017 hearing and, therefore, the 150-day decision clock was tolled from April 4, 2017 until May 18, 2017.

- K. LATE FILED COMMENTS:** An e-mail was received from Milton Pyle on May 5, 2017 after the close of the post-hearing comment period on May 4, 2017. Staff advised Mr. Pyle that his comments would not be considered by the Hearings Officer. Mr. Pyle's comments, however, were considered by the Hearings Officer because they address

issues and evidence submitted by the applicant during the post-hearing comment period – proximity of the use proposed to TSACS and traffic.

The following e-mails from County staff were received by the Planning Division on May 12, 2017 after the rebuttal period closed on May 11, 2017:

1. Cody Smith to George Kolb and Anthony Raguine at 10:47 am
2. George Kolb to Anthony Raguine at 10:29 am
3. Peter Russell at 2:42 pm

As County staff did not request that the record be reopened to allow receipt of these late-filed comments, they were not considered by the Hearings Officer and are not a part of the record in this case. The applicant filed its only traffic impact analysis documents on May 4 and May 11, 2017. This gave County staff little or no time to respond or analyze the information. A rigorous review and acceptance of the applicant's transportation analysis by the County's transportation professionals would have made a stronger case for a finding that access to the site is adequate.

III. CONCLUSIONARY FINDINGS:

TITLE 22, DESCHUTES COUNTY DEVELOPMENT PROCEDURES ORDINANCE

A. Chapter 22.20, Review of Land Use Action Applications

This decision denies approval of the submitted land use applications because it was determined through the review process of these current applications that violations of the County's land use are occurring on the subject property and will not be remedied by approval of the submitted applications. This section of the decision discusses the laws that dictate denial because this is a relatively new provision of the County code.

DCC 22.20.015 law prohibits the County from approving new land use applications for properties that are in violation of land use laws. DCC 22.20.015(C) defines when a property is in "violation" to include the following: (1) a determination of noncompliance with land use laws has been made in a prior decision by the County or another tribunal; and (2) an admission of noncompliance with land use laws is contained in a voluntary compliance agreement; and (3) a determination of violation is made "through the review process of the current application." DCC 1.16.010(F) states that "[a] land use application for a property with an existing code violation will be accepted, but not processed by the County based on DCC 22.20.015. The following chart summarizes the three conditions that require denial of a pending land use application due to a code violation and their characteristics:

Violation Determined	How Determined	Potential Consequences
In a prior decision	DCC Chapter 1.17 process or similar	Fine or injunction/abatement; Denial of land use application
Admission in VCA	Resolution of code complaint	Must comply or penalties will be imposed Denial of land use application
In review of pending application	Review of land use application subject to DCC Title 22	Application cannot be approved unless violation is cured

The underlined code language makes it clear that if the review of a "current application" results in a determination that a land use violation exists, the County must decline to approve a current

application. No other consequence is prescribed. A determination by a hearings officer “through the review process of the current application” is governed by the rules that govern the review of the current application as the determination is “through the review process of the current application.” The review process for the current application is prescribed by DCC Chapter 22.

DCC Chapters 1.16 and 1.17 contain provisions regarding code violations and enforcement. They do not establish the review process of the current application. The only reference to DCC 22.20.015 is found in DCC 1.16.010(F). It refers to DCC 22.20.015 as describing one possible consequence of a code violation. The rest of DCC 1.16 prescribes penalties for violations and methods of enforcing code provisions and provides authority to County officials to enforce County codes. None of these other provisions, however, were made applicable by the Board of Commissioner to a review authorized by DCC 22.20.015 “through the review process of the current application.”

DCC Chapter 1.17 establishes a code enforcement hearing procedure that applies when the County seeks to impose a civil penalty against a person violating the code. DCC 1.17.010 (A)(Chapter 1.17 governs procedure for the assessment of civil penalties). By its terms, DCC Chapter 1.17 does not apply to a determination of violation during the review of a land use application because a land use review is not a process for the assessment of civil penalties against a person violating the code and it is not written to prescribe the review process for the current land use applications.

A determination of a violation in a “current” land use application is merely a determination that a land use application cannot be approved unless it resolves the violation. The only consequence of a determination of noncompliance made during the review of a pending application is that the application will not be approved. No fine can be assessed against the property owner unless and until the property owner is charged with a violation of the code in another forum and case. The determination is not binding on the property owner or on the applicant in any other forum. If the applicant or owner disagrees with the finding in this decision, they may appeal the decision or refile the land use application and seek a new determination.

A property owner is required to sign or authorize the filing of the land use application. The owner is placed on notice, by the County code, that a finding of violation may occur during the review process when a current land use application is filed. In the current cases, the property owner, Harry Fagen, Sr., signed the land use application.

Mr. Fagen was also aware that code compliance was an issue for his property early in the review of the King applications. In a letter dated February 24, 2017, Mr. Fagen wrote to planner Anthony Raguine to “clarify questions and concerns that you [Mr. Raguine] recently raised regarding the use [*sic*] my property located at 21280 Tumalo Place.” Mr. Fagen’s February 2017 letter claims “the area surrounding the dispensary is not being used commercially or as a place of business.”

At the April 4, 2017 land use hearing, the Hearings Officer advised those in attendance, including the applicant and his land use planner, that existing code violations might prevent approval of the application. Mr. Fagen made comments during the post-hearing comment period but did not respond to the photographic and video evidence presented by project opponents that rebuts Mr. Fagen’s claims about the use of his property.

1. Chapter 22.20.015 Code Enforcement and Land Use

- A. Except as described in (D) below, if any property is in violation of applicable land use regulations, and/or the conditions of approval of any previous land use decisions or building permits previously issued by the County, the County shall not:**
- 1. Approve any application for land use development;**
 - 2. Make any other land use decision, including land divisions and/or property line adjustments;**
 - 3. Issue a building permit.**

FINDING: This provision of the County code prohibits the Hearings Officer from approving the site plan and conditional use applications if the subject property is in violation of applicable land use regulations or conditions of approval of any previous land use decision. DCC 22.20.015(C), cited below, explains when a property is “in violation” for purposes of DCC 22.20.015(A). This issue is discussed above and below the citation of the text of DCC 22.20.015(C) below.

All parts of Tax Lot 500, Assessor’s Map 16-12-26B are the subject property. The issue of whether the property is in violation of applicable land use regulations was initially raised by County staff during its initial review of the land application use application and Mr. Fagen responded in his February 24, 2017 letter discussed above.

The property owner, Harry Fagen, Sr., has stated that the landscaping business conducted on the subject property in 2005 has been discontinued. The only structure on the property, the “Pink House” is vacant and has been vacant for a number of years. According to Mr. Fagen no other businesses are operating “in the area surrounding the proposed marijuana dispensary.” Mr. Fagen acknowledges that there is a large sign for Rock Tough (rock screens) on the property. He states that the business is located on Powell Butte Highway. Mr. Fagen says “there are a few pieces of large equipment near the Hwy 97 frontage. Those are personal machines/equipment and are not used commercially.”

There is no residence on the property and no current, valid land use approvals for the subject property other than the one authorizing the landscaping business. Mr. Fagen has advised the County that this business is no longer operating on the site. The “Pink House” is a vacant commercial building that is painted pink that was, at one time in the distant past, a residence.

The applicant’s attorney claims, in final argument, that there is no evidence of a code violation. The applicant’s attorney argues the code complaint filed by Duane Porter does not prevent approval of the pending applications. That is correct. The filing of a complaint has no bearing on whether the property is, in fact, in violation of a County land use law. DCC 22.20.015(C) provides that a violation may be determined “through the review process of the current application.” Aerial photographs, photographs submitted by the applicant and opponents, a video provided by Stephanie Brussett and testimony from opponents during the review process of the current application provide clear and convincing evidence that uses not allowed by the MUA-10 or RC zones are occurring on the subject property.

DCC 18.08.010(A) limits the use of land to uses permitted by Title 18. To be allowed, a use must be authorized by the zoning district that applies to the property.

The following uses are allowed without conditional use approval in the MUA-10 zone:

18.32.020. Uses Permitted Outright.

The following uses and their accessory uses are permitted outright:

- A. Agricultural uses as defined in DCC Title 18.*
- B. A single family dwelling, or a manufactured home subject to DCC18.116.070.*
- C. Propagation or harvesting of a forest product.*
- D. Class I and II road or street project subject to approval as part of a land partition, subdivision or subject to the standards and criteria established by DCC18.116.230.*
- E. Class III road or street project.*
- F. Noncommercial horse stables, excluding horse events.*
- G. Horse events, including associated structures, involving:*
 - 1. Fewer than 10 riders;*
 - 2. Ten to 25 riders, no more than two times per month on nonconsecutive days; or*
 - 3. More than 25 riders, no more than two times per year on nonconsecutive days.**Incidental musical programs are not included in this definition. Overnight stays by participants, trainers or spectators in RVs on the premises is not an incident of such horse events.*
- H. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC18.120.050.*
- I. Type1 Home Occupation, subject to DCC18.116.280.*

Any other use requires conditional use approval or is prohibited by the MUA-10 zone. Most uses allowed as conditional use in the MUA-10 zone also require site plan review. DCC 18.124.030.¹

All uses in the RC zone require site plan review and must comply with the requirements of DCC 18.124.030. Some also require conditional use approval. No uses are allowed without County land use review.

Storage 2U

¹DCC 18.124.030. Approval Required.

A. No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to DCC 18.124.030, nor shall such a use be commenced, enlarged, altered or changed until a final site plan is approved according to DCC Title 22, the Uniform Development Procedures Ordinance.

B. The provisions of DCC 18.124.030 shall apply to the following:

- 1. All conditional use permits where a site plan is a condition of approval;*
- 2. Multiple-family dwellings with more than three units;*
- 3. All commercial uses that require parking facilities;*
- 4. All industrial uses;*
- 5. All other uses that serve the general public or that otherwise require parking facilities, including, but not limited to, landfills, schools, utility facilities, churches, community buildings, cemeteries, mausoleums, crematories, airports, parks and recreation facilities and livestock sales yards; and*
- 6. As specified for Flood Plain Zones (FP) and Surface Mining Impact Area Combining Zones (SMIA).*
- 7. Non-commercial wind energy system generating greater than 15 to 100 kW of electricity.*

C. The provisions of DCC 18.124.030 shall not apply to uses involving the stabling and training of equine in the EFU zone, noncommercial stables and horse events not requiring a conditional use permit.

D. Noncompliance with a final approved site plan shall be a zoning ordinance violation.

Storage 2 U provides portable storage units for customers – most likely to customers in Central Oregon. No land use approval has been granted to allow this use to be operated on this property. The portable storage units are stored on the subject property and the business has a sign advertising 16' and 20' storage units for rent. Advertising is displayed on all of the units. Two of the storage units are stacked facing southbound traffic on Highway 97.² There are nine storage units visible in recent photographs submitted by Duane Porter. A video submitted by Stephanie Brussett shows more than nine units on the subject property (approximately 12 units visible). Advertising on site and on the units makes it clear that the units are a part of a storage unit business. The Storage 2U business appears to be located on the MUA-10 zoned part of the subject property. It is, possible, however, that the use may also be occurring on RC zoned land. Access to this business occurs in the MUA-10 zone.

The evidence in the record described above makes it clear that the subject property is a business location for Storage 2U. The use is one that violates the use restrictions of the MUA-10 and/or RC zoning districts. The property is, at a minimum, a storage yard for the storage business. This use is not allowed in the MUA-10 zoning district. It is also not allowed in the RC zoning district. A mini-storage facility limited to 35,000 square feet in size is allowed in the RC zone as a conditional use. No County land use approval has been obtained to authorize this use. Land use approval would be required if the use were allowed. This type of use would require site plan approval even if allowed outright by the applicable zoning district.

Rock Tough

At least three yellow static rock screens are shown on the subject property in a photograph submitted by Duane Porter on May 3, 2017. Six rock screens are visible in the video submitted by Stephanie Brussett. A forklift or similar piece of equipment is parked next to the rock screens. One of the rock screens includes a sign stating "Sales & Rental" and providing a phone number. A much larger sign in a large sign structure is erected close to the property line of the subject property with Highway 97. This use is occurring in either the RC or MUA-10 zoning districts, or both.

The property owner, Harry Fagen, Sr., acknowledges there is a large sign for Rock Tough on the property for advertising but he implies that the business occurs in a different location. The evidence in the record shows that the Fagen property is also used as a storage yard for rock screens that are transported on and off of the Fagen property.

Neither the RC zone nor the MUA-10 zone allows a storage or sales yard for static rock screens. Rock screens are used in surface mining operations. The Rock Tough use is not a retail sale of agricultural or farm products nor is it the sale or repair of farm machinery allowed by DCC 18.74.020. Even if it were, site plan approval is required. No site plan approval has been obtained to authorize the Rock Tough storage yard use.

All Aspects Fencing, LLC

All Aspects Fencing, LLC uses the south part of the subject property west of the RC zone on land zoned MUA-10. It uses the area as a fenced storage yard for its vehicles (including

² This is a violation of the County's sign code, DCC 15.08 but is not a violation of the County's land use regulations. It, therefore, is not a basis for the County to decline approval of the pending land use applications.

trucks), excavation equipment, trailers and fence poles. A recreational vehicle is also parked inside the fenced area. A storage yard for a fencing business is not allowed in the MUA-10 zone. No land use approvals have been issued to authorize this use to occur on the subject property.

Camp-Fire-Wood

Maurita Crew submitted a photo of a sign on the fence facing Highway 97 that says "Camp Fire Wood" and contains phone numbers and stated that there is a firewood sales business on the property. There is fire wood on the subject property nearby, as noted in photographs provided by Duane Porter. This is occurring in the MUA-10 or RC zoning district or both. Fire wood sales and the storage of fire wood for sale off-site is not allowed in either the MUA-10 or RC zoning districts.

Other Uses of the Property Not Authorized

The video submitted by Stephanie Brussett and photographs submitted by others show that the property is being used to store industrial equipment and vehicles, surface mined material and wood products. The storage of industrial equipment is not allowed in the MUA-10 zoning district or in the RC zone. The following is a partial listing of the equipment, materials and vehicles shown by the photos and video taken of uses occurring on the subject property:

- 2 large water trucks stored near the Pink House; the side of one truck is marked "Fire Use Only"
- Scoop used by a large excavator
- Excavating equipment
- Pile of excavated/surface mined dirt (very large; industrial scale/not personal use)
- Trailers from 18-wheeler trucks
- Cab/tractor of tractor/trailer trucks
- Large open and partially enclosed trailers, including trailers used to transport heavy equipment
- Large piles of logs/timber
- Large piles of pipes
- Utility trucks
- Dump trucks
- Large concrete forms (including those installed for the prior landscaping business are now being used to store firewood, bark dust and other products)
- Stacked pallets
- Large long trailer used to transport liquids of unknown type e.g. milk, oil, etc.
- Woody debris/solid waste

The scale and volume of the unauthorized uses is significant. The uses are incompatible with other uses in the adjoining MUA-10 zoning district and the purpose of the LM zone that applies to the subject property.

- C. A violation means the property has been determined to not be in compliance either through a prior decision by the County or other tribunal, or through the review process of the current application, or through an acknowledgement by the alleged violator in a signed voluntary compliance agreement ("VCA").**

FINDING: The issue whether the subject property complies with County land use regulations was raised with the property owner, Harry Fagen, Sr. by County planner Anthony Raguine prior to the end of February 2017. Mr. Fagen wrote a letter dated February 24, 2017 to Anthony Raguine “to clarify questions and concerns that you recently raised regarding the use [of] my property at 21280 Tumalo Place.” The issue was also raised by aerial photographs of the subject property, photographs submitted by the applicant, photographs submitted by opponents and by a video filed by opponent Stephanie Brussett.

This code section provides that a violation exists if “through the review process of the current application” it is determined a property is in violation of County land use regulations. The findings above show that the subject property is in violation of County land use regulations. The violation of the County’s land use ordinances is not subtle or minor in nature. Large areas of the property are covered with unsightly vehicles and equipment. This can be confirmed by a review of Stephanie Brussett’s video and the photographs of the Fagen property that are a part of the record.

No prior County decision or tribunal has determined that the subject property is in violation of County land use regulations. The property owner has not signed a VCA. The property is in violation, however, because it has been found to be in violation “through the review process of the current application.”

D. A permit or other approval, including building permit applications, may be authorized if:

- 1. It results in the property coming into full compliance with all applicable provisions of the federal, state, or local laws, and Deschutes County Code, including sequencing of permits or other approvals as part of a voluntary compliance agreement;**
- 2. It is necessary to protect the public health or safety;**
- 3. It is for work related to and within a valid easement over, on, or under the affected property; or**
- 4. It is for emergency repairs to make a structure habitable or a road or bridge to bear traffic.**

FINDING: The approval of the submitted applications will not result in the property coming into full compliance with the Deschutes County code, including compliance with the sign code. The applicant has confined his application to a relatively small part of the subject property and has not attempted to show how approval will result in the property coming into full compliance with local laws. As the applicant is leasing only a very small part of the property, he will be unable to correct the code violations occurring elsewhere on the subject property without the cooperation of the property owner. Whether such cooperation will be forthcoming is unknown.

The approval of a marijuana sales outlet is not necessary to protect the public health or safety. It is not work related to a valid easement over the Fagen property. The applications do not seek approval of emergency repairs to make a structure habitable or to allow a road or bridge to bear traffic.

CONCLUSION: The Hearings Officer is prohibited from approving the submitted land use application because uses occurring on the subject property are prohibited by the County’s land use regulations. The following findings are provided, however, as this matter may be appealed

to the Board of County Commissioners and it may elect to hear the case. If the code violations are corrected prior to that time or the Board finds that no violations exist, they will be asked to address the relevant approval criteria for both applications. Additionally, if the Board disagrees with the conclusion that violations exist and prevent approval of the submitted applications, it will need to make findings that address the following criteria.

TITLE 18, COUNTY ZONING

A. Chapter 18.74, Rural Commercial Zone

1. Section 18.74.020. Uses Permitted – Deschutes Junction and Deschutes River Woods Store.

C. ***Conditional Uses. The following uses and their accessory uses are permitted subject to the applicable provisions of this chapter and DCC 18.116, 18.124 and 18.128:***

...

4. ***Marijuana retailing, subject to the provisions of DCC 18.116.330.***

FINDING: The applicant proposes to use the first floor of the existing structure on-site to establish a marijuana retail facility. The applicant claims that no use will be made of the second floor although the applicant is leasing both floors of the buildings. Applicable provisions of DCC 18.74, 18.116, 18.124 and 18.128 are addressed below. *A condition of approval should be imposed that prohibits use of the second floor for any use unless and until the applicant obtains approval of a modified site plan and conditional use approval.*

2. Section 18.74.030. Development Standards.

A. ***Yard Standards.***

1. ***Front Yard. The front yard shall be 20 feet for a property fronting on a local road right-of-way, 30 feet for a property fronting on a collector right-of-way and 80 feet for a property fronting on an arterial right-of-way.***
2. ***Side Yard. A side yard shall be a minimum of 10 feet, except a lot or parcel with a side yard adjacent to land zoned exclusive farm use or forest use shall have a minimum side yard of 50 feet.***
3. ***Rear Yard. The minimum rear yard shall be 20 feet, except a lot or parcel with a rear yard adjacent to land zoned exclusive farm use or forest use shall have a minimum side yard of 50 feet.***

FINDING: The applicant's site plan proposes a structure to screen the dumpster. A structure is also required to shelter the bicycle parking area if it is provided in the location proposed by the applicant. Both structures must comply with all of the above setbacks. Tumalo Place is a collector street so a 30' front yard setback applies. Highway 97 is a principal arterial. A setback of 80' applies. The trash enclosure does not comply with this setback if the exit from Highway 97 is a part of the highway. *This issue should be resolved if this application is approved on appeal.*

- C. **Existing Residential and Commercial Lots.**
On-site sewage disposal. For existing lots or parcels, an applicant shall demonstrate that the lot or parcel can meet DEQ on-site sewage disposal rules prior to approval of a site plan or conditional use permit.

FINDING: As noted above by the Environmental Soils Division, the steel tank on-site will need to be replaced and compliance with minimum setbacks must be confirmed. Based on staff's conversation with the Environmental Soils Division, there is no evidence to suggest the property, particularly given its 29-acre size, could not meet DEQ rules. A **condition of approval** requiring the applicant to secure all necessary septic permits prior to initiating the use should be imposed.

- D. **Solar Setback. The setback from the north lot line shall meet the solar setback requirements in DCC 18.116.180.**

FINDING: The trash enclosure and bicycle shelter must comply with the solar setback. The north lot line of the subject property is so far away that compliance is assured for any structure of the height allowed by the RC zoning district. This code requirement applies based on the boundary of the subject property; not based on the northern boundary of the leased area. *This criterion will be met.*

- E. **Building Code Setbacks. In addition to the setbacks set forth herein, any greater setbacks required by the applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.**

FINDING: No additional building or structural code setbacks were identified by the Building Division.

- F. **Lot Coverage.**
...
2. **Lot coverage for buildings used primarily for commercial and industrial purposes shall be determined by spatial requirements for sewage disposal, landscaping, parking, yard setbacks and any other elements under site plan review.**

FINDING: No new building used primarily for commercial or industrial purposes is proposed. This criterion does not apply.

- G. **Building Height. No building or structure shall be erected or enlarged to exceed thirty (30) feet in height, except as allowed under DCC 18.120.040.**

FINDING: The trash enclosure and bicycle parking shelter that must be provided to achieve compliance with relevant approval criteria must comply with this height limit. *Compliance can be achieved by a condition of approval.*

- H. **Off-Street Parking and Loading. Off-street parking and loading shall be provided subject to the provisions of DCC 18.116, Supplementary Provisions.**

FINDING: Applicable provisions of DCC 18.116 are addressed below.

- I. ***Outdoor Lighting. All outdoor lighting on site shall be installed in conformance with DCC 15.10, Outdoor Lighting Control.***

FINDING: *A condition of approval can be imposed to ensure compliance.*

- J. ***Signs. All signs shall be constructed in accordance with DCC 15.08, Signs.***

FINDING: The applicant has proposed a free standing sign near Highway 97. DCC 15.08.250 (C) limits the subject property to one free standing sign per lot. The free standing sign cannot be approved until the large freestanding sign advertising Rock Tough is removed from the subject property. There are also a large number of other signs on the property that do not comply with the sign code. If a sign is allowed, the applicant must apply for and obtain sign permit approval and must construct the sign in accordance with DCC 15.08. ***A condition of approval can be imposed to assure compliance.***

B. Chapter 18.80, Airport Safety Combining Zone

FINDING: Only the far northwestern corner of the subject property is within the AS Combining Zone associated with Redmond Municipal Airport. The AS Combining Zone does not apply to the part of the subject property where the proposed marijuana retail facility will be operated, if approved. For this reason, the provisions of DCC 18.80 do not apply.

C. Chapter 18.84, Landscape Management Zone

1. Section 18.84.020. Application of provisions.

The provisions of DCC 18.84 shall apply to all areas within one-fourth mile of roads identified as landscape management corridors in the Comprehensive Plan and the County Zoning Map. ***

FINDING: This provision of the code says that the landscape management zone applies to the subject property because it is located within one-fourth mile of Highway 97, a road identified as a landscape management corridor in the Comprehensive Plan and on the County Zoning Map. In 2005, the County's hearings officer found that the LM zone applies to the RC part of the subject property in SP-05-28. The County's DIAL system that acts as the County source of zoning information, however, shows that the LM zone applies to the MUA-10 part of the subject property but it shows that does not apply to the subject property.

After an extensive search of the County's zoning ordinance and comprehensive plan, an exception to the requirements of the LM zone for the subject property or for land zoned RC was not found. As a result, the Hearings Officer is unable to determine whether the LM zone applies to the RC part of the Fagen property. The Board should resolve this issue if this matter is appealed. If the LM zone applies, the following findings address LM zone approval criteria.

2. Section 18.84.050. Use limitations.

- A. Any new structure or substantial exterior alteration of a structure requiring a building permit or an agricultural structure within an LM Zone shall obtain site plan approval in accordance with DCC 18.84 [18.84.080] prior to construction. *****

FINDING: This code section is unclear. It either requires that any new structure obtain LM site plan review approval and that alterations of structures that require a building permit require site plan review or it requires that structures that require building permit approvals and alterations of structures requiring a building permit obtain LM review approval. The fact that any agricultural structure requires LM review makes it likely that the Board intended that any new structure undergo LM review. Under this interpretation, the trash enclosure and the bicycle parking structure needed to shelter bicycles must be reviewed to determine compliance with the approval criteria of DCC 18.84.080. The applicant did not provide the information required by DCC 18.84.070 needed to conduct an LM review. *The LM criteria of Section 18.84.080, if applicable, have not been met.*

D. Chapter 18.113, Destination Resort Combining Zone

FINDING: The applicant does not propose to establish a destination resort. For this reason, the provisions of DCC 18.113 do not apply.

E. Chapter 18.116, Supplementary Provisions

1. Section 18.116.030. Off-street Parking and Loading.

- B. Off-Street Loading. Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space and which will require the receipt or distribution of materials or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:**

...

Sq. Ft. of Floor Area	No. of Berths Required
Less than 5,000	0
5,000-30,000	1
30,000-100,000	2
100,000 and Over	3

FINDING: The applicant does not propose any new buildings, or structural alteration of the existing building. The existing building is too small to meet the minimum square footage threshold to require a loading space. No loading berth is required.

- C. Off-Street Parking. Off-street parking spaces shall be provided and maintained as set forth in DCC 18.116.030 for all uses in all zoning districts. Such off-street parking spaces shall be provided at the time a new building is hereafter erected or enlarged or the use of a building existing on the effective date of DCC Title 18 is changed.**
- D. Number of Spaces Required. Off-street parking shall be provided as follows:**

6. Commercial.

Use	Requirements
Grocery stores of 1,500 square feet or less of gross floor area, and retail stores, except those selling bulky merchandise	1 space per 300 square feet of gross floor area

FINDING: The applicant proposes to use the first floor of the existing building, or approximately 1,070 square feet, for the marijuana retail facility. Based on the above parking requirement, a total of four (4) parking spaces are required. The site plan filed on May 4, 2017 shows two handicapped parking spaces, five customer parking spaces and two employee parking spaces. Some of the parking spaces will be located in the same area as the parking spaces approved under SP-05-28. According to the property owner, Harry Fagen, Sr. the landscaping business associated with SP-05-28 is no longer operating on-site. If this is true, the proposed parking spaces may occupy the location proposed. If this area is used by the proposed use, the site plan approval in SP-05-28 will become invalid because the parking required for the SP-05-28 use will no longer be provided. This may not be an academic issue because bark dust and a pile of landscape quality rocks and the storage bins for the prior use remain on the property.

E. General Provisions. Off-Street Parking.

1. **More Than One Use on One or More Parcels.** *In the event several uses occupy a single structure or parcel of land, the total requirement for off-street parking shall be the sum of requirements of the several uses computed separately.*
2. **Joint Use of Facilities.** *The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap at any point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.*

FINDING: The applicant and property owner indicate the landscaping use approved under SP-05-28 is no longer in business. The applicant indicates there is no current use within the existing building. A number of other uses, however, are occupying the same parcel of land (all parts of the 29+ acre Tax Lot 500) as described above. In addition, Mr. Fagen is using the property as a parking and storage area for industrial heavy equipment and commercial trucks. No use on the parcel, with the possible exception of the landscaping materials business, has obtained site plan approval. As these uses occupy a single parcel of land the amount of parking required during this site plan review is the sum of the requirements of the several uses computed separately. Although it is highly unlikely that most of existing uses are allowed uses, unless and until they are removed the applicant must provide parking for these uses because they "occupy" the parcel of land. The applicant has not calculated and provided parking for all of the uses occupying the parcel. *This criterion has not been met.*

3. **Location of Parking Facilities.** *Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located on the same parcel or another parcel not farther than 500 feet from the building or use they are intended to serve, measured in a straight line from the building in a commercial or industrial zone. Such parking shall be located in a safe and functional manner as determined during site plan approval. The burden of proving the existence of such off-premise parking arrangements rests upon the applicant.*

FINDING: The proposed parking lot will be located within 10 feet of the existing building. *This criterion will be met.*

4. **Use of Parking Facilities.** *Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only and shall not be used for the storage of vehicles or materials or for the parking of trucks used in conducting the business or used in conducting the business or use.*

FINDING: *A condition of approval may be imposed to ensure compliance.*

5. **Parking, Front Yard.** *Required parking and loading spaces for multi-family dwellings or commercial and industrial uses shall not be located in a required front yard, except in the Sunriver UUC Business Park (BP) District and the La Pine UUC Business Park (LPBP) District and the LaPine UUC Industrial District (LPI), but such space may be located within a required side or rear yard.*

FINDING: The subject property has frontage on Tumalo Place which is classified as a collector road. Pursuant to DCC 18.74.030, the required front yard setback from a collector road is 30 feet. The entire setback area is the front yard. As shown on the site plan, the proposed parking lot will be sited at least 45 feet from the right-of-way associated with Tumalo Place. The subject property also has frontage on Highway 97. It is a principal arterial and an 80 foot front yard is required. According to the site plan filed May 4, 2017, a part of the parking lot drive aisle and parking spaces proposed for employees is located in the required front yard. *This criterion is not met.*

- F. **Development and Maintenance Standards for Off-Street Parking Areas.** *Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:*
 1. *Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.*

FINDING: The subject property area is immediately adjacent to residential uses on its north and west sides. The land to the east is zoned EFU. A part of this area is developed as a park called "The Funny Farm." The staff report also indicates that residences are located in this area. The area is, however, separated from the subject property by Highway 97. The parking area, therefore, is not "immediately adjacent" to residential uses. For this reason, *this criterion does not apply.*

2. ***Any lighting used to illuminate off-street parking areas shall be so arranged that it will not project light rays directly upon any adjoining property in a residential zone.***

FINDING: The applicant's final argument states that the property will be well-lighted. No lighting plans were filed. The plan to light the site is a change to the applicant's site plan made after it was filed and reviewed by County staff.

It is possible that light might project into the MUA-10 zoned part of the subject property. That area, however, is not "adjoining property." It is a part of the subject property.

In the location proposed, it is unlikely that off-street parking area lighting will project light rays on an adjoining property in a residential zone. The adjacent residential zones are MUA-10 and RR-10. Properties are located a significant distance to the north and west of the area proposed for lighting by the applicant. *A condition of approval may be imposed to require compliance with this code requirement for any off-street parking area lighting provided.*

3. ***Groups of more than two parking spaces shall be located and designed to prevent the need to back vehicles into a street or right of way other than an alley.***

FINDING: An approximately 400-foot-long driveway will connect the parking area to Tumalo Place. Vehicles parking in the parking lot will not be required to back onto a street or right-of-way to turn around. *This criterion will be met.*

4. ***Areas used for standing and maneuvering of vehicles shall be paved surfaces adequately maintained for all weather use and so drained as to contain any flow of water on the site. An exception may be made to the paving requirements by the Planning Director or Hearings Body upon finding that:***
 - a. ***A high water table in the area necessitates a permeable surface to reduce surface water runoff problems; or***
 - b. ***The subject use is located outside of an unincorporated community and the proposed surfacing will be maintained in a manner which will not create dust problems for neighboring properties; or***
 - c. ***The subject use will be in a Rural Industrial Zone or an Industrial District in an unincorporated community and dust control measures will occur on a continuous basis which will mitigate any adverse impacts on surrounding properties.***

FINDING: The applicant proposes a gravel driveway and vehicular maneuvering area, and paved parking spaces. A gravel driveway and vehicular maneuvering area are allowed if one of the sub-criteria above can be met. In this case, the subject property is located outside of an unincorporated community. The shop is located in a Rural Community. The applicant is willing to agree to a condition of approval requiring that gravel surfacing to be maintained in a manner which will not create dust problems for neighbors.

Staff's site visit revealed that large portions of the gravel within the access driveway and vehicular maneuvering area have broken down such that the surface appears to be dirt with only minor amounts of gravel. The access driveway provides the primary access for heavy equipment, delivery trucks, trucks hauling storage units, other industrial/commercial trucks of many different types (including 18-wheeler tractor-trailer rigs) located and operating on site. The approval of a waiver to the paved surfaces requirement is discretionary as the code uses the word "may." Given the many other uses made of the main access driveway, it is not clear that a gravel surface will be maintained in a manner which will not create dust problems for neighboring properties, including the ODOT right-of-way. Also, the proposed use will generate a fair amount of traffic. As a result, the applicant should be required to pave the entire access aisle/service drive beginning at Tumalo Place to a point beyond the entrance to the parking area. The applicant should also be required to pave the entire parking area, including employee parking, to provide an even surface within the area. This will reduce the chance vehicles will damage the pavement when making repeated trips between the paved and unpaved parts of the parking area. It will also reduce dust in an area located close to Highway 97 where dust could create visibility problems for motorists. *A condition of approval should be imposed to require paving if this application is approved on appeal.*

5. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.

FINDING: Table 1, Off-Street Parking Lot Design, of this chapter requires a 24-foot-wide access aisle for two-way traffic. The applicant's May 4th site plan appears to propose a 24-foot wide access aisle. *A condition of approval requiring compliance with Table 1 should be imposed to ensure compliance with this criterion.*

6. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers. Service drives to drive in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.

FINDING: The applicant proposes to use an existing gravel driveway from Tumalo Place to access the parking lot adjacent to the existing building on-site. This driveway should be paved to a point beyond the access to the parking lot to facility the flow of traffic and widened to a minimum of 24 feet. The May 4th site plan 400-foot length of the driveway from Tumalo Place will ensure vehicles are not required to back onto a street right-of-way. A pedestrian walkway is proposed along the paved parking spaces. No pedestrian walkways are proposed along the

driveway from Tumalo Place. The existing driveway includes a fence along its western boundary. The eastern side of the existing driveway is not clearly and permanently marked. In the applicant's response to the Incomplete Letter, the applicant agreed to install additional delineators to meet this criterion.

The proposed site plan design may require vehicles to back out onto Tumalo Place rather than turning around on site. The May 4th revised site plan shows a gate across the entrance to the parking area from the shared access aisle. If this gate is closed, there is no easy way for vehicles to turn around using the facilities proposed by the site plan – in other words, vehicles will need to use other parts of the property to turn around or they will need to back out. This design does not facilitate the flow of traffic and provide maximum safety of vehicular traffic on the site. *This criterion is not met.*

- 7. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.**

FINDING: Based on staff's site visit and review of the site plan, staff found the minimum clear vision area at the intersection of the existing driveway with Tumalo Place is met. *This criterion is met.*

- 8. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail placed to prevent a motor vehicle from extending over an adjacent property line or a street right of way.**

FINDING: Where proposed, it is not possible for a motor vehicle to extend over an adjacent property line or street right of way. *This criterion does not apply.*

- G. Off-Street Parking Lot Design. All off-street parking lots shall be designed subject to County standards for stalls and aisles as set forth in the following drawings and table:
(SEE TABLE 1 AT END OF CHAPTER 18.116)**

FINDING: The proposed driveways and access aisles must be at least 24-feet wide as required by Table 1. All proposed vehicular parking spaces within the parking lot must meet the minimum nine-foot-wide by 20-foot-long parking stall dimensions in Table 1. A **condition of approval** should be imposed to assure compliance with this condition.

2. Section 18.116.031. Bicycle Parking.

New development and any construction, renovation or alteration of an existing use requiring a site plan review under DCC Title 18 for which planning approval is applied for after the effective date of Ordinance 93-005 shall comply with the provisions of DCC 18.116.031.

A. Number and Type of Bicycle Parking Spaces Required.

1. General Minimum Standard.

- a. All uses that require off-street motor vehicle parking shall, except as specifically noted, provide one bicycle**

parking space for every five required motor vehicle parking spaces.

FINDING: The general minimum standard applies to a Recreational Marijuana Retail and dispensary use. The code does not provide a different parking requirement for these uses. At least one bicycle parking space is required because four motor vehicle parking spaces are required for the proposed use. It is not, however, possible for the Hearings Officer to determine the total number of required bicycle parking spaces because the number of required motor vehicle parking spaces is unknown. The number of motor vehicle parking spaces is unknown because the code requires parking for all uses occupying a parcel of land. The applicant has not identified all uses occupying the parcel and has not calculated their parking needs. *This criterion has not been met.*

- b. Except as specifically set forth herein, all such parking facilities shall include at least two sheltered parking spaces or, where more than 10 bicycle spaces are required, at least 50 percent of the bicycle parking spaces shall be sheltered.***

FINDING: A minimum of two sheltered bicycle parking spaces is required for the use proposed by the applicant. No specific exception is provided by the County's bicycle parking standards for the use proposed by the applicant. No sheltered bicycle parking is provided by the applicant's site plan. *This criterion has not been met.*

- c. When the proposed use is located outside of an unincorporated community, a destination resort, and a rural commercial zone, exceptions to the bicycle parking standards may be authorized by the Planning Director or Hearings Body if the applicant demonstrates one or more of the following:***
- i. The proposed use is in a location accessed by roads with no bikeways and bicycle use by customers or employees is unlikely.***
 - ii. The proposed use generates less than 50 vehicle trips per day.***
 - iii. No existing buildings on the site will accommodate bicycle parking and no new buildings are proposed.***
 - iv. The size, weight, or dimensions of the goods sold or unlikely.***
 - v. The use of the site requires equipment that makes it unlikely that a bicycle would be used to access the site. Representative examples would include, but not be limited to, paintball parks, golf courses, shooting ranges, etc.***

FINDING: The applicant requests an exception to the bicycle parking standards based on the property being located outside of an unincorporated community and being a use that will generate less than 50 vehicle trips per day. This exception can be requested if the property is located outside of an unincorporated community, a destination resort, and a rural commercial

zone. The subject property is located within a rural commercial zone. For this reason, an exception to the bicycle parking requirement cannot be granted.

2. Special Minimum Standards.

- a. Multi-Family Residences. Every residential use of four or more dwelling units shall provide at least one bicycle parking space for each unit. In those instances in which the residential complex has no garage, required spaces shall be sheltered.**

FINDING: The proposed use is not a multi-family residence. *This criterion does not apply.*

- b. Parking Lots. All public and commercial parking lots and parking structures shall provide a minimum of one bicycle parking space for every 10 motor vehicle parking spaces.**

FINDING: The term “public and commercial parking lots” is unclear. County staff interpreted it to mean any parking lot that serves a commercial use. The hearings officer interprets the term to mean a parking lot that is operated as a commercial enterprise that is not serving as required parking for another land use. Likewise, a typical “public parking lot” is a lot owned by the public rather than one that serves a public use. A reduced requirement for bicycle parking makes sense where the use is a standalone parking area. Additionally, it seems highly unlikely that the County Board of Commissioners intended to exempt all public and commercial uses from the requirement to provide sheltered parking and to reduce the “general” requirement. The context of this code provision, also, supports the view that this special standard applies only when the use proposed by an applicant is a “parking lot” use – not a use that requires parking. The list of specific minimum standards applies to uses proposed; multi-family residences, schools and colleges. The applicant is not proposing a public or commercial parking lot or structure. *This criterion does not apply.*

- c. Schools. Schools, both public and private, shall provide one bicycle parking space for every 25 students, half of which shall be sheltered.**

FINDING: The proposed use is not a school. *This criterion does not apply.*

- d. Colleges. One-half of the bicycle parking spaces at colleges, universities and trade schools shall be sheltered facilities.**

FINDING: The proposed use is not a college. *This criterion does not apply.*

3. Trade Off with Motor Vehicle Parking Spaces.

- a. One motor vehicle parking space may be deleted from the required number of spaces in exchange for providing required bicycle parking.**
- i. Any deleted motor vehicle space beyond the one allowed above shall be replaced with at least one bicycle spaces.**

ii. ***If such additional parking is to be located in the area of the deleted automobile parking space, it must meet all other bicycle parking standards.***

b. ***The Hearings Body or Planning Director may authorize additional bicycle parking in exchange for required motor vehicle parking in areas of demonstrated, anticipated, or desired high bicycle use.***

FINDING: The applicant does not propose to reduce vehicular parking for bicycle parking. *This criterion does not apply.*

4. ***Calculating number of bicycle spaces.***

a. ***Fractional spaces shall be rounded up to the next whole space.***

FINDING: As noted above, fractional spaces for the required bicycle parking were rounded up.

b. ***For facilities with multiple uses (such as a commercial center) bicycle-parking requirements shall be calculated by using the total number of motor vehicle spaces required for the entire development.***

FINDING: The total number of spaces required for all development on the property is unknown. *This criterion is not met.*

B. ***Bicycle Parking Design.***

1. ***General Description.***

a. ***Sheltered Parking. Sheltered parking may be provided within a bicycle storage room, bicycle locker, or racks inside a building; in bicycle lockers or racks in an accessory parking structure; underneath an awning, eave, or other overhang; or by other facility as determined by the Hearings Body or Planning Director that protects the bicycle from direct exposure to the elements.***

b. ***Unsheltered parking may be provided by bicycle racks.***

2. ***Location.***

a. ***Required bicycle parking that is located outdoors shall be located on-site within 50 feet of main entrances and not farther from the entrance than the closest motor vehicle parking space.***

i. ***Bicycle parking shall be located in areas of greatest use and convenience to bicyclist.***

ii. ***Such bicycle parking shall have direct access to both the public right of way and to the main entrance of the principal use.***

iii. ***Bicycle parking shall not impede or create a hazard to pedestrians.***

reasonably direct access to the public right-of-way via the path added to the site by the May 4, 2017 site plan. The proposed location does not impede or create a hazard to pedestrians. Bicycle parking is not proposed in a clear vision area. The applicant has not provided any information about how bicycle parking will be developed so it cannot be determined what the applicant might choose to build and whether it will comply with the rest of the approval criteria. *This criterion has not been met.*

3. Section 18.116.330. Traffic Impact Studies

- A. ***For purposes of DCC 18.116.310, the transportation system includes public and private roads, intersections, sidewalks, bike facilities, trails, and transit systems.***
- B. ***The applicant shall meet with County staff in a pre-application conference to discuss study requirements, then generate the traffic study and submit it concurrently with the land use application.***
- C. ***Guidelines for Traffic Impact Studies***
 - 1. ***All traffic impact studies shall be stamped and signed by the registered professional engineer who is licensed in the State of Oregon and is otherwise qualified to prepare traffic studies.***
 - 2. ***The County Engineer shall determine when the report has satisfied all the requirements of the development's impact analysis. Incomplete reports shall be returned for completion.***
 - 3. ***The following vehicle trip generation thresholds shall determine the level and scope of transportation analysis required for a new or expanded development.***
 - a. ***No Report is required if there are fewer than 50 trips per day generated during a weekday.***
 - b. ***Site Traffic Report (STR): If the development or change in use will cause the site to generate 50-200 daily trip ends, and less than 20 peak hour trips, a Site Traffic Report may be required at the discretion of the County Engineer.***
 - c. ***Traffic Impact Analysis (TIA): If the development or change in use will generate more than 200 trip ends and 20 or more peak hour trips, then a Traffic Impact Analysis (TIA) shall be required.***
 - 4. ***The peak hour shall be the highest continuous hour of traffic measured between 4:00 and 6:00 PM, unless site trip generation characteristics warrant consideration of alternative periods as determined by the County Engineer. (An example would be a use with a high 7:00 and 9:00 AM peak and a low PM peak such as a school.)***

FINDING: Peter Russell, the County's Transportation Planner determined that no report was required for this application and his approach was supported by George Kolb, County Engineer. Mr. Russell believes that trips generated by the proposed use will be under 50 trips per day. This opinion was arrived at by using the trip rate set by the ITE Manual for "Specialty Retail" uses.

Stephanie Brussett and the applicant's transportation engineer, Joe Bessman, submitted evidence that suggests that trip rates for marijuana sales facilities may be significantly higher than 50 vehicle trips per day. Mr. Bessman also submitted information that the ITE Manual indicates that "Specialty Retail" generates 44.32 trips per thousand square feet and 2.71 trips during the pm peak hour. Mr. Bessman noted that a study by traffic engineer Scott Ferguson projected a rate of 16.39 trips per thousand square feet of dispensary space for Bend dispensaries. It is assumed that this is the pm peak hour rate on weekdays from the context provided by the Bessman letter. Ms. Brussett provided information from an Internet website that 402 to 412 daily trips per thousand square feet of dispensary store space are being generated by stores in Denver, Colorado. In the Denver studies, the pm peak hour rate was reported to be 63.61 weekday pm trips.

Between the information submitted by Ms. Brussett and the Ferguson data, I find the Ferguson data to be the most reliable. It is based on studies of marijuana dispensaries in Central Oregon; not Denver, Colorado. The pm peak hour rates in Denver, Colorado are almost 3.5 times higher than those obtained by Mr. Ferguson for Bend's marijuana dispensaries.

Mr. Bessman does not provide a daily rate for dispensaries from the Ferguson study. It is clear that the number will be lower than 200 trips per day. The daily weekday rate cited for Denver is 402.27 trips per day. This number is 2.01 times higher than the 200 trips per day threshold set by the County code. The Denver peak hour trip volume is 3.88 times the number of trips observed in Bend by Mr. Ferguson. Based on this information, it is reasonable to assume that the number of daily trips based on the rates set by the Ferguson study is below 200 vehicle trips per day.

When trips associated with a new use are 200 daily and 20 peak hour trips or fewer, the County code says that the County Engineer may or may not require an applicant to file a Site Traffic Report. The County Engineer did not require a report. That decision is authorized by this code section. *The requirements of this code section are satisfied.*

4. Section 18.116.330. Marijuana Production, Processing, and Retailing.

A. Applicability. Section 18.116.330 applies to:

...

3. **Marijuana Retailing in the RSC, TeC, TeCR, TuC, Tul, RC, RI, SUC, SUTC, and SUBP zones.**

FINDING: The applicant proposes a marijuana retail facility in the RC Zone. The standards of DCC 18.116.330 apply.

C. Marijuana Retailing. Marijuana retailing, including recreational and medical marijuana sales, shall be subject to the following standards and criteria:

1. **Hours. Hours of operation shall be no earlier than 9:00 a.m. and no later than 7:00 p.m. on the same day.**

FINDING: The applicant agrees to comply with this criterion. *A condition of approval may be imposed to ensure compliance.*

2. **Odor. The building, or portion thereof, used for marijuana retailing shall be designed or equipped to prevent detection**

of marijuana plant odor off premise by a person of normal sensitivity.

FINDING: Best practice data provided to the applicant from odor control professionals indicates that odor can be controlled by providing a system sized to move 1/3 of the air volume of the facility measured in cubic feet per minute (cfm). The proposed retail facility will encompass 8,622 cubic feet of air volume, necessitating an odor control system which can move 2,874 cfm of air. To achieve this, the applicant proposes two 12" x 39" Black Ops carbon filters which are rated for 1,700 cfm paired with Canfan Maxfan 12" inline fans which are rated at 1,709 cfm. As designed, the facility will utilize one filter and fan in the receptionist and waiting area, and one filter and fan in the retail marijuana tending area. Together, the applicant states the filter/fan combinations will provide a total of 3,400 cfm which exceeds the 2,874 cfm referenced above. The Burden of Proof includes specification sheets for the odor control filters and fans.

Staff notes the odor control standards associated with marijuana production facilities and detailed in DCC 18.116.330(B)(10), requires the filter/fan combination to move 1/3 of the air volume of the facility per minute. For this reason, it is reasonable to conclude the applicant's odor control system will meet the odor control standard for the retail facility. A ***condition of approval should be imposed to ensure compliance with this standard throughout the life of the use.***

- 3. Window Service. The use shall not have a walk-up or drive-thru window service.***

FINDING: The applicant agrees to this prohibition. A ***condition of approval may be imposed to ensure compliance.***

- 4. Secure Waste Disposal. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.***

FINDING: Per the applicant's response to staff's Incomplete Letter, the applicant proposes a one cubic yard dumpster fitted with a lock bar and lock. The applicant states the waste receptacle will be in the possession of and under control of the applicant. A ***condition of approval may be imposed to ensure compliance.***

- 5. Minors. No person under the age of 21 shall be permitted to be present in the building, or portion thereof, occupied by the marijuana retailer, except as allowed by state law.***

FINDING: The applicant proposes to comply with this standard. A ***condition of approval may be imposed to ensure compliance.***

- 6. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot or parcel or within the same building with any marijuana social club or marijuana smoking club.***

FINDING: Applicant proposes to comply with the prohibition on marijuana use in the building. A **condition of approval** may be imposed to ensure compliance.

The proposed marijuana retail facility will not be co-located on the same lot or parcel or within the same building with any marijuana social club or marijuana smoking club.

7. **Separation Distances. Minimum separation distances shall apply as follows:**
 - a. **The use shall be located a minimum of 1,000 feet from:**
 - i. **A public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.010, et seq., including any parking lot appurtenant thereto and any property used by the school;**
 - ii. **A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;**
 - iii. **A licensed child care center or licensed preschool, including any parking lot appurtenant thereto and any property used by the child care center or preschool. This does not include licensed or unlicensed family child care which occurs at or in residential structures;**
 - iv. **A youth activity center;**
 - v. **National monuments and state parks; and**
 - vi. **Any other marijuana retail facility licensed by the OLCC or marijuana dispensary registered with the OHA.**
 - b. **For purposes of DCC 18.116.330(B)(7), distance shall be measured from the lot line of the affected property to the closest point of the building space occupied by the marijuana retailer. For purposes of DCC 18.116.330(B)(7)(a)(vi), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.**

FINDING: Based on staff's review of surrounding properties, the proposed marijuana retail facility will be located at least 1,000 feet from all of the uses listed in (i-iv). The closest listed use is the Three Sisters Adventist Christian School. According to evidence in the record based on scaling the distance using Google and DIAL aerial photographs and scaling tools is that the school's property is approximately 1,050 to 1,150 feet from the existing building to be used as the retail facility. There is no evidence in the record that the school is actually within 1000' feet of the retail building. *This criterion is met.*

- c. **A change in use to another property to a use identified in DCC 18.116.330(B)(7), after a marijuana retailer has**

been licensed by or registered with the State of Oregon shall not result in the marijuana retailer being in violation of DCC 18.116.330(B)(7).

FINDING: This is a statement about the future effect of an approval of a DCC 18.116.330(B)(7) use, if that occurs. It is not an approval criterion.

D. Annual Reporting

- 1. An annual report shall be submitted to the Community Development Department by the real property owner or licensee, if different, each February 1, documenting all of the following as of December 31 of the previous year, including the applicable fee as adopted in the current County Fee Schedule and a fully executed Consent to Inspect Premises form:**
 - a. Documentation demonstrating compliance with the:**
 - i. Land use decision and permits.**
 - ii. Fire, health, safety, waste water, and building codes and laws.**
 - iii. State of Oregon licensing requirements.**
 - b. Failure to timely submit the annual report, fee, and Consent to Inspect Premises form or to demonstrate compliance with DCC 18.116.330(C)(1)(a) shall serve as acknowledgement by the real property owner and licensee that the otherwise allowed use is not in compliance with Deschutes County Code; authorizes permit revocation under DCC Title 22, and may be relied upon by the State of Oregon to deny new or license renewal(s) for the subject use.**
 - c. Other information as may be reasonably required by the Planning Director to ensure compliance with Deschutes County Code, applicable State regulations, and to protect the public health, safety, and welfare.**
 - d. Marijuana Control Plan to be established and maintained by the Community Development Department.**
 - e. Conditions of Approval Agreement to be established and maintained by the Community Development Department.**
 - f. This information shall be public record subject to ORS 192.502(17).**

FINDING: *Compliance with the annual reporting requirements of this section should be a condition of approval.*

E. Chapter 18.124, Site Plan Review

1. Section 18.124.030. Approval Required.

- A. No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to DCC 18.124.030, nor shall**

such a use be commenced, enlarged, altered or changed until a final site plan is approved according to DCC Title 22, the Uniform Development Procedures Ordinance.

B. *The provisions of DCC 18.124.030 shall apply to the following:*

...

3. *All commercial uses that require parking facilities;*

FINDING: The applicant proposes a commercial use that requires parking facilities. As a result, site plan review is required.

2. Section 18.124.060. Approval Criteria.

Approval of a site plan shall be based on the following criteria:

A. *The proposed development shall relate harmoniously to the natural environment and existing development, minimizing visual impacts and preserving natural features including views and topographical features.*

FINDING: The existing environment consists of a mixture of developed areas associated with the existing building, previous site plan approval, and other cleared areas, and undeveloped areas with a vegetative cover of sage brush, trees and grasses. The developed areas are located in the central, eastern and southeastern portions of the property. The undeveloped areas are located in the western and northern portions of the property. Views from the property include Highway 97 to the east and some views of the Cascade Mountains to the west. No unique or significant topographic features exist on-site.

Opponents have complained about the pink color of the commercial building, the "Pink House." The pink color of the house does not relate harmoniously to the natural environment and existing development. It does not minimize the visual impact of the building. Rather, it maximizes the visual impact of the building. The building, however, is not "proposed development" so it is not subject to compliance with this approval criterion.

The proposed development will be limited to the first floor of the existing building and parking area in the southeastern corner of the property. Access to the facility is available via an existing driveway from Tumalo Place. Minimal physical alteration of the land will be necessary to establish the use. Both access and parking spaces will be provided adjacent to the existing building.

Changes to the site plan are needed to achieve compliance with bicycle parking requirements. The bicycle parking needs to be located closer to the building than the parking spaces. As these changes will alter other site plan features, it is not yet possible for the County to find compliance with this approval criterion. The County code allows property owners to provide covered bicycle parking indoors but the applicant has proposed outdoor parking. The applicant has not provided sufficient information to allow the hearings officer to find that indoor bicycle storage is possible given the applicant's development plans for that relatively small space. *This criterion is not met.*

B. *The landscape and existing topography shall be preserved to the greatest extent possible, considering development constraints and suitability of the landscape and topography. Preserved trees and shrubs shall be protected.*

FINDING: It is unknown how the site will be rearranged to comply with the bicycle parking criteria. As a result, it cannot be determined whether the site plan will comply with this criterion. This criterion is not met.

- C. *The site plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transition from public to private spaces.***

FINDING: Staff believed that vehicles would not be required to back onto Tumalo Place due to the length of the driveway from Tumalo Place to the parking area. It is not clear that staff took into account the fact that there is a gate across the entrance to the parking area from the access driveway. From a review of the areas proposed for development by the applicant, when the gate is closed, it does not appear to be easy for a vehicle to turn around rather than back out of the site. It appears likely that vehicles will need to travel beyond the site plan area to turn around or that they will need to drive off of the access driveway onto other parts of the site not subject to site plan review.

Based on staff's site visit, the intersection of the driveway with Tumalo Place appears to meet the minimum clear vision standard. The vehicular parking spaces will include bumpers. The purpose of the bumpers is to prevent vehicles from encroaching onto the pedestrian walkway along the south side of the southernmost row of parking spaces. The bumpers are shown at the very end of the parking space. In this location, vehicles will hang over the front of the parking space into the walkway and make the pedestrian walkway too narrow for comfortable use by pedestrians. The applicant should be required to move the bumpers back to a point where a typical sports utility vehicle or passenger truck will not encroach into the pedestrian aisle and to provide the County or to enlarge or separate the pedestrian aisle from the parking space with a landscaped strip with breaks for access between the lot and walkway.

The pedestrian walkway leads directly to the entrance of the building, eliminating pedestrian crosswalks in the parking area. Staff's only concern with respect to safety was the relationship between vehicular maneuvering areas and bicycle parking. Staff recommended that the applicant provide details regarding the required bicycle parking space. The May 4, 207 Landscape Plan shows a proposed location for bicycle parking but no details about the space(s). The location chosen, also, is not code compliant. As the site plan must be revised, it is premature to find compliance with this criterion. *This criterion has not been met.*

- D. *When appropriate, the site plan shall provide for the special needs of disabled persons, such as ramps for wheelchairs and Braille signs.***

FINDING: The applicant proposes two accessible vehicle parking spaces. The on-site walkway will be reviewed for ADA compliance during building permit review. Any required accommodations will be addressed at that time. *This criterion will be met.*

- E. *The location and number of points of access to the site, interior circulation patterns, separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures shall be harmonious with proposed and neighboring buildings and structures.***

FINDING: The proposal will use an existing driveway from Tumalo Place which will connect to the proposed vehicular parking spaces. Staff recommended a condition of approval requiring the applicant to maintain 24-foot-wide drive aisles to allow for two-way traffic. That condition is appropriate and required to assure compliance with the code.

The location of parking space bumpers is at the very end of the spaces. In this location, the bumpers will not prevent vehicles from encroaching onto the paved pedestrian walkway adjacent to the parking spaces. The parking lot, as currently configured, will be located immediately adjacent to the building to allow convenient access to the use. The chosen location for the proposed outdoor bicycle parking, however, must be closer to the building than any of the parking spaces – something not achieved by the submitted site plan. The parking area will need to be redesigned. It, therefore, cannot be determined if this criterion will be met. *This criterion is not met.*

- F. Surface drainage systems shall be designed to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality.**

FINDING: The applicant proposes hardscape for customer parking spaces and the pedestrian walkway connecting the parking area to the building entrance. Drainage would flow to a low point just west of the parking lot. The burden of proof states that Sun Country Engineering's preliminary assessment indicates this low point is sufficient to prevent adverse impacts on neighboring properties, streets, or surface and subsurface water quality if the parking lot paving is appropriately designed and improved to direct water flow to this area. *This criterion can be met and assured by the imposition of a condition of approval.*

- G. Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located and buffered or screened to minimize adverse impacts on the site and neighboring properties.**

FINDING: The proposal includes a parking area west of the existing building and a secure waste receptacle north of the building. The parking area is designed to use an existing driveway and an area previously cleared for parking associated with land use file SP-05-28. The May 4, 2017 landscape plans propose plants for screening at the east end of the driveway. The waste receptacle will use an area adjacent to, and north of, the existing building that was also previously cleared. The waste receptacle will be located in a screened and gated enclosure. No details about the appearance of the enclosure have been provided. Absent such information, the enclosure and its gates should be required to be solid and opaque to assure compliance with this criterion. *A condition of approval to that effect should be imposed.*

- H. All above-ground utility installations shall be located to minimize adverse visual impacts on the site and neighboring properties.**

FINDING: No above-ground utility installations are proposed. *This criterion does not apply.*

- I. Specific criteria are outlined for each zone and shall be a required part of the site plan (e.g. lot setbacks, etc.).**

FINDING: The approval criteria for the underlying RC Zone are addressed above.

- J. All exterior lighting shall be shielded so that direct light does not project off-site.**

FINDING: The proposal includes an exterior light for the western building entrance. The Burden of Proof states the light will be shielded and directed downward to prevent light from being projected off-site. *With a **condition of approval**, this criterion can be met.*

- K. Transportation access to the site shall be adequate for the use.**
- 1. Where applicable, issues including, but not limited to, sight distance, turn and acceleration/deceleration lanes, right-of-way, roadway surfacing and widening, and bicycle and pedestrian connections, shall be identified.**
 - 2. Mitigation for transportation-related impacts shall be required.**
 - 3. Mitigation shall meet applicable County standards in DCC 17.16 and DCC 17.48, applicable Oregon Department of Transportation (ODOT) mobility and access standards, and applicable American Association of State Highway and Transportation Officials (AASHTO) standards.**

FINDING: The proposed marijuana retail facility will use an existing driveway from Tumalo Place. According to comments from the Planning Division's Senior Transportation Planner, expected trip generation from the facility is below the threshold necessary to warrant a traffic analysis. Nonetheless, transportation system analysis work was completed by Joe Bessman, PE for the applicant. Mr. Bessman is a transportation engineer. A pedestrian connection was proposed by the applicant and mentioned in Mr. Bessman's report. Mr. Bessman provided his professional opinion that the sight distance at the access to the US 97 corridor "narrowly" meets AASHTO guidelines.³ The Senior Transportation Planner and the County Engineer reviewed the application. Neither indicated a need for transportation-related improvements.

Area neighbors testified that Tumalo Place becomes congested and that the design of the interchange with Highway 97 by ODOT makes access to the site unsafe. These concerns were relayed to County staff. County staff did not find that the concerns merited mitigation.

Area neighbors claimed that the vehicle trips associated will be far higher than forecast by the applicant and County using the specialty retail trip rate. Mr. Bessman provided trip rate figures obtained by a study conducted by transportation engineer Scott Ferguson. The Ferguson study shows that the specialty retail use relied on by County staff to estimate vehicle trips and to assess the adequacy of transportation access to the site provides a trip estimate is too low to be reliably applied to marijuana retail uses. The ITE Manual estimates a trip rate of 2.71 trips per thousand during the weekday pm peak hour. Mr. Ferguson's study of marijuana dispensaries in Bend showed a trip rate of 16.39 trips – a rate over six times higher than the ITE rate for specialty retail uses. While the Ferguson study was conducted in the City of Bend it is highly improbable that it overstate the trips that will occur on the subject property. The subject property is located on an extremely busy highway in a bright pink building. It will have a large pole visible from the highway to draw customers to the site.

The Bessman study submitted on May 4, 2017 claimed that 80% of vehicle trips associated with the marijuana retail facility will be pass-by trips. These trips were subtracted from his estimate of pm peak hour trips associated with the proposed use. This is a fair approach, however, only if vehicle trips making through trips on Highway 97 are not considered "pass-by" trips. Vehicles passing by on Highway 97 will create new trips on Tumalo Place when they use the interchange to leave the highway and travel on Tumalo Place to reach the site. Tumalo Place and the interchange is where impacts are alleged to create potential access problems.

Given the significant difference between observed trips for marijuana dispensaries in Bend and the ITE trip rate for specialty retail and the fact that the description of the specialty retail use in the ITE Manual does not closely fit the use proposed and the fact that County staff review of the adequacy of access was based on the very low ITE trip rate, the Hearings Officer is unable to find that transportation access is adequate. *This criterion has been met.*

3. Section 18.124.070. Required Minimum Standards.

B. Required Landscaped Areas.

1. The following landscape requirements are established for multi-family, commercial and industrial developments, subject to site plan approval:

a. A minimum of 15 percent of the lot area shall be landscaped.

FINDING: In its staff report, County staff treated a leased area of 22,913 square feet of an approximately 29.04-acre parcel of land as the "lot area." Staff also determined existing native vegetation covers an area of 10,399 square feet which is approximately 45 percent of the leased area. At the land use hearing, the Hearings Officer questioned whether the term "lot area" is synonymous with "leased area." After reviewing the County code it is clear that it is not.

The term "lot area" is defined by DCC 18.04.030. It is "the total horizontal area contained within the lot lines." "Lot lines" are "the property lines bounding a lot." According to DCC 18.04.030, lots are "unit[s] of land created by a subdivision of land."

The term "lot" is defined in two different ways by the County Code. It is a "lot of record" as well as a unit of land created by a subdivision of land. DCC 18.04.030, "Lot" and "Lot of Record." A lot of record includes parcels created by partitions and ORS Chapter 92 partitions and lots created by subdivisions.

Deschutes County applies its landscape requirements to parcels and lots and requires that lots be lots of record in order to be eligible for development approval. In this context, it appears that the code is referring to the lot area of a lot of record. The lot of record used to determine lot area is 29.04-acres. As a result, 4.356 acres of the subject property must be landscaped to achieve compliance with the plain language of this code section.

In a typical case where a large parcel is being partially developed, a property owner can comply with the 15% landscaping requirement by leaving that amount of the larger parcel in native vegetation. This landscaping can then serve as landscaping for future development of the rest of the parcel or be revised when additional development occurs. This, therefore, is not typically an onerous requirement. In this case, the aerial photograph of the property shows that the parent parcel contains native areas that could be set aside and protected to comply with the 15% landscaping requirement. *This criterion can be met with a condition of approval.*

ADDITIONAL FINDINGS: A prior site plan approval, a hearings officer's decision in SP-05-23 interpreted this code section in a different way. Issues decided by hearings officers in prior land use decisions, however, do not act as binding legal precedent. This means that each time a decision is made by a hearings officer, the hearings officer is required to correctly apply the law. The SP-05-28 decision required that 15% of RC zoned area of the subject property be landscaped for a business proposed for the RC zone part of the Fagen property. A 15% landscaping requirement based on the RC zone area only requires that 11,238.48 square feet of landscaping.

This decision did not follow this approach for a number of reasons. First, the leased area of the business includes land zoned MUA-10. The business, also, uses a significant amount of land on the subject property outside the leased area for ingress and egress to Tumalo Place. A part of that area is zoned MUA-10. As the business occupies area outside of the RC zone, it does not make sense to calculate landscaping requirement based on the RC zone only.

Second, the SP-05-23 interpretation is not consistent with the plain language of subsection (a), above. Subsection (a)'s language sets the 15% requirement by reference to the term "lot area." That term is defined by the code to apply to the entire subject property. It is not defined as a part of a lot. No special rules exist for lots with split zoning. The code also does not authorize the hearings officer to calculate landscaping requirements based on the leased area of a larger property.

The SP-05-03 decision disregarded the term "lot area" used by subsection (a) above because subsection (b) below requires that all areas subject to the final site plan be landscaped. There is no reason, however, that these areas must be one and the same.

RESPONSE TO CHALLENGE BY APPLICANT: The applicant's planner, Greg Blackmore, argued that by using an existing building, it would not be changing the landscaped areas on site and should not be held to the landscaping standards of this code. The applicant wants to be excused from complying with certain code requirements, such as the requirement to provide landscaping in the parking area, because compliance was not required of a prior applicant for a site plan for a different use.

Mr. Blackmore has cited no code provision that grants this status to landscaping areas approved by a prior site plan. DCC 18.124.030(A) requires that site plan approval be obtained when the use of a building is changed. DCC 18.124.070(B)(1) requires compliance with the code's landscape requirement for any use subject to site plan approval which includes changes of use. DCC 18.116.030 requires that parking areas that comply with the code be provided when a use of a building existing on the effective date of Title 18 is changed. The record shows that the Pink Building was on the subject property prior to 1979 which is prior to the effective date of Title 18. The parking area rules, including rules for parking lot landscaping, therefore apply.

The SP-05-28 site plan submitted by Mr. Blackmore is not the final site plan required by the decision approving SP-05-28 and, therefore, cannot be said to control the outcome of this review. A revised plan was required as a condition of approval of SP-05-28. The revised plan was to show the location and type of screening landscaping and/or fencing that would be provided along Highway 97. The revised site plan was also required to show the exact size of the RC zone and the percentage of the site landscaped. This information is not provided on the site plan filed by Mr. Blackmore.

The site, also, is not developed as promised by the submitted plan. The SP-05-08 site plan submitted by Mr. Blackmore shows that “a combination of shrubry [sic] and trees will be utilized to screen the product bins from Highway 97 within the 10 foot strip” all along Highway 97. This landscaping was not provided or was removed as it is not present on the subject property at this time. A concrete barrier has also been installed across the area subject to the SP-05-08 site plan. This barrier is inconsistent with and violates the plan approved in SP-05-08.

b. All areas subject to the final site plan and not otherwise improved shall be landscaped.

FINDING: Staff’s Incomplete Application Letter includes the following discussion in reference to this approval criterion:

Based on staff’s review of aerial photographs and a site visit, there appear to be portions of the lease area that are not proposed to be improved and are not landscaped. One area is bounded by the gravel driveway to the west, the existing mature trees along Tumalo Place to the east, and Tumalo Place to the south. A second area is bounded by the gravel driveway to the west, the concrete block delineator to the north, the existing gravel vehicular circulation area to the southeast, and the gravel drive aisle to the south. A third area is bounded by the concrete block delineator to the north, the stone wall/fence to the east and southeast, and the building and gravel vehicular circulation area to the west. All three areas are not proposed to be improved and contain no landscaping. Pursuant to this criterion, these areas must be landscaped. Please amend the site plan and BoP to comply with this criterion.

In response, the applicant states the majority of the non-developed portions of the site contain existing/native landscaping. While the applicant believes this existing vegetation is sufficient to address this criterion, the applicant indicates it is willing to accept a condition of approval requiring additional landscaping if determined to be necessary.

Staff recommended the applicant submit a landscaping plan to meet this criterion. Staff also asked the Hearings Officer to determine if the existing landscaping on-site satisfies this criterion. The applicant submitted a landscaping plan that does not clearly establish compliance with this criterion within the leased area. The first area identified by staff still lacks landscaping between the fence around the leased area and the existing gravel site access driveway. The second area still lacks landscaping between the access driveway and entrance road (inside the leased area). Landscaping is still missing from the third area between the concrete delineator and the gravel parking area. Also, the area between the shrub screened planting area and Highway 97 is shown as “existing native landscape” but it contains a previously improved parking area. The area also contains rusted farm implements and heavy equipment not shown on the site plan.

The site plan does not propose landscaping all unimproved land within the RC zoning district which is the requirement imposed in SP-05-23. It also does not propose to landscape the unimproved parts of the entire subject property.

The meaning of “areas subject to the final site plan” is unclear. It is not resolved in this decision. The following discussion is, however, offered to assist the Board in answering that question if the matter is appealed and heard by the Board. Any plausible interpretation of the code adopted by the Board will be upheld. The following interpretations may be plausible:

1. The "areas subject to the final site plan" is the "lot area" used to calculate landscaping requirements less improved areas.
2. "Areas subject to final site plan" are those areas of the site that are used for the proposed use and for all improvements required by site plan approval criteria e.g. site access, site driveway, parking lot, bicycle parking facilities, required landscaping area (15% of lot area), parking lot landscaping, front yard landscaped areas, trash enclosures and other improvements that serve the proposed use.

As the leased area in this case includes land in both the MUA-10 zone and the RC zone and because the use requires the driveway to the commercial building crosses land zoned MUA-10, I do not believe an interpretation that "areas subject to final site plan" includes land zoned RC is plausible. *This criterion is not met.*

2. ***In addition to the requirement of DCC 18.124.070(B)(1)(a), the following landscape requirements shall apply to parking and loading areas:***
 - a. ***A parking or loading area shall be required to be improved with defined landscaped areas totaling no less than 25 square feet per parking space.***

FINDING: The applicant states the existing vegetation bordering the parking area complies with this criterion. Based on staff's site visit, the existing vegetation bordering the parking area is sparse and is not located in a defined landscaped area. The applicant submitted a landscaping plan. The landscape plan, however, does not identify or calculate the size of areas it believes are defined landscaped areas. The applicant has the burden of proof on this issue and has not met that burden. *This criterion is not met.*

- b. ***In addition to the landscaping required by DCC 18.124.070(B)(2)(a), a parking or loading area shall be separated from any lot line adjacent to a roadway by a landscaped strip at least 10 feet in width, and from any other lot line by a landscaped strip at least five feet in width.***
- c. ***A landscaped strip separating a parking or loading area from a street shall contain:***
 - 1) ***Trees spaced as appropriate to the species, not to exceed 35 feet apart on the average.***
 - 2) ***Low shrubs not to reach a height greater than three feet zero inches, spaced no more than eight feet apart on the average.***
 - 3) ***Vegetative ground cover.***

FINDING: The existing vegetation between the parking area and Tumalo Place is at least 40 feet wide, and contains trees and a sparse covering of grasses. The applicant submitted a landscaping plan that proposes shrubs "TBD" between the road and the parking area. The plan, therefore, offers no evidence that the shrubs will meet code standards. *This criterion is not met.*

- d. ***Landscaping in a parking or loading area shall be located in defined landscaped areas which are***

uniformly distributed throughout the parking or loading area.

- e. The landscaping in a parking area shall have a width of not less than five feet.***

FINDING: The existing vegetation is not located within defined landscaping areas. The applicant filed a revised landscaping plan. The plan provides additional landscaping around the outside of the parking area. Given the small size of the parking area this seems reasonable but it does not meet the requirements of the code. The code plainly requires that landscape areas be distributed "throughout the parking or loading area." The Hearings Officer is bound to apply the law as written. *This criterion has not been met.*

- f. Provision shall be made for watering planting areas where such care is required.***
- g. Required landscaping shall be continuously maintained and kept alive and attractive.***

FINDING: *A condition of approval can be imposed to ensure compliance with these criteria.*

- h. Maximum height of tree species shall be considered when planting under overhead utility lines.***

FINDING: No overhead utility lines exist on-site. *This criterion does not apply.*

C. *Non-motorized Access.*

- 1. Bicycle Parking. The development shall provide the number and type of bicycle parking facilities as required in DCC 18.116.031 and 18.116.035. The location and design of bicycle parking facilities shall be indicated on the site plan.***

FINDING: The applicable criteria under DCC 18.116.031 and .035 are addressed above.

2. Pedestrian Access and Circulation:

- a. Internal pedestrian circulation shall be provided in new commercial, office and multi-family residential developments through the clustering of buildings, construction of hard surface pedestrian walkways, and similar techniques.***

FINDING: The applicant is proposing to use an existing commercial building and parking area for a retail use. The project, therefore, is not a new commercial development. *This criterion does not apply.*

- b. Pedestrian walkways shall connect building entrances to one another and from building entrances to public streets and existing or planned transit facilities. On site walkways shall connect with walkways, sidewalks, bikeways, and other pedestrian or bicycle connections on adjacent properties planned or used for commercial, multi family, public or park use.***

FINDING: There is only one building proposed to be used as part of the facility. For this reason, there are no other building entrances that must be connected. There are no existing or planned transit facilities in the area, and no pedestrian or bicycle connections on adjacent properties. None of the adjacent properties are zoned to allow commercial or multi-family uses. None are planned for or developed with public or park uses. *This criterion does not apply.*

- c. ***Walkways shall be at least five feet in paved unobstructed width. Walkways which border parking spaces shall be at least seven feet wide unless concrete bumpers or curbing and landscaping or other similar improvements are provided which prevent parked vehicles from obstructing the walkway. Walkways shall be as direct as possible.***

FINDING: The proposed pedestrian walkway will be five feet wide, with bumpers included within the vehicular parking stalls. The bumpers, however, are proposed to be located at the very front of the parking spaces. If this decision is appealed and the application is approved, the applicant should be required to relocate the bumpers to a spot where they will prevent parking vehicles from obstructing the walkway. *This criterion is not met by the submitted plan.*

- d. ***Driveway crossings by walkways shall be minimized. Where the walkway system crosses driveways, parking areas and loading areas, the walkway must be clearly identifiable through the use of elevation changes, speed bumps, a different paving material or other similar method.***

FINDING: No driveway crossings by walkways are proposed. *This criterion does not apply.*

- e. ***To comply with the Americans with Disabilities Act, the primary building entrance and any walkway that connects a transit stop to building entrances shall have a maximum slope of five percent. Walkways up to eight percent slope are permitted, but are treated as ramps with special standards for railings and landings.***

FINDING: Any required accommodations to comply with ADA standards will be addressed during building permit review. *This criterion will be met.*

F. Chapter 18.128, Conditional Uses

1. Section 18.128.015. General Standards Governing Conditional Uses.

Except for those conditional uses permitting individual single family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:

A. *The site under consideration shall be determined to be suitable for the proposed use based on the following factors:*

- 1. *Site, design and operating characteristics of the use;***

FINDING:

Site and Design

The subject property is approximately 29 acres in size and is irregular in shape. The lease area for the proposed use covers 10,399 square feet of area in the far southeastern portion of the site. The lease area is developed with a two-story building, an area north and west of the building that was previously cleared for parking associated with land use file SP-05-28, and vegetation bordering the east, south, and southwestern sides of the lease area. The use is designed to take advantage of the existing building, parking area and driveway from Tumalo Place. The property has been used in the past for commercial uses. In general, the site and its design are adequate for the proposed commercial retail use.

Operating Characteristics

The applicant proposes to comply with the hours of operation standard under DCC 18.116.330(C)(1). This standard limits hours of operation to no earlier than 9:00 a.m. and no later than 7:00 p.m. on the same day. Additionally, the applicant proposes to comply with the standards related to odor control, waste receptacle, and minors DCC 18.116.330(C). The use proposed will occur mostly on land zoned for rural commercial uses. The site is suitable for a business with these operating characteristics.

This criterion is met.

2. Adequacy of transportation access to the site; and

FINDING: This requirement is similar to the requirement imposed by DCC 18.124.030(K). The findings provided regarding that approval criterion, above, apply to this criterion as well. *The applicant has not met his burden of demonstrating that this criterion has been met.*

3. The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.

FINDING: The topography of the site rises slightly from southeast to northwest. The site is characterized by areas of heavy development and disturbance in the east, southeast and center of the property. The north and west portions of the property are undisturbed with exposed rock and a vegetative cover of sagebrush and a few juniper trees. The site does not appear to have any associated natural hazards. Natural resource value of the property is limited to existing vegetation and exposed rock. Staff determined that there is nothing about the natural and physical features of the site that will preclude or significantly hamper operation of the marijuana retail facility. There is no evidence in the record to suggest otherwise. *This criterion is met.*

B. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).

FINDING: To the north and west of the subject property are rural residential properties within the FIRST ADDITION TO WHISPERING PINES ESTATES subdivision. To the northeast are rural residential uses and small-scale commercial uses approved as nonconforming uses. At 65147 N. Highway 97, approximately 2,000 feet to the northwest of the proposed use, the

property owner received site plan approval to alter a nonconforming use consisting of a tractor and equipment sales and service business. At 65175 N. Highway 97, approximately 2,200 feet to the northeast of the proposed use, the property owner received site plan approval to alter a nonconforming use consisting of a vehicle and equipment storage business.

Highway 97 forms the property's southeast border. Across Highway 97 to the east are lands zoned EFU and RI. The EFU-zoned lands are developed with rural residential uses and some farm uses. To the southeast across Highway 97, the RI-zoned lands are developed with a number of industrial uses including Willamette Graystone (masonry blocks), Jack Robinson & Sons, Inc. (excavation), 4-R Equipment, LLC (aggregate processing).

To the south across Tumalo Place are lands zoned EFU developed with farm uses, rural residences and the Three Sisters Adventist Christian School (TSACS). The County recently approved a plan amendment and zone change to RI for a medium-sized tract of the EFU land closest to the subject property (the Aceti property). TSACS is located at 21155 Tumalo Road and is approximately 1,050 feet from the proposed use. County staff advised that it is unaware of any projected land uses on surrounding properties. It is, however, reasonable to assume that the Aceti property will develop with RI zone uses that may generate higher volumes of vehicle trips than generated by the property's current use.

Site, Design and Operating Characteristics

The establishment of the proposed marijuana retail facility will require a relatively minor amount of physical disturbance. By and large, that disturbance should improve the site. The area to be used by the proposed use is improved with an existing gravel driveway, gravel parking area and commercial building.

The record includes a number of emails and letters from staff, parents and grandparents associated with TSACS objecting to the siting of the marijuana retail facility in the vicinity of the school. The objections center primarily on the incompatibility of the proposed facility with a school use. Opponents also expressed concern that customers of the retail facility will want to smoke marijuana in the area and will drive from the subject property to the school's fenced campus to smoke marijuana. Parents of school children do not want to drive their young children by the marijuana retail facility every day while coming or going from school. They are concerned about the proximity of the school and retail location. Smoking marijuana is inconsistent with the religious values and practices of the Seventh Day Adventists who sponsor the school. It was clear from the testimony offered at the hearing and in written statements filed in the record that persons affiliated with the church are genuinely disturbed by the clash of their religious values with the use proposed. Concerns were also raised that the use proposed is a felony under federal law that should not be allowed just over 1000 feet away from a parochial school.

The applicant submitted photos that show that it is not easy to see the parochial school from the subject property due to distance, trees, and a fence on the school property. The applicant claimed that only 15 percent of school trips will drive by the pink house in the morning and that 60 percent of school trips will drive by the pink house in the afternoon. What is not mentioned, however, is that 75% of school trips will pass in close proximity to the retail facility on Highway 97. Vehicles on the east side of Highway 97 near the southeast corner of the subject property were not included in the percentages cited by the applicant.

During the legislative process to determine if marijuana-related uses would be suitable to Deschutes County, the issue of compatibility was widely discussed. The following are a few highlights of the Findings document attached as Exhibit K to Ordinance 2006-015.⁴

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After convening a Marijuana Advisory Committee in February 2016 and receiving its recommendations in April 2016, the Board held another series of public hearings to take testimony on:

- *Amendments to Deschutes County Code to define, permit, and establish standards for marijuana related uses in unincorporated Deschutes County. The amendments would identify the zones where the various uses may be permitted (outright or conditional use) and prohibited, and time, place, and manner regulations for each allowed use.*

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The introduction of marijuana production into these farming areas, particularly those areas of smaller lotting patterns and nonfarm residential development, highlights the compatibility concerns expressed by both farm and nonfarm, rural residential property owners. The unique conditions and development patterns present in Deschutes County only amplify the concerns of these diverse populations and the challenge in mitigating potential impacts to maintain compatibility of nearby land uses.

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Section 3.4 sets Rural Economy Goals and Policies. Goal 1 is to maintain a stable and sustainable rural economy, compatible with rural lifestyles and a healthy environment. Given farming is one of the definitive rural activities, the regulations comply. Policy 3.4.1 promotes rural economic initiatives, yet maintains the County's rural character, and review land use regulations to identify legal and appropriate rural economic development opportunities. The proposed regulations, which deal with a newly legal agricultural crop and its potential products, are a perfect fit. The regulations are consistent with Policy 3.4.7 of permitting locally serving commercial uses in higher density rural communities which are consistent within State regulations. Policies 3.4.8 through 3.4.21 deal with lands zoned Rural Commercial and Policies 3.4.22 through 3.4.35 apply to lands zoned Rural Industrial. The proposed regulations would be consistent with or exceed the pre-existing standards (building size, intensity of use, general description of the market being served, floor area, etc.) for these zones. The proposed marijuana retail, wholesale, processing, and manufacturing uses allowed under the proposed regulation are consistent with uses already allowed under Rural Commercial and Rural Industrial zones. The proposed amendments are consistent with the relevant goals and policies of this section.

The Board determined that the marijuana-related uses are compatible with uses allowed under RC and RI zone but it did not find that the uses are compatible with all uses in the MUA-10 and EFU zones. That question remains to be decided in this review.

The Board of County Commissioners also adopted time, place and manner regulations to comprehensively address compatibility concerns. Included among these regulations are

⁴ Ordinance 2006-015 is included in the record.

standards for location (zoning), distance to uses, hours of operation, odor control, secure waste disposal, and minors included in DCC 18.116.330. The applicant can meet all required marijuana retail standards.

The Board chose to make marijuana retail a conditional use rather than a use permitted outright. In so doing, it determined that conditional use criteria apply *in addition to* time, place and manner restrictions. Compliance with the time, place and manner standards of DCC 18.116.330 does not, therefore, make a marijuana retail facility compatible with uses on surrounding properties. As a result, the site, design and operating characteristics of the marijuana retail use must be compatible with the site, design and operating characteristic of the parochial school and other surrounding uses.

The site of the marijuana facility will be improved in appearance by paving the parking area and entrance driveway and by adding landscaping to the site. This will make the site more compatible with neighboring uses than the prior approved use of the site, the landscape materials business.

The proposed development will create levels of noise and dust similar to a typical commercial retail use or other uses allowed in the RC zone. The uses allowed outright in the RC zone with site plan review include taverns, grocery stores, restaurants, kennel, veterinary clinic, farm machinery sales and repair. The only major difference is that the use and sale of marijuana is deeply offensive to parents and faculty of the school that is located near the proposed use. This criterion, however, appears to be directed to the physical impacts of a use rather than spiritual, moral and emotional impacts.

Opponents have claimed that customers of the retail facility will trespass on the school property and will smoke marijuana on the school property. This conduct, if it occurs, is illegal but it is has not been convincingly shown to be a part of the operating characteristics of the use proposed. The operating characteristics of the use involve the transport of marijuana to the site, the transportation of cash to the bank, indoor retail sales and the parking of vehicles on site while customers are purchasing marijuana. *This criterion has been met.*

ADDITIONAL FINDINGS: The current use of other areas of the subject property with industrial/commercial uses not allowed in the MUA-10 zone is clearly incompatible with surrounding residential areas. These uses are also incompatible with the parochial school use. The industrial uses generate noise, dust, heavy vehicle traffic and emissions that negatively impact the quality of life of MUA-10 area residents and school faculty and students in the EFU zoning district. The County code requires denial of the marijuana retail use application until those unauthorized uses have been discontinued. The findings of compatibility, above, assume that all unauthorized uses on the subject property are abated and the harm done to the property remediated.

Adequacy of Transportation Access

Access to the subject property will be from an existing driveway off of Tumalo Place. As explained above, the applicant did not meet its burden of proving that transportation access will be adequate. The access in question provides access to other MUA-10 and EFU properties. The proposed use has been shown by studies conducted in Bend and by Joe Bessman's May 4, 2017 transportation memorandum to generate significantly more pm peak hour trips than will be generated by high trip generating uses allowed by the RC zone (tavern and restaurant). A

more detailed analysis of the transportation system and the impacts of the use proposed is needed before it can be found that the proposed use will not be incompatible with surrounding uses due to its impacts on the adequacy of transportation access to the school and MUA-10 residences. *This criterion is not met.*

Natural and Physical Features

The natural and physical features of surrounding properties are similar to those of the subject property – varying terrain with slight slopes, some exposed rock, and vegetation consisting of native shrubs and juniper trees. No significant or unique natural physical features exist on surrounding properties. Based on the site design and operating characteristics of the marijuana retail facility, staff finds the proposal will not adversely impact the natural and physical features of surrounding properties. Staff advised the Hearings Officer, in its Staff Report, that it is unaware of any natural hazards on surrounding properties. This criterion has been met.

- C. *These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to insure that the standard will be met.***

FINDING: If this application is approved, all areas of the site that will be used by traffic associated with the marijuana use should be paved and drainage facilities developed to handle stormwater runoff. This will reduce the negative impacts caused by dust. To assure compatibility with the well-kept school property, the applicant and property owner should be required to remove the rusted farm and other equipment that litters the natural landscaped part of the leased area.

TITLE 15, BUILDINGS AND CONSTRUCTION

A. Chapter 15.08, Signs

FINDING: The site plan indicates a proposed sign in the northeast corner of the lease area. At this time, the applicant has not requested sign permit approval. A condition of approval requiring the applicant to secure sign permit approval in accordance with DCC 15.08 prior to the installation of any sign on the subject property should be a condition of approval. Compliance can be achieved by the imposition of a condition of approval.

IV. RECORD

The following documents and materials were filed with the County Planning Division for consideration by the Hearings Officer. All were considered by the Hearings Officer and are a part of the record with the exception of the documents shown with strikeout font. All, therefore, are a part of the record. The tape of the land use hearing and the oversized exhibit used at the hearing are also a part of the record.

Document	Filed by	Date Filed
E-Mail "Final Argument Submission" <ul style="list-style-type: none"> • Letter dated 5/18/17 to Liz Fancher/Final Argument 	Myles Conway	5/18/17
E-Mail to Anthony Reguine et al "RE:16-751-SP, 752-CU MJ Retail Facility (Pink Building)"	Peter Russell	5/12/17

E-Mail to Anthony Raguine "RE:16-751-SP, 752-CU MJ Retail Facility (Pink Building)"	George Kolb	5/12/17
E-Mail to Anthony Raguine et al "RE:16-751-SP, 752-CU MJ Retail Facility (Pink Building)"	Cody Smith, PE	5/12/17
E-Mail to Peter Gutowsky, George Kolb & Cody Smith "RE:16-751-SP, 752-CU MJ Retail Facility (Pink Building)"	Anthony Raguine	5/11/17
Letter dated 5/11/17 to Liz Fancher/Rebuttal Evidence <ul style="list-style-type: none"> • Security Plan by Kelly King • Supplemental Traffic Report, Transight Consulting, LLC dated 5/11/17 • Article entitled "Traffic Fatalities Decline in States with Medical Marijuana Laws" 	Greg Blackmore	5/11/17
E-Mail from Kelly King <ul style="list-style-type: none"> • Document titled "Code Violation" by Harry Fagen 	Kelly King	5/11/17
E-Mail to Milton Pyle	Anthony Raguine	5/5/17
E-Mail to Anthony Raguine "Pink House Pot Store"	Milton Pyle	5/5/17
E-Mail to Dawn Young	Anthony Raguine	5/5/17
E-Mail to Anthony Raguine "Protesting Pot"	Dawn Young	5/4/17
Letter to Liz Fancher <ul style="list-style-type: none"> • Ordinance 2002-018 • Ordinance 2002-019 • Landscape Plan • Site Plan "Parking Improvements" by Sun Country Engineering & Surveying, Inc. • "Pink House Dispensary" by Sun Country Engineering & Surveying, Inc. with distances scaled on Google Earth • Photographs of School and Subject Property Views • Transight Consulting, LLC/Joe Bessman, PE transportation review • CATO Institute, Policy Analysis No. 799 • Harvard Kennedy School, Journalist's Resource • Public Library of Science – PLOS One • Site Plan for SP-78-18 • Cover Sheet for SP-82-22 • Staff Report for SP-82-22 • Findings and Decision for SP-82-22 by Hearings Officer • Site Plan for SP-82-22 • Certificate of Notice by Mail for SP-05-28 • Decision of Deschutes County Hearings Officer for SP-05-28 • Site Plan for SP-05-28 • Compatibility Assessment by Greg Blackmore • DIAL Screenshot for Subject Property 	Greg Blackmore	5/4/17

<ul style="list-style-type: none"> E-Mail correspondence between G. Blackmore and R. Raguine date 4/25/17 		
Letter to Liz Fancher, Hearings Officer date 4/12/17	Harry Fagen Sr.	5/4/17
E-Mail to Anthony Raguine	Jenny Neil	5/4/17
Letter to A. Raguine dated 5/2/17	Merie A. Greenway	5/4/17
E-Mail to A. Raguine, P. Russell & C. Smith re e-mail from S. Brussett dated May 2, 2017	George Kolb	5/4/17
E-Mail to A. Raguine, G. Kolb & C. Smith re re e-mail from S. Brussett dated May 2, 2017	Peter Russell	5/4/17
E-Mail to Anthony Raguine <ul style="list-style-type: none"> Letter to A. Raguine from Karen Curtiss & Anthony Loughton dated 5/1/17 	Karen Curtis	5/4/17
E-Mail to Theresa Bastian "oteatimesoftess@gmail.com"	Anthony Raguine	5/4/17
E-Mail to Jennifer Renton	Anthony Raguine	5/4/17
E-Mail to Anthony Raguine "Opposed"	Jennifer Renton	5/3/17
E-Mail to Amy Day	Anthony Raguine	5/4/17
E-Mail to Anthony Raguine "Marijuana Dispensary Concerns"	Amy Day	5/3/17
E-Mails (3) to Rene Cardenas "marijuana dispensary"	Anthony Raguine	5/4/17
E-Mails (2) to Anthony Raguine "marijuana dispensary"	Rene Cardenas	5/4/17
E-Mail to A. Raguine "marijuana dispensary"	Lori Furlong	5/3/17
E-Mail to "cdd-webmaster" "marijuana dispensary"	Rene Cardenas	5/3/17
E-Mail to Don Nevin addressed to account "Sharon Nevin" "Permit Application"	Anthony Raguine	5/4/17
E-Mail to Anthony Raguine via account "Sharon Nevin" "Permit Application"	Don Nevin	5/3/17
E-Mail to Carolyn Bell "Proposed marijuana dispensary near Three Sisters Adventist Christian School"	Anthony Raguine	5/4/17
E-Mail to Anthony Raguine "Proposed marijuana dispensary near Three Sisters Adventist Christian School"	Carolyn Bell	5/3/17
E-Mail to Doug Brady	Anthony Raguine	5/4/17
E-Mail to A. Raguine "files # 16751 SP and 16752 CU"	Doug Brady	5/3/17
E-Mail to Karla Toms	Anthony Raguine	5/4/17
E-Mail to Anthony Raguine "Objection"	Karla Toms, RN	5/3/17
Letter to A. Raguine	Raymond B. Jones	5/3/17
Letter to Liz Fancher and Anthony Raguine	Tanya D. Lysaught	5/3/17

Letter to Anthony Raguine <ul style="list-style-type: none"> • Code Enforcement Complaint 5/1/17 • Nine Photographs of Subject Property • Care2 On Line Petition with Comments • Photographs of Businesses on Subject Property 	Duane and Leean Porter	5/3/17
E-Mail to Stephanie Brusett	Anthony Raguine	5/3/17
E-Mail to Anthony Raguine "Marijuana Dispensary Application" <ul style="list-style-type: none"> • MP4 Video of Subject Property 	Brent & Stephanie Brusett	5/2/17
E-Mail to Anthony Raguine "Permit Application"(duplicate)	Don Nevin	5/3/17
E-Mail to Anthony Raguine "Proposed marijuana clinic next to the Three Sisters Adventist School"	Eldon and Lorraine Spady	5/3/17
E-Mail to Anthony Raguine "Concerns regarding "Pink" building"	Randi Hansen	5/3/17
E-Mail to Anthony Raguine "Opposition to marijuana dispensary"	Becky Colvin	5/3/17
E-Mail to Anthony Raguine "pot store"	Georgana Nelson	5/3/17
E-Mail to mykokopelli@aol.com	Anthony Raguine	5/3/17
E-Mail to Anthony Raguine "Letter of appeal to Mr. Raguine – our SDA faith tenets included"	Jerald G. Boyd	5/2/17
E-Mail to Anthony Raguine "Marijuana Dispensary application opposition"	Brent & Stephanie Brusett	5/2/17
E-Mail to Anthony Raguine "Opposition 247-16-000752-CU"	Duane Porter	5/2/17
E-Mail to Anthony Raguine (Gruver)	Lori Furlong	5/2/17
E-Mail to cdd-webmaster "Marijuana retail outlet"	Lois Gruver	5/1/17
E-Mail to Anthony Raguine (Smith)	Lori Furlong	5/2/17
E-Mail to Lori Furlong "21280 Tumalo Place"	Susan Smith	5/1/17
E-Mail to Anthony Laemmler "21280 Tumalo Place"	Susan Smith	5/1/17
E-Mail to Anthony Raguine "Marijuana Dispensary on Tumalo Road"	Brenda Dederer	5/1/17
E-Mail to Anthony Raguine "Petition for marijuana dispensary" <ul style="list-style-type: none"> • Petition in opposition 	Brenda Dederer	5/1/17
E-Mail to Anthony Raguine from RL Coats "Proposed Marijuana Business at 97 & Tumalo" <ul style="list-style-type: none"> • Letter to Anthony Raguine dated 4/7/17 from Mark and Rhonda Rennacker 	Rhonda L. Coats	4/28/17
E-Mails (2) to Anthony Raguine "Concerning property at 21280 Tumalo Place Bend"	Maurita Crew	4/27/17
E-Mails (2) to Maurita Crew <ul style="list-style-type: none"> • Photographs of Businesses on Subject Property (3) 	Anthony Raguine	4/27/17

E-Mail to Anthony Raguine "Treasurer Letter Concerning Dispensary" <ul style="list-style-type: none"> Letter to "To Whom It May Concern from Judy Driver, Treasurer of Three Sisters Adventist Christian School 	Brenda Dederer	4/27/17
E-Mail to Anthony Raguine "Opposed to the Pink House at Hwy 97 & Tumalo Rd"	Ryan and Penny Fraker	4/26/17
Letter to Anthony Raguine	Sharmen Daft	4/26/17
Order re Request for Extension of Post-Hearing Comment Period	Liz Fancher	4/26/17
E-Mail to Liz Fancher & Anthony Raguine	Greg Blackmore	4/26/17
E-Mail to A. Raguine and G. Blackmore "Request for Time"	Liz Fancher	4/21/17
E-Mail to Liz Fancher and G. Blackmore "Request for Time"	Anthony Raguine	4/21/17
E-Mail to A. Raguine and G. Blackmore "Request for Time"	Liz Fancher	4/21/17
E-Mail to Liz Fancher "Request for Time" <ul style="list-style-type: none"> Letter from Duane Porter, undated 	Anthony Raguine	4/21/17
E-Mail to A. Raguine "Request for Time"	Duane Porter	4/20/17 10:11 pm
E-Mail to A. Raguine "Oppose the Proposed Pink House to sell Marijuana"	Sharmen Daft	4/20/17
Letter to Anthony Raguine dated 4/17/17	David G. Carlson	4/20/17
Letter to Deschutes County Commissioners	Henry S. Keesling	4/18/17
Letter to A. Raguine	Henry S. Keesling	4/18/17
E-Mail to A. Raguine "Proposed marijuana shop off Tumalo Road"	Steve Schienberg	4/18/17
E-Mail to A. Raguine "Marijuana retail store on Tumalo Road"	Judith Churchfield	4/15/17
E-Mail to A. Raguine "Dispensary proposal in Tumalo Place"	Patricia Portlock	4/13/17
E-Mail to Patricia Portlock "Dispensary proposal in Tumalo Place"	Anthony Raguine	4/13/17
E-Mail to A. Raguine "Dispensary proposal in Tumalo Place"	Patricia Portlock	4/11/17
E-Mail to A. Raguine "Tumalo marijuana site"	Denzel Morgan	4/9/17
E-Mail to Denzel Morgan "Tumalo marijuana site"	Anthony Raguine	4/7/17
E-Mail to Anthony Raguine "Tumalo marijuana site"	Lori Furlong	4/7/17
E-Mail to "cdd-webmaster" "Tumalo marijuana site"	Denzel Morgan	4/1/17

E-Mail to "cdd-webmaster"/Anthony Raguine "Opposition to Deschutes Junction marijuana [sic] retail store" dated 4/9/17	Theresa Bastian	4/13/17
E-Mail to Anthony Raguine "Conditional Use Permit	Don Schuman	4/7/17
E-Mail to Anthony Raguine "Marijuana Retail Store"	Evelyn Smith	4/6/17
E-Mail to Anthony Raguine "Proposed marijuana dispensary on Highway 97/Tumalo Road"	Lori Furlong	4/5/17
E-Mail to Anthony Raguine "Proposed marijuana dispensary on Highway 97/Tumalo Road"	Buddy and Stephanie Mays	4/5/17
E-Mail to Dennis Douglas and Anthony Raguine "Pot in Central Oregon"	Tom Anderson	4/5/17
E-Mail to Tom Anderson "Pot in Central Oregon"	Dennis Douglas	4/5/17
Memorandum to Liz Fancher	Anthony Raguine	4/5/17
E-Mail to Kathy Case "Meeting tonight in regard to the PINK HOUSE"	Anthony Raguine	4/5/17
E-Mail to Anthony Raguine "Meeting tonight in regard to the PINK HOUSE"	Kathy Case	4/4/17
Exhibit Schedule 247-16-751-SP and -752-CU	Anthony Raguine	4/4/17
Exhibit 1 Hearings Officer's record additions <ul style="list-style-type: none"> • Comprehensive Plan, Chapter 3, pgs 13-14 • Comprehensive Plan, Chapter 3, p. 10 • Code Enforcement Affidavit dated June 2, 2010 by John Griley • Code Enforcement Complaint for Subject Property • Property Line Adjustment Survey • Hearings Officer's Decision approving SP-05-28 • Letter Approving Property Line Adjustment dated November 1, 2006 • E-Mail from Nick Lelack dated 4/21/11 to Peter Russell re DR-10-3 • Staff Report by Peter Russell for DR-10-3 • Record of Building Inspection for welding shop #78-116 • Record of Building Inspection for second hand store #78-139 • Burden of Proof Statement (part) and maps (2) showing RSC size of .83 acres less land acquired by ODOT 	Liz Fancher	4/4/17
Exhibit 2 Google Earth Image of Subject Property	Liz Fancher	4/4/17
Exhibit 3 Hearings Testimony	Henry S. Keesling	4/4/17
Exhibit 4 page 1 Business Insider "There are more marijuana shops in Oregon than Starbucks and	Duane Porter	4/4/17

McDonalds"		
Exhibit 4 page 2 "Places with More Marijuana Dispensaries Have More Marijuana-Related Hospitalizations"	Duane Porter	4/4/17
Sign-In Sheet for Hearing	Anthony Raguine	4/4/17
Certificate of Mailing Staff Report	Sher Buckner	3/21/17
Staff Report	Anthony Raguine	3/21/17
E-Mail to Anthony Raguine "Proposed Marijuana Dispensary at Hwy 97 & Tumalo Place	Carol Mays	2/28/17
E-Mail to Anthony Raguine "Marijuana Dispensary"	Karen Behm	2/28/17
E-Mail to Anthony Raguine "Marijuana Dispensary"	Robin Sanchez	2/28/17
E-Mail to Anthony Raguine "Marijuana Dispensary and our school"	Brent Brusett	2/27/17
E-Mail to Anthony Raguine "Marijuana Dispensary and our school"	Stephanie Brusett	2/27/17
Certificate of Mailing	Unknown	2/27/17
Notice of Public Hearing on April 4, 2017	Unknown	2/27/17
Letter to Anthony Raguine	Harry Fagen Sr.	2/23/17
E-Mail to Anthony Raguine "Re: April 4 th Public Hearing"	Kelly King	2/23/17
E-mail to Kelly King	Anthony Raguine	2/23/17
E-Mail to Anthony Raguine "Proposed Mariguana (<i>sic</i>) Dispensary" <ul style="list-style-type: none"> • Letter to Anthony Raguine (undated) 	Janelle Kasabasic	2/23/17
E-Mail to Anthony Raguine "Regarding marijuana dispensary at the corner of HWY 97 and Tumalo Place	Daniel and Heidi Harris	2/23/17
E-Mail to Anthony Raguine "PLEASE NO MARIJUANA DISPENSARY BY OUR SCHOOL"	Lorene Ferguson	2/23/17
E-Mail to Anthony Raguine "NO DISPENSARY"	Donna Harris	2/23/17
E-Mail to Anthony Raguine "Proposed marijuana dispensary"	Jill Mack	2/22/17
E-Mail to Anthony Raguine "proposed marijuana dispensary"	Jenny Neil	2/22/17
E-Mail to Anthony Raguine "Dispute with the approval of a Medical Marijuana location too close to a school"	Kathleen Case	2/22/17
E-Mail to Anthony Raguine "Marijuana Dispensary"	Dan Nicola	2/21/17
Burden of Proof Statement, Response to Incomplete Letter	Kelly King	2/16/17
December 28, 2016 Letter to Kelly King and site plan for SP-05-28	Anthony Raguine	12/28/16
Certificate of Mailing Letter re Incomplete Application	Sher Buckner	12/18/16

E-Mail to Anthony Raguine "MJ Retail Facility"	Todd Cleveland	12/22/17
E-Mail to Todd Cleveland	Anthony Raguine	12/22/16
E-Mail to Anthony Raguine "247-16-000751-SP, 752-CU 21280 Tumalo Pl" <ul style="list-style-type: none"> Memorandum from Jeff Bond, Deputy Fire Marshal, City of Bend Fire Department dated 12/22/16 	Jeff Bond	12/22/16
E-Mail to Anthony Raguine et al "MJ dispensary at Des. Jct."	Peter Russell	12/13/16
E-Mail to Anthony Raguine "247-16-000751-SP/752-CU" <ul style="list-style-type: none"> Comment Sheet from Deschutes County Road Dept. 	George Kolb	12/9/16
Comment Sheet from Deschutes County Building Safety.	Randy Schied	12/8/16
Land Use Application Form	Applicant or Representative	12/1/16
Burden of Proof Narrative	Applicant or Representative	12/1/16
Parking Improvements for Kelly King by Sun Country Engineering dated November 1, 2016	Applicant or Representative	12/1/16
Assignment and Conveyance by Owner of Vendee's Interest in Land Sale Contract from Craven to Fagen	Applicant or Representative	12/1/16
Black Ops Carbon Filters/Black Ops Filters Specification Sheet	Applicant or Representative	12/1/16
Fire District Map	Applicant or Representative	12/1/16
Law Enforcement Service Area Map	Applicant or Representative	12/1/16
Aerial Map	Applicant or Representative	12/1/16
Transaction Receipt	County CDD Staff	12/1/16

V. DECISION

The Hearings Officer **DENIES** the applicant's site plan and conditional use permit applications.



Liz Fancher, Hearings Officer

owner	agent	address	cityStZip	type	cdd id
BEND FIRE DEPT.		1212 SW SIMPSON, SUITE B	Bend, OR 97702	HOD	16-751-SP, 752-CU
DESCHUTES CO. ROAD DEPT.	George Kolb	61150 S.E. 27TH ST.	Bend, OR 97702	HOD	16-751-SP, 752-CU
DESCHUTES CO. SR. TRANS. PLANNER, PETER RUSSELL		117 NW LAFAYETTE AVE. P.O. BOX 6005	Bend, OR 97708-6005	HOD	16-751-SP, 752-CU
Kelly King		4335 S. Highway 97	Redmond, OR 97756	HOD	16-751-SP, 752-CU
Harry J. and Beverly M. Fagen		53 NW Tumalo Avenue	Bend, OR 97703	HOD	16-751-SP, 752-CU
Blackmore Planning	Greg Blackmore	19454 Sunshine Way	Bend, OR 97702	HOD	16-751-SP, 752-CU
Dan Nicola		808 NE 113th Avenue	Portland, OR 97220	HOD	16-751-SP, 752-CU
Kathleen Case		19697 Harvard Place	Bend, Oregon 97702	HOD	16-751-SP, 752-CU
Jenny Neil		20368 Sonata Way	Bend, OR 97702	HOD	16-751-SP, 752-CU
Jill Mack		64120 Pioneer Loop	Bend OR 97701	HOD	16-751-SP, 752-CU
Rex and Donna Harris		650 SW Columbia Street, Suite 7250	Bend, OR 97702	HOD	16-751-SP, 752-CU
Lorene Ferguson		3747 SW Xero Place	Redmond, Or 97756	HOD	16-751-SP, 752-CU
Daniel & Heidi Harris		2049 NW Ivy Place	Redmond, OR 97756	HOD	16-751-SP, 752-CU
Janelle Kasabasic		2325 NE Mary Rose Place #2	Bend, OR 97701	HOD	16-751-SP, 752-CU
Stephanie and Brent Brusett		64140 Pioneer Loop	Bend OR 97701	HOD	16-751-SP, 752-CU
Robin Sanchez		876 SE Kristin Way	Madras, OR 97741	HOD	16-751-SP, 752-CU
Karmen Behm		836 NE 9th St	Bend, OR 97701	HOD	16-751-SP, 752-CU
Carol Mays		61535 S. Highway 97, #5-443	Bend, OR 97702	HOD	16-751-SP, 752-CU
Patricia Portlock		65260 85th Street	Bend, OR 97703	HOD	16-751-SP, 752-CU
Steve Schienberg		20744 North Star Way	Bend, OR 97703	HOD	16-751-SP, 752-CU
Sharmen Daft		20812 Solstice Drive	Bend, OR 97701	HOD	16-751-SP, 752-CU
Ryan and Penny Fraker		20849 Solstice Drive	Bend, OR 97703	HOD	16-751-SP, 752-CU
Three Sisters Adventist Christian School	Judy Driver	21155 Tumalo Road	Bend, OR 97701	HOD	16-751-SP, 752-CU
Maurita Crew		6026 SW Jaguar Avenue	Redmond, OR 97756	HOD	16-751-SP, 752-CU
Duane Porter		65030 78th Street	Bend, Oregon 97703	HOD	16-751-SP, 752-CU
Judy and Glen Churchfield		64620 McGrath Road	Bend, OR 97701	HOD	16-751-SP, 752-CU
Lois Gruver		64675 BoonesBorough Drive	Bend, Oregon 97701	HOD	16-751-SP, 752-CU
Susan Smith		20725 Lyra Drive	Bend, OR 97703	HOD	16-751-SP, 752-CU
Marten Law	Myles Conway	404 SW Columbia Street, Suite 212	Bend, OR 97702	HOD	16-751-SP, 752-CU
Karen Curtiss and Anthony Loughton		64733 Sylvan Loop	Bend, OR 97701	HOD	16-751-SP, 752-CU
Scott Denneson		64734 Sylvan Loop	Bend, OR 97701	HOD	16-751-SP, 752-CU
Don Nevin		No address provided		HOD	16-751-SP, 752-CU
Theresa Bastian		No address provided		HOD	16-751-SP, 752-CU
Jen Renton		No address provided		HOD	16-751-SP, 752-CU
Amy		No address provided		HOD	16-751-SP, 752-CU
Rene Cardenas		No address provided		HOD	16-751-SP, 752-CU
John and Judith Nelson		No address provided		HOD	16-751-SP, 752-CU
Carolyn Bell		No address provided		HOD	16-751-SP, 752-CU
Douglas Brady		No address provided		HOD	16-751-SP, 752-CU
Karla Toms		No address provided		HOD	16-751-SP, 752-CU

Eldon and Lorraine Spady	4245 SW Ben Hogan Drive	Redmond, OR 97756	HOD 16-751-SP, 752-CU
Randy Hansen	336 NE Norton Avenue, Suite 2	Bend, OR 97701	HOD 16-751-SP, 752-CU
Becky Colvin	20775 Amber Way	Bend, OR 97701	HOD 16-751-SP, 752-CU
Georgana Nelson	63465 Bridle Lane	Bend, OR 97703	HOD 16-751-SP, 752-CU
Jerald Boyd	10311 SE Juniper Canyon Road	Prineville, OR 97754	HOD 16-751-SP, 752-CU
Three Sisters Adventist Christian School	Brenda Dederer 21155 Tumalo Road	Bend, OR 97701	HOD 16-751-SP, 752-CU
Don Schuman	65245 97th Street	Bend, OR 97703	HOD 16-751-SP, 752-CU
Mark and Rhonda Rennacker	517 SE Evergreen Avenue	Redmond, OR 97756	HOD 16-751-SP, 752-CU
Denzel Morgan	65182 85th Street	Bend, OR 97703	HOD 16-751-SP, 752-CU
Evelyn Smith	21809 BoonesBorough Drive	Bend, OR 97701	HOD 16-751-SP, 752-CU
Dennis Douglas	2450 NW Wyeth Place	Bend, OR 97703	HOD 16-751-SP, 752-CU
Buddy and Stephanie Mays	64746 Sylvan Loop	Bend, OR 97701	HOD 16-751-SP, 752-CU
Donna and Rex Harris	650 SW Columbia Street, Suite 7250	Bend, OR 97702	HOD 16-751-SP, 752-CU
Milt Pyle	No address provided		HOD 16-751-SP, 752-CU
Dawn Young	No address provided		HOD 16-751-SP, 752-CU
Tanya Lysaught	21870 Katie Drive	Bend, OR 97701	HOD 16-751-SP, 752-CU
David Carlson	No address provided		HOD 16-751-SP, 752-CU
Henry Keesling	65595 93rd Street	Bend, OR 97703	HOD 16-751-SP, 752-CU

Tebbutt

247-18-000075-AD

247-18-075-AD

February 8, 2018

In regards to the proposed marijuana grow on 22126 Bear Creek Road:

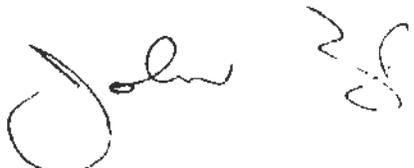
The existing green house proposed for this grow operation does not meet the county's setback requirements. It is less than 100 feet from the adjoining property line and is less than 300 feet from the nearest dwelling on the adjacent property. If the county were to allow an exception to these setback rules, this would set a precedent that would make almost every home in Misty Meadows vulnerable (we are surrounded by EFU zoning).

There are safety issues. The easiest and quickest access for persons with criminal intentions regarding this grow (stealing marijuana out of the greenhouse) would be right down Stormy Lane. Our street terminates just a few hundred feet (no street lighting) from the greenhouse. The grow operation owner's residences are completely on the other side of the subject property with several outbuildings separating them from their view of the greenhouse. It is likely that the residents of Misty Meadows would be exposed to and would have to be on the lookout for illicit activity, as the owners of the grow would probably be oblivious due to their physical separation from the area. If the concerns over safety seem far fetched, one only has to look at The Bulletin a few weeks ago to read about a teenager being shot by those trying to steal marijuana

This application should be denied as proposed. It lacks setback and does not address safety issues. I would also wonder what light pollution this operation would contribute.

Sincerely,

John Blanchard


Susan Blanchard
22016 Stormy Lane
Bend, OR

From: [Anthony Raguine](#)
To: [Tracy Griffin](#)
Subject: Pls scan to 18-075-AD & print a hard copy for the file. Thx.
Date: Monday, February 26, 2018 8:13:22 AM

-----Original Message-----

From: Jay Kennedy [<mailto:jaykflyfisherman@icloud.com>]
Sent: Sunday, February 25, 2018 9:40 PM
To: Anthony Raguine <Anthony.Raguine@dcschutes.org>
Subject: Ekena Farm

Anthony,

I'm writing to object to the proposed marijuana production grow at 22126 Bear Creek Road. The file # 247-18-000075-AD is not in compliance with existing setback regulations as set forth by Deschutes County. As I'm sure you are aware, the minimum setback from the property line is 100' and 300' from an existing homesite. Their existing greenhouse is clearly in violation of both these setback requirements. I apologize for not responding sooner and will reach out Monday to speak with you in person regarding this matter. We support the allowed use on EFU zoning, but have serious concerns about making exceptions to regulations already agreed upon and being observed by other farms.

Regards,

Jay Kennedy
62050 Warbow Pl.
503-830-6544

Sent from my iPhone

FEB 03 2018

February 5, 2018

To Community Development Department

Re: File Number 247-18-000075 –AD Ekena Farm marijuana application

We are writing to express our deep dissatisfaction with the possibility of a marijuana farm in the close vicinity of the home we just purchased in October of 2017. We moved from HWY 20 Lance Road in part due to the smell of the marijuana production facility on a similar property, two properties away. We just paid an enormous sum to live in a nice quiet neighborhood of small acreage close to town.

During certain periods of the year, our beautiful fall period, a strong sewer-like smell develops from these facilities. When we first discovered this, we and other neighbors could not figure out whose septic was a problem until we realized it was the pot farm nearby. It's impossible to be outside in your own yard and if your windows are open, the smell permeates your home. It's inappropriate to have such a production facility near homes where children live, requiring parents to explain why it's necessary to have an illegal crop smelling up your home.

Will there be no small acreage in the Bend area left to enjoy a rural lifestyle near town without the stink of marijuana? The income is not worth the sacrifice we are being asked to endure as a society living together.

Also, this greenhouse is visible from inside our home. Marijuana is still federally illegal and we object to our community normalizing this activity. By far our biggest objection will be the smell we will have to endure. We will have to suffer economic loss to move again as Ekena Farm makes a profit. We have a right to enjoy our neighborhood property free from the environmental and agricultural impact of marijuana. We believe this farm is too close to neighborhoods for this purpose.

We welcome a call from this department to discuss this further with us.

Sincerely,

Robert and Rebecca Kohrt

22063 Stormy Lane, Bend, OR 97701

February 8, 2018

Community Development Department
P.O. Box 6005
117 NW Lafayette Ave.
Bend, OR 97708-6005

ATTN: Anthony Raguie, Senior Planner

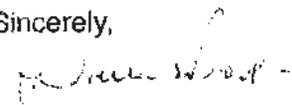
To Whom This May Concern:

I am submitting my strong opposition to the proposal submitted by Ekena Farm, Ashley BC Tebault Trust (file # 247-18-000075-AD) requesting approval to establish a marijuana production (grow) facility in an existing greenhouse. My property of 28 years, located at 22089 Stormy Lane, Tax Lot 1100, is adjacent to the Ekena Farm property. Following are my concerns:

- Code
 - Proposal does not meet the Deschutes County Code:
 - 100 ft. from adjacent property line
 - greenhouse is approximately 15ft. from our property line
 - 300 ft. from nearest building on adjacent property
 - greenhouse is closer to 200 ft. from our home
- Odor
 - Offensive smell
 - streamers attached to our trees indicate that wind comes directly from the direction of the greenhouse
- Noise
 - Fans
 - presently installed fans can be heard from our property (yard, deck)
 - if fan noise were increased, it would be troublesome during the day & evening
- Criminal activity
 - We have experienced an intruder in our home at night, and have had small accounts of theft. Concern is that the marijuana crop in this facility would increase the trespassing and the possibility of criminal activity
- Property Value Decrease
 - Above mentioned concerns would have a significant effect on property value & marketing

I hope you will seriously consider these concerns with specific attention to the fact that it does not meet regulations set forth by the county.

Sincerely,


Darla Wood-Walters
22089 Stormy Lane
Bend, OR 97701

darla.woodwalters@gmail.com

H2D2

247-18-000546-SP

247-18-000545-CU

Matt Martin

From: 2linnirick@1791.com
Sent: Monday, July 23, 2018 4:06 PM
To: Matt Martin
Subject: Public Hearing request for proposed MJ retail outlet in Tumalo

Dear Matt,

I am a concerned resident in Tumalo who has just heard about a proposed marijuana retail at 19855 8th St. in Tumalo. And read that we have to have our request in to you by 5:00 today. I am hereby requesting a public hearing on this controversial proposal.

First, I am appalled that something that can have such a major impact on this small community would not automatically have a public hearing to discuss the proposal. That said, there are many reasons not to allow this use of the land.

The septic system in Tumalo has been an issue for years, which is why all the food carts are there in the first place. Would the proposed retail outlet be using a septic system?

The traffic in Tumalo is hazardous as people merge off and on Highway 20, and has involved many crashes. The issue is currently already being discussed with several possibilities being studied to alleviate the hazards. What do you suppose a rural marijuana retail could have on the already untenable traffic concerns?

It was our understanding that marijuana retailers were supposed to be confined to city limits. Already our neighborhoods are flooded with too many marijuana farms, but we were told they could not be retail as well. Now you are considering a rural retail site after all?

These are just a few reasons that a public hearing is of utmost importance. I am certain there will be a community outcry if you do not provide a chance to hear what our concerns are.

Respectfully,

Linda Rode
65375 Highway 20
Bend, OR 97703
541-280-2701

Matt Martin

From: Sam and Carolyn Davis <sadaca_2@msn.com>
Sent: Monday, July 23, 2018 3:36 PM
To: Matt Martin; Nick Lelack; Board
Subject: Comments on Proposed Marijuana Retail Application at 19855 8th street, Tumalo

Matt/Nick/Board of County Commissioners:

Please enter this into the public record.

Many of the County's residents, including myself, I just found out about the application for a marijuana retail store at 19855 8th Street, Bend, Oregon (in Tumalo), due to Preserve Deschutes County sending us an email this morning, July 23, 2018, telling us of the permit application. We found out on the final day that we can request a public hearing on the proposed use application and not through a proper County notification to all of the impacted parties (all of the residents of Tumalo), but through a third party. This is another case where the County's notification processes are totally inadequate. This marijuana retail store application impacts the whole of the Tumalo community, not just the people a few hundred feet away. The County's notification process that only notifies nearby by properties needs to be modified immediately.

Highway 20 is one of the most dangerous Highways in our area. We routinely have significant accidents at Highway 20 and Cook Avenue, Old Bend Redmond Highway and Cooley Roads. Allowing the development of a marijuana retail store at 19855 8th Street would further exacerbate the problems at the Cook/Highway 20 intersection. Adding traffic from the proposed marijuana retail facility to the current traffic from the Tumalo Bite food carts and beer facility, the Tumalo Feed bar, the Tumalo bar, Pisano's Pizzeria, the Distillery on Highway 20 and the pending beer tasting room and bar at 19475 Pinehurst Rd, Bend, Oregon 97703, will further intensify the dangerous traffic problem in this area. This would also further increase the concentration of businesses that sell intoxicants in this very small area that does not need more people with impaired judgement added to it.

Currently the County is reviewing marijuana regulations due to a recognition that the current rules are inadequate and have not protected the public from the massive growth of the marijuana trade. It is acknowledged that Oregon already produces 3x what the State's demand is and that is it 2/3s is sold on the black market. Two of the County's major marijuana concerns are the concentration of marijuana business in Tumalo and Alfalfa and the proximity of marijuana business to schools, parks, and other public facilities where children are present. This is supported by draft changes to the County's marijuana rules being considered. The 19855 8th Street parcel is ~1463 feet away from the Tumalo Elementary School. This is just outside the current 1000-foot minimum separation distance from schools and inside the draft distance of 2640 feet.

I recommend that a hearing be held to allow the Board of County Commissioners to hear the public outcry against the facility being proposed in this permit application. I further recommend that all marijuana permit processing be frozen until that County approves their updated regulations and that permit applications not already approved be subject to the modified regulations. We have enough marijuana production (1000+/- facilities) and retail facilities (40+/-) in Deschutes County. Please give your modified rules a chance to be approved and more adequately protect the public from the marijuana proliferation that is devastating the voting public in rural Deschutes County. The residents of the County have rights too, not just the heavily funded marijuana industry. You need to recognize this and recognize that Deschutes County already more marijuana facilities we than we need!

Regards

Sam Davis, Tumalo Resident

Matt Martin

From: Nick Lelack
Sent: Wednesday, November 28, 2018 2:38 PM
To: Matt Martin
Cc: 'sadaca_2@msn.com'
Subject: FW: Comments on Proposed Marijuana Retail Application at 19855 8th street, Tumalo (Intersection of Cook Ave. and HW20.
Attachments: image002.emz

Matt:

I assume Sam and Carolyn would like the email below entered in the public record for this application for the Hearings Officer's consideration at tomorrow's public hearing.

Thank you.



Nick Lelack, AICP | Director

Deschutes County Community Development
117 NW Lafayette Ave | Bend, Oregon 97703
Tel: (541) 385-1708 | Cell: (541) 639-5585



Let us know how we're doing: [Customer Feedback Survey](#)

From: Sam and Carolyn Davis <sadaca_2@msn.com>
Sent: Wednesday, November 28, 2018 2:35 PM
To: Board <board@deschutes.org>
Cc: Planning Commission <PlanningCommission@deschutes.org>; Nick Lelack <Nick.Lelack@deschutes.org>; Adair, Patti <malibustudio@aol.com>
Subject: Comments on Proposed Marijuana Retail Application at 19855 8th street, Tumalo (Intersection of Cook Ave. and HW20.

County Commissioners:

As you know, the Cook and HW20 intersection, is one of the most dangerous intersections in all of Deschutes County with many crashes and fatalities each year. I would like to put in perspective what the approval of the proposed marijuana retail store at 19855 8th street, Tumalo (the intersection of Cook Ave. and HW20) would add to this location. If you approve this marijuana retail application there will be will be 10 locations where intoxicants are sold and/or consumed within 8800 ft of the treacherous Cook/HW20 intersection and 8 within 1200 ft. (see map below). They are:

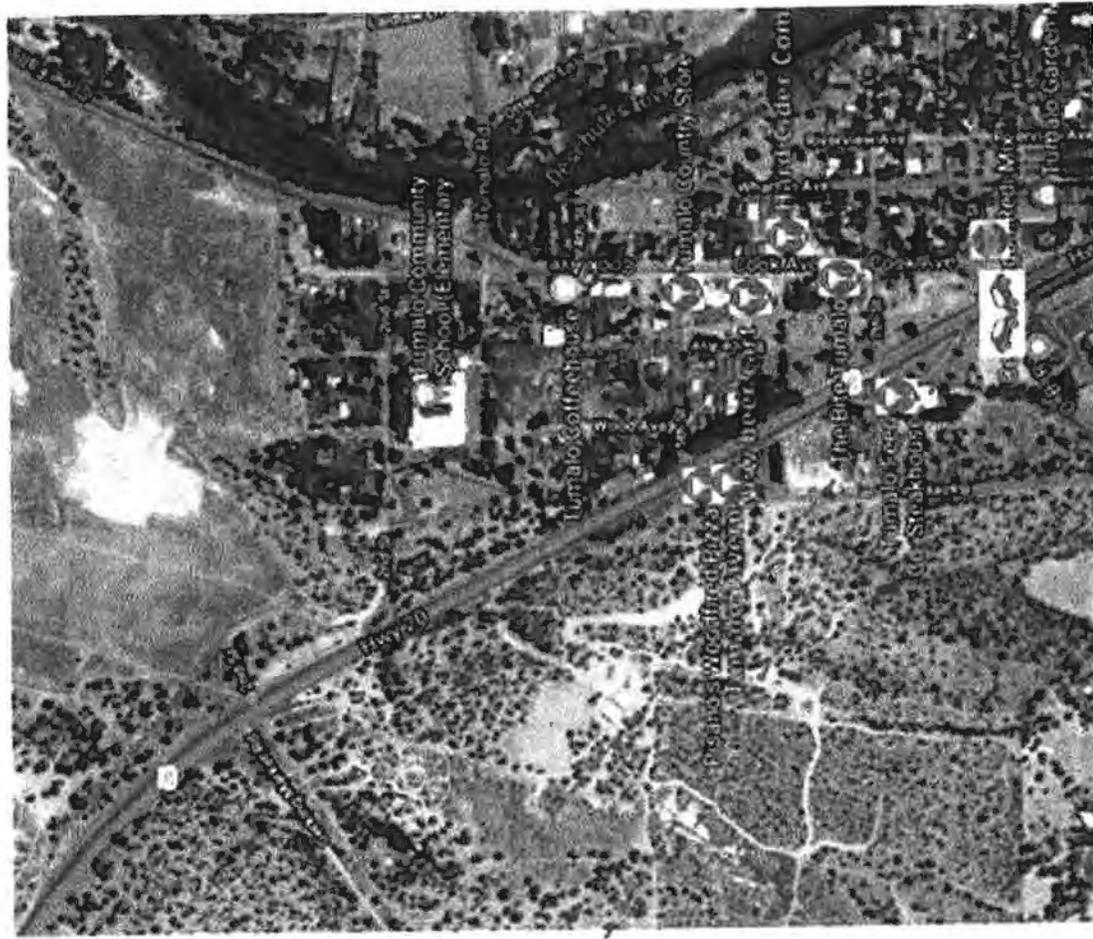
1. Proposed marijuana retail store	<100 ft.
2. Tumalo Store Restaurant	280 ft.
3. The Bite	450 ft.
4. New Hard Cider and Beer Pub	600 ft.
5. New Beer Court (Pisano's developing at Old El Caporal site)	850 ft.
6. Tumalo Store	950 ft.
7. Tumalo Tavern	1100 ft.
8. Pisanos Pizza	1200 ft.
9. New Brewery	6600 ft.
10. Bend Distillery	8800 ft.

Also the public school is 2000 ft. from the proposed marijuana retail application location and the Knife River Yard where dozens of dump trucks day enter this intersection sits right at the Cook/HW20 intersection and the proposed marijuana retail application location. Far too many deaths and accidents already occur at this intersection. **Approving yet another business that adds traffic and sells intoxicants can do nothing but increase the number of incidents that occur at this intersection.** We do not need more intoxicants sold in this dangerous area. We need the Board of County Commissioners to recognize the impact of this approval to on the traffic and potentially for added intoxicated drivers at this intersection and **deny this application.**

Regards

Sam Davis, Tumalo resident

- Key**
-  Intoxicants sold and/or consumed
 -  Proposed marijuana retail location
 -  Cook/HW 20 Intersection





DESCHUTES COUNTY SHERIFF'S OFFICE

L. Shane Nelson, Sheriff

Proudly Serving Our Community

Comment from Sheriff L. Shane Nelson:

Our concern lies in the odor, sights, sounds and set backs of the property in this type of request and how it affects the livability of our community members; in conjunction with the issue that marijuana is illegal on a federal level.

In addition, we are finding the calls for service related to marijuana grow operations are increasing.

If this information is accurate, we should not deviate or make exceptions to any regulations on the books.

- Marijuana production is against Federal Law
- There are several rural residents who have issues with smell, sound and sight issues related to marijuana grows and how these affect quality of life.
- According to U. S. Attorney Billy Williams and OSU Professor Seth Crawford, there is three times the amount of marijuana being produced in Oregon than the state can consume in the "legal" market.
- According to the draft OSU Marijuana Analyst report, there is \$4 billion to \$9 billion worth of street value marijuana that is unaccounted for given the "legal" consumer market in the State of Oregon. It is highly probable this is being diverted to the black market industry.



Mailing Date:
Friday, July 13, 2018

COMMUNITY DEVELOPMENT

NOTICE OF APPLICATION

The Deschutes County Planning Division has received the proposed land use applications described below:

FILE NUMBER: 247-18-000545-CU/546-SP

**APPLICANT/
OWNER:** H2D2 Properties, LLC
Mike Hayes & William Davis

PROPOSAL: Conditional Use Permit and Site Plan Review to establish marijuana retailing, one food cart, and farmers market in the Tumalo Commercial District of the Tumalo Rural Community. The proposed use replaces the existing food cart pod on the property.

LOCATION: The subject property has an assigned address of 19855 8th St, Bend and is identified on County Assessor Tax Map 16-12-31D, as Tax Lot 302.

STAFF CONTACT: Matthew Martin, ACIP, Associate Planner
541-330-4620, matt.martin@deschutes.org

DOCUMENTS: Can be viewed and downloaded from:
www.buildingpermits.oregon.gov and <http://dial.deschutes.org>

STANDARDS AND APPLICABLE CRITERIA

- Title 18, Deschutes County Zoning Ordinance
 - Chapter 18.56. Surface Mining Impact Area
 - Chapter 18.67. Tumalo Rural Community Zoning Districts
 - Chapter 18.116. Supplementary Provisions
 - Chapter 18.124. Site Plan Review
 - Chapter 18.128. Conditional Uses

Title 22, Deschutes County Development Procedures Ordinance

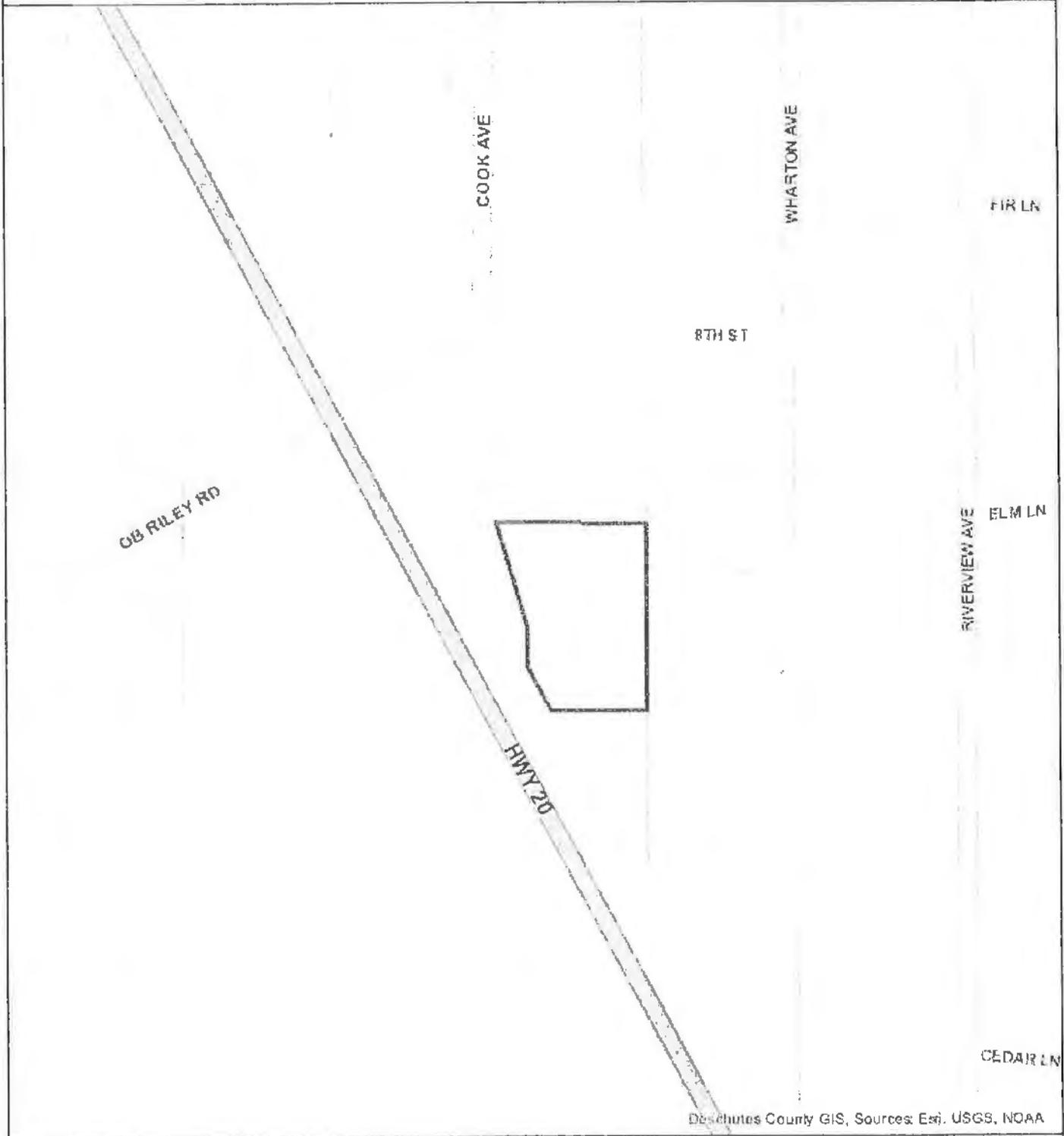
Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page. The Planning Division is located in the Community Development Department Office at 117 NW Lafayette Avenue, Bend, Oregon.

Any interested person may submit written comments on the proposed land use action. Your input is important to us. ALL WRITTEN TESTIMONY MUST BE RECEIVED BY THE DESCHUTES COUNTY PLANNING DIVISION NO LATER THAN TEN (10) DAYS FROM THE DATE OF MAILING. Notice of the decision will be provided by a separate mailing. For more information or to request copies of the findings and decision, contact the assigned planner.

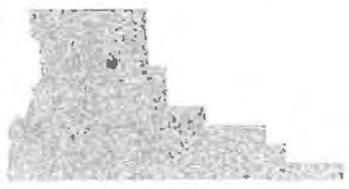
This Notice was mailed pursuant to Deschutes County Code Chapters 22.20 and 22.24.

File Nos. 247-18-0000545-CU / 546-SP

19855 8th Street, Bend



Deschutes County GIS, Sources: Esri, USGS, NOAA



Joel Gisler and Julia C. Gisler
1470 N.E. First St., #500,
Bend, OR. 97701
Phone: (541)815-0966

RECEIVED
BY: mfu
JUL 19 2018

DELIVERED BY:

July 17, 2018

RE: 247-18-000545-CU/546-SP

Dear Matthew Martin

I own 2 acres north of applicant's property

I object to approval of file number 247-18-000545-CU/546-SP.

18.124.070 B 2 b requires pedestrian access from building to public streets. There are currently no pedestrian walkway from Public Street to building nor are proposed and because applicants property is not adjacent to public street this condition cannot be satisfied.

18.116.330 Proposed use is within 1000 feet of Deschutes River Trail which connects to Tumalo State Park. This use is not allowed within 1000 feet of this type of facility

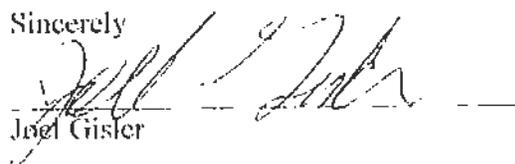
Property is accessed via casement recorded 2002-44020. Easement section 5 provides that any conflict of use shall be dominated by Grantor. Proposed use will conflict with Grantor's use and is, therefore, contrary to easement.

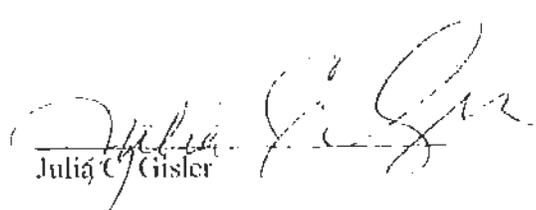
Proposed use is also against Federal Law which creates conflict to Grantor's property where Grantor's property is being used to provide access to an unlawful use which is contrary to language of easement. Proposed use creates a potential adverse impact of property seizure by Federal authorities.

Application incomplete, no current traffic report. Applicant is relying on 2 year old report for a different use. County needs to require current traffic study for proposed uses.

No proof of license OLCC recreational marijuana license. Recent article in Bulletin states OLCC will not process any new applications

Sincerely


Joel Gisler


Julia C. Gisler

Matt Martin

From: Nunzie <nunzie@pacifier.com>
Sent: Monday, July 23, 2018 2:33 PM
To: Matt Martin
Cc: Phil Henderson; Tammy Baney; DC Sheriff
Subject: 247-18-000546-SP, 247-18-000545-CU

Please enter this email into the public record re : 247-18-000546-SP, 247-18-000545-CU regarding a conditional use application for change of use and site plan for a marijuana retail building proposal, farm stand and food cart at 19885 8th Street in rural Tumalo. <<http://dial.deschutes.org/Rcal/Index/133552>> **This application should be denied because it is incomplete, deficient, and inaccurate AND the subject property is within 1000 feet of Tumalo State Park owned by Oregon Park and Recreation Department 161231D004900 which abuts Riverview Avenue on the same side of Highway 20 as the subject property.**

The site plan is incomplete where it does not identify the onsite septic tank, and sand filtration system and the reserve filtration field which shall not be disturbed according to County sanitarian correspondence logged on dial for the subject property. The site plan is incomplete where it does not identify the well on the subject property.

The site plan is incomplete where it does not show distances to Tumalo State Park at Riverview Ave. The Burden of Proof is deficient where it identifies a 'few' residences in the area. The Tumalo Community Plan identifies more than 600 people live in the Tumalo UUC.

If Staff continues to seek approval for the setback exception that applicant seeks which is not identified in the County's land use application cover page 2, then I think that staff is not only inept but completely missing the mark in reviewing land use criteria for marijuana in our rural community. The County's land use application form specifically states "incomplete applications will not be accepted".
<https://weblink.deschutes.org/cdd/DocView.aspx?id_726155&cr=1>

The County should not accept the application or deem it complete **because it is not complete** and the County should stay processing or review of this application until it is complete. Further until it updates it's marijuana regulations which the public has been long waiting for ... and which is moving slower than a snails pace if at all, the County should not continue to process incomplete applications. The 150 day clock should not start until the application is deemed complete and the County identifies that it chooses to review the application. This is a good example where the county CDD is not supporting our development codes and in so doing is burdening the public on being a land use watchdog. This taints the CDD department with bias.

Deschutes County needs to spend monies to update the google aerial that it uses as part of ESRI because your overview acrials are several years out of date so even your personnel who do not get out of their offices or away from their computers wouldn't know the current use or condition of the subject property which is not accurately disclosed in the applicant's submittal and the cover page of the application leaves blank the current use of the property. There is an unpermitted sign facing Hwy 20 on the subject property. The land use notification sign is illegible from highway 20 which is the direction it faces. A person frequenting the farm stand and/or food cart lot would not even know about this application nor to walk toward highway 20 to read the land use notice sign. The notice sign should at the very least be on 8th street.

If this application for a conditional use permit and site plan does get traction within CDD, then it should be heard by a Hearings Officer and the 150 day clock must not start until the application is deemed complete. A traffic study is needed specific to the proposed change in use including retail marijuana in conjunction with farm stand and food cart.

Also, there are no sidewalks within 8 directions of the project: no sidewalks onsite, no sidewalks from the site to 8th street, no sidewalks on 8th street, no sidewalks at cook/8th, no sidewalks on Wharton, no sidewalks on Riverview and no sidewalks on Hwy 20: applicant has a burden of proof to show that pedestrian circulation is safe on, to and from the proposed project. CDD has an obligation to provide orderly development of our community. This proposal is not orderly development in Tumalo.

Further, applicant and staff have not shown the following: that T&E species are not present in Deschutes River or Tumalo Creek; that the well on the subject property has been **abandoned**; that the bottomless sand filter does not perk more than the 450 gallons per day and/ or that floaters and/or boaters on the Deschutes River are protected from a bottomless sand filter septic system. Deschutes County's own property at the Tumalo Swimming Hole is a destination and floaters put in upgradient at Tumalo State Park and float thru to Twin Bridges Road (yes Tumalo has it's own River activities)

Please post a legible site plan because the site plan on page 48 of the BOP cannot be zoomed into with sufficient focus to be able to read the text written in the site plan (sheet notes, occupant load, property analysis etc) legibility to read. zoomed into such that the print can be read. Also the site plan is insufficient to show that all parts of the septic approved system will not be disturbed (no soils are to be disturbed for tank, sand filters or reserve filter areas).

Site compatibility with Rural Tumalo: The assumption that the farm rural nature of Tumalo will be preserved is absurd. The proposed 19' tall marijuana retail structure will block view from Highway 20 of the farm stand which is planned to be relocated: what will be seen is Marijuana retail first, with a back door of the retail marijuana store right next to the food cart.

Staff owes it to the public to get informed about the residential septic that serves this property, and about the conditions for which the food cart lot was established. Staff should also get informed to the relationships between marijuana consumption and pedestrian accidents.

This application should be denied.

Thank you
Nunzie Gould
19845 JW Brown Road
Bend, OR 97701

Matt Martin

From: Nunzie <nunzie@pacifier.com>
Sent: Monday, November 12, 2018 1:34 PM
To: Matt Martin
Subject: testimony regarding 19855 8TH ST, BEND, OR 97703 proposed marijuana dispensary

Hi Matt:

Please enter my testimony emailed to the County earlier today and below into the public record regarding 19855 8TH ST, BEND, OR 97703

I request that the written record be kept open for 1 week following the public hearing on 11/29/2018.

Thanks

Nunzie Gould

Begin forwarded message:

From: Peter Gutowsky <Peter.Gutowsky@deschutes.org>
Date: November 12, 2018 10:38:02 AM PST
To: Nunzie <nunzie@pacifier.com>
Cc: Nick Lelack <Nick.Lelack@deschutes.org>, Matt Martin <Matt.Martin@deschutes.org>
Subject: Re: marijuana dispensary application in Tumalo 19855 8TH ST, BEND, OR 97703

Nunzie,

Matt Martin is the case planner. Please coordinate with him if you want this correspondence in the record. The hearings officer proceeding is 11/29.

Peter Gutowsky
Deschutes County
Sent from my iPhone

On Nov 12, 2018, at 9:48 AM, Nunzie <nunzie@pacifier.com> wrote:

Dear Commissoiners

You may not be aware that accidents continue to pile up in Tumalo at US 20/Tumalo.

See this photo of 2 vehicles loaded on tow truck mid day on clear visibility day on 10-10-2018; the ambulance preceeded to the hospital.

Yes, we added another crash in broad daylight !

It is imperative that you pause and consider exactly which alternative you are planning for to cure our transportation failure in Tumalo and when this fix will be in place.

Additionally it's imperative that you pause to gather relevant information on which County roads will be changed, closed, cul-de-sac'd or dead ended in conjunction with the US 20/Tumalo future.

One example of such a road closure in each of the ODOT US20/Tumalo alternatives is 8th street at Cook. This displaces traffic from Cook onto Wharton Avenue which brings all the traffic from the residential neighborhood along the River to 7th street which will be prevented from crossing Cook, i.e Right turn only, which means that Cook will be severely overloaded; alternatively traffic goes from 8th to Wharton to 5th street (this is the intersection at the Tumalo Store) which will be severely overloaded...

Before CDD is an application for a revised marijuana dispensary at the farmstand off of 8th street.

8th street will be closed at Cook in every one of the 3 ODOT options for US 20/Tumalo. You are currently in public planning process for this and you've spent \$350'000 of our public monies toward this plan. But the PLAN doesn't actually acquire the land for the PLAN. And the PLAN doesn't actually put forward all the millions of dollars needed to engineer or build the intersection at US 20/Tumalo.

Please look at the long range plan such that you don't add short term value to lands only to then have to acquire them for ROW acquisition for the US 20/Tumalo project.

Furthermore, ODOT was previously called the State Highway Department. The State Highway Department had a State Parks Department: in the 1950's the Tumalo Wayside had restrooms on the south side of Highway 20. It was under the State Highway Department that the current ODOT land was acquired on the south side of Highway 20 abutting the current Tumalo State Park. There has and continues to be public recreation on the ODOT land that abutt the east side of the MDU Resources (Cascade Natural Gas) land all the way to the SW corner of US 20 along the Deschutes River: folks run, walk, saunter, picnic, fish as they have for over 60 years on this property.

Most recently the COUNTY applied for grant monies to continue the Tumalo trail from the State Park to downtown Tumalo.

Your review of the marijuana dispensary should be inclusive of the fact that our Tumalo community has worked for Greenprint and trail connectivity between Tumalo State Park and downtown Tumalo.

I suggest you take a walk on our trails to see the stroller wheels, the dog prints and the bike tracks, and the foot prints on State Property: 161231D001300, <<http://dial.deschutes.org/Real/Index/150872>> 161231D004900, and 161231D004901 <<http://dial.deschutes.org/Real/Index/269685>> also on this property all of which are less than the allowed distance from a marijuana dispensary.

You are all into planning. Please get ahead of this.

Tumalo is not the right place for a marijuana dispensary: the land use doesn't fit, the transportation circulation doesn't fit and we have failed US 20/Tumalo intersections.

Marijuana related accidents are on the rise in Colorado and this also relates to accidents with pedestrians...

The accidents in at US 20/Tumalo are astounding : will it be on your watch that the next death occurs?

Thanks
Nunzie Gould

[cid:FF56FDDC-8C4B-427B-B3EA-02D225CC7747@local]
<October 10, 2018 US 20 Bailey accident DSC00141.JPG>

Matt Martin

From: Kris Knoernschild <oaktree2448@gmail.com>
Sent: Tuesday, July 24, 2018 8:43 AM
To: Matt Martin
Subject: Re: Comments re: 247-18-000546-SP, 247-18-000545-CU

Please put me on the list to receive written notices about marijuana operations in Tumalo.
Thanks,
Kris Knoernschild
70 SW Century Drive
Suite 100-457
Bend, OR. 97702

On Jul 24, 2018, at 8:23 AM, Matt Martin <Matt.Martin@deschutes.org> wrote:

Good Morning Kris-

This message serves as confirmation that your comments have been received, will be included in the project record, and considered where applicable. To receive future notices associated with this project, please provide a mailing address.

Thank You,

Matthew Martin, AICP | Associate Planner

DESCHUTES COUNTY COMMUNITY DEVELOPMENT

117 NW Lafayette Avenue | Bend, Oregon 97703

<image001.png> PO Box 6005 | Bend, Oregon 97708

Tel: (541) 330-4620 | www.deschutes.org/cd

<image002.png> <image003.png> <image004.png>

Disclaimer: Please note that the information in this email is an Informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: Kris Knoernschild <oaktree2448@gmail.com>
Sent: Monday, July 23, 2018 5:10 PM
To: Matt Martin <Matt.Martin@deschutes.org>
Subject: Comments re: 247-18-000546-SP, 247-18-000545-CU

Comments re: 247-18-000546-SP, 247-18-000545-CU

Attn: Matt Martin

I urge the CDD to hold a public hearing on the application to allow a marijuana retail operation in the center of Tumalo.

This is an issue that affects the whole Tumalo Community.

I personally think this would be a terrible idea, for a number of reasons.

- 1) Public safety – Added traffic would be horrible as evidenced by the multiple traffic accidents already occurring at the intersection of Cook Street and Highway 20.
- 2) No need – There are already excessive retail outlets in Bend for the sale/purchase of marijuana.
- 3) Close to areas frequented by families with children – The local school, many churches, a popular food outlet (The Bite), and Tumalo State Park are all near this location.
- 4) Not appropriate to the area – The rural residents did not vote to approve use of recreational MJ, and we are already plagued by the grow operations that are all over Tumalo. I wanted to put up a sign on Highway 20 that said: “Welcome to Grow Row, Tumalo”.

Krista Knoernschild

Tumalo, Oregon

Matt Martin

From: Martha McGinnis <martha@themcginnisranch.com>
Sent: Tuesday, July 24, 2018 5:44 AM
To: Matt Martin
Subject: Retail operation

Dear Matt:

As if it were not bad enough that the gorgeous rural area of Tumalo is being inundated with "illegal" grow operations, now a retail operation is being planned for Tumalo.

Not only do we residents NOT want a retail operation in our little village but it is being planned on a VERY dangerous corner (one which has been given special consideration for a light) ...please see your way clear to deny this operation.

Thanking you in advance for your consideration.

Cheers, Tim and Martha McGinnis (64980 Collins Road)

Matt Martin

From: Mark Murzin <murzin@cpa.com>
Sent: Monday, July 23, 2018 5:13 PM
To: Matt Martin
Cc: Tammy Baney; Phil Henderson
Subject: Re: 247-18-000546-SP, 247-18-000545-CU

Please deny this request. The location is less than 1,000 feet from Tumalo State Park for which a waiver is not warranted. It is close to 2 schools, near a proposed new subdivision west of Hwy. 20, and is near The Bite which has children and much traffic, and is not serviced by foot traffic easily. The intersection of Cook and Hwy. 20 already poses a significant traffic danger, which will only worsen. This business and it's clientele is not in line with past ideas as posed in the community plan for Tumalo, and is not consistent with the rural community. Such an application should have a public hearing given its importance in the community, which voted against Measure 91.

Mark Murzin, Tumalo

Matt Martin

From: Pete and Gretchen Pederson <pondhawk2@gmail.com>
Sent: Tuesday, July 24, 2018 3:39 PM
To: Matt Martin
Subject: Tumalo marijuana retail proposal

I was out-of-town until late last night and unaware of the proposal for a marijuana retail site in Tumalo until today. I believe that comments to request a public hearing on this subject were supposed to be sent in by yesterday but will send you a few notes anyway in case I am mistaken. I am opposed to this type of operation for a number of reasons including the following:

Tumalo is a small community that already has considerable congestion and traffic problems.

Tumalo School is right in town and the Cascades Academy is nearby.

Tumalo State Park is adjacent to the community.

This area is populated by rural county residents, and the majority of locals never wanted marijuana legalized in the first place.

Revisions to some marijuana setbacks are currently being considered. If the distance between a marijuana facility and schools/parks is changed, that could influence the legality of this site location.

I believe that many who live in the Tumalo area will oppose this idea.

Sincerely,

Gretchen Pederson

Matt Martin

From: Rob Baxter <rob@baxtersurveying.com>
Sent: Monday, July 23, 2018 4:47 PM
To: Matt Martin
Subject: Proposed marijuana retailer in Tumalo

Dear Mr. Martin,

As a land owner living near Tumalo, we were made aware today that a marijuana store is proposed in Tumalo and that there is no public input.

My wife and I would like to request that a public hearing be held on this issue.

Thanks you. Sincerely,

Rob and Karen Baxter

63555 Johnson Rd.

Bend, OR 97703

541-815-0962

Matt Martin

From: Nita Belles <nita@inourbackyard.org>
Sent: Thursday, August 30, 2018 9:57 AM
To: Matt Martin
Subject: Re: File #247-18-000545-cu File 456SP

Thank you Matt! My mailing address is 65025 Hopper Road, Bend OR 97703

Nita Belles



HUMAN TRAFFICKING
IN OUR BACKYARD

Nita Belles

Executive Director
541-330-4620
117 NW Lafayette Avenue
Bend, Oregon 97703
nita@inourbackyard.org
www.InOurBackyard.org

On Aug 30, 2018, at 8:44 AM, Matt Martin <Matt.Martin@deschutes.org> wrote:

Good Morning Nita-

Your comments will be included in the project and addressed where applicable. To receive future notices, such as notice of public hearing or notice of decision, please provide a mailing address.

I will note that the application was found to be incomplete and additional information was requested. Response to this request is required prior to continuing the review of the proposal.

Matthew Martin, AICP | Associate Planner

DESCHUTES COUNTY COMMUNITY DEVELOPMENT

117 NW Lafayette Avenue | Bend, Oregon 97703

<image001.png>

PO Box 6005 | Bend, Oregon 97708

Tel: (541) 330-4620 | www.deschutes.org/cd

<image002.png> <image003.png> <image004.png>

Disclaimer: Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: Nita Belles <nita@inourbackyard.org>

Sent: Wednesday, August 29, 2018 2:25 PM

To: Matt Martin <Matt.Martin@deschutes.org>

Subject: Fwd: File #247-18-000545-cu File 456SP

Hello Matt -

We spoke a couple of months ago regarding my concerns for a marijuana related business in Tumalo.

As a home owner in the Tumalo area, a person who has a nonprofit in Tumalo and a concerned citizen, I will say I am very opposed to any marijuana related business in our town.

- The clientele are different than other businesses in the area
- Tumalo is small and our K-8th elementary school is close
- We do not want our town to have that kind of a persona

Please put me on any lists of people you are advising regarding this matter.

Thank you for listening,

<image005.png>

Matt Martin

From: Sam and Carolyn Davis <sadaca_2@msn.com>
Sent: Monday, July 23, 2018 10:05 AM
To: Matt Martin
Subject: Request Public Hearing on Proposed MJ Retail in Tumalo

Importance: High

Re: Purposed marijuana retailer 19855 8th street, Tumalo

Matt:

Please consider a public hearing on the proposed MJ retailer in Tumalo. That particular site is on an extremely dangerous intersection feeding out onto Hwy 20. There have been numerous accidents. Heavy traffic comes and goes from Hwy 20, Knife River Company, Tumalo Steak House, The Bite, and the general traffic coming and going to the Shell station. The residents of Tumalo need to be heard on this proposal.

Thank you for your consideration.

Carolyn Davis

Matt Martin

From: Deborah Finck <newfmama@hotmail.com>
Sent: Friday, July 20, 2018 12:36 PM
To: Matt Martin
Subject: Re: Planned Land Use Tumalo

65360 Gerking Market Rd 97703

~Deborah

On Jul 20, 2018, at 12:29 PM, Matt Martin <Matt.Martin@deschutes.org> wrote:

Hi Deborah-

This message serves as confirmation that your comments have been received and included in the project record for consideration. Will you please provide your mailing address? I will then be able to include you in future mailings on the project.

Sincerely,

Matthew Martin, AICP | Associate Planner
DESCHUTES COUNTY COMMUNITY DEVELOPMENT
117 NW Lafayette Avenue | Bend, Oregon 97703
<image001.png> PO Box 6005 | Bend, Oregon 97718
Tel: (541) 330 4620 | www.deschutes.org/
<image002.png> <image003.png> <image004.png>

Disclaimer: Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

-----Original Message-----

From: Deborah Finck <newfmama@hotmail.com>
Sent: Friday, July 20, 2018 12:01 PM
To: Matt Martin <Matt.Martin@deschutes.org>
Subject: Planned Land Use Tumalo

I am vehemently opposed to this proposed land use in Tumalo at Cook Ave & Highway 20. File 247-18-000545-CV/546-SP.

There are two schools in close proximity & a marijuana retail establishment would be a huge enticement to children, etc. There are already more than enough marijuana retailers in the Bend area. The news is reporting a glut of more \$1 Million dollars on products on the shelves.

In addition, this intersection is already overcrowded & I see accidents there on a regular basis. This would unnecessarily increase the traffic here.

I am requesting a hearing so the community can have their voices heard. I would also like to begin a petition to get signatures against this planned land use.

~Deborah Finck
Tumalo

Biteside

247-17-000833-AD

Jeff Paulson and Alissa Paulson

23290 Alfalfa Market Rd.

Bend, OR 97701

11/19/17

Dear Deschutes County Commissioners,

The forever home. That's what we called our house on 23290 Alfalfa Market Rd. The house where my wife and I would grow old together. The house we would raise our two (and maybe more) small children. A little closer to our jobs at the hospital. The house out of town, free from any pollution or other attributes that you would get in a city. A little slower pace, out of the busy and high traffic areas of Bend proper. So many moments, made this place magical for us. We often wake up to see the deer grazing out our window, and our sons enjoy watching them play and frolic as we sip our morning coffee. We enjoyed many a warm summer evening, sitting out on the porch listening as the frogs and crickets say good-bye to the day. It's a slice of heaven.

However, that dream is now being threatened by the grow operation that is ~~literally~~ being put in across the street. From where I sit now, typing this in my living room, I could throw a rock and hit the property which has been purchased for the use of growing and processing marijuana. It's that close.

First of all, I am ~~also~~ shocked that I was not notified about this. I discovered this proposed grow operation almost by accident last night when I was investigating a notice I received about property lines being re-drawn. I think the reason for this was because BRITESIDE OREGON LLC appears to be using the address at the far end of their 120-acre sections at the main address (23450 WALKER RD, BEND, OR 97701) and because I am technically not within 750' of that address, I don't "need" to be notified? It doesn't matter what part of the 120 acres is, as I mentioned, a stone throw's away from my living room. Maybe they have no plans to grow on this section of property...yet. Where does it stop? Every neighbor that I have a spoken with immediately is equally as shocked as I am about both such a facility being built so close...and that we were not notified about it.

The house of our dreams did not include the smell of skunk-like pollution. I will admit that I have never lived next to a marijuana grow operation before, but I have yet to find someone who will testify that they never noticed the smell. It's an issue, and something that simply is not acceptable. I'm sure the application says they will take measures to mitigate the smell, but who will enforce this, and what will we do when the wind shifts and I have to keep the children inside because it smells too strongly outside? Not to mention the power draw it will take to maintain the quality of air at such a facility or the sound this will create.

Our water comes from Sunset Acres Water Co, a nonprofit corporation with a membership of 27 homesites. Sunset Acres Water has been in continuous operation since 1971, however with the significant amount of water that this facility will need, is there a chance of this going dry? Maybe not, if Briteside Oregon is paying to have water trucked in, which I noticed they have mentioned in their application. But, that also brings up waste disposal. Is the on-site septic system acceptable to process all of the chemicals and by-products created by such a facility? I find that hard to believe. Am I going to

have to eventually haul in water myself to fill our house water cistern because the aquifer has become contaminated?

One of the many appeals of living out in the rural area of alfalfa market is the lower traffic then our previous Bend proper home. We wanted to give our children a childhood where our children could play safely outside. This is being jeopardized; do I need to worry about shady people watching our kids play from next door?

There is also a public-school bus stop across the street from us on Alfalfa Market Rd. We had planned on our children using this bus-stop when they were old enough, but now...I don't know how I feel about them waiting out there with such a large potential drug production facility so close by.

We love Bend, truly we were blessed to be able to live here when we moved to the community ten years ago, and still consider ourselves blessed every day. We both work at St. Charles, a pillar of the community, and enjoy being Caregivers there. We have ridden out some of the economic hard times and still love the people here, however this...this isn't Bend. At least it isn't the Bend I thought it was.

Do you have a "forever home" that you live at now or are planning to live at? How would you feel if a marijuana grow was being proposed so close to your home? As commissioners for Deschutes County, you have a responsibility to the people to make a decision that is right for them. Please, I beg of you to take some time and consider this decision. I understand that marijuana is legal now. But, please don't let them grow it close to my house, close to my children.

I object to this growing application and ask that you deny it completely.

Thank you for hearing our concerns.

Respectfully,

Jeff and Alissa Paulson

Petition against marijuana production facility at 23450 Walker Road, Bend, OR 97701

Owner: Brightside Oregon, LLC

File #: 247-17-000833-AD

Land Planning Consultant: Blackmore Planning and Development Services, LLC

From: The Below Signed Citizens of Deschutes County

Date: October 30, 2017

WHEREAS, you are our elected representatives; and

WHEREAS, it is universally accepted the first duty and responsibility of elected representatives is to provide for the safety and security of their constituency; and

WHEREAS, the proposed use would violate public health, safety, welfare, and environmental standards and protections adopted by Deschutes County; and

WHEREAS, the property is adjacent to the Juniper Woodlands Recreation area used by the public for hiking, biking, horseback riding, and hunting; and

WHEREAS, the property is adjacent to COID irrigation canals; and

WHEREAS, under Oregon law, all water is publicly owned; and

WHEREAS, we the public of Deschutes County oppose our water to be used for the growing of marijuana; and

WHEREAS, irrigation districts in Central Oregon have received a federal grant; and

WHEREAS, marijuana growing and cultivation are federally illegal; and

WHEREAS, marijuana growing operations threaten our water availability, natural resources, and endangered species; and

WHEREAS, in 2014, the Oregon spotted frog was listed as threatened under the federal Endangered Species Act, triggering protections for the species in some of Central Oregon's bodies of water; and

WHEREAS, COID is required to meet certain flow levels on the Upper Deschutes River in order to preserve the Oregon spotted frog's habitat,

WHEREAS, per COID, no new amounts of water are available; and

THEREFORE, for the reasons stated above we the undersigned do respectfully request the Deschutes County Commissioners wholly deny this application.

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Owner: Brightside Oregon, LLC

File #: 247-17-000833-AD

Land Planning Consultant: Blackmore Planning and Development Services, LLC

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Signature	Print Name	Address
	Patrick Hughes	62205 Chickadee Ln. Bend
	Penny Hughes	62205 Chickadee Ln. Bend.
	Jan Dacey	62443 Waugh Rd Bend
	Jan Dacey	62443 Waugh Rd Bend
	Warren Roberts	60898 Garrison Dr. Bend
	Lynn Roberts	60898 Garrison Dr. Bend
	Kevin Bishop	61332 Elkhorn St Bend, OR 97702
	Vince Bishop	61332 Elkhorn St, Bend Bend
	Ron Wright	25025 Horse Ridge Franchise 97702
	Karane Wright	25025 Horse Ridge Franchise 97702
	Shawn Marcoulier	2193 Circle Bend, OR
	STEVE CATON	61719 JOAN CT BEND OR
	CHANDON PATARD	21145 BAYOU BEND OR
	Cody Marcoulier	2689 RECORDATA PL Bend
	Kelli Norton	61585 EAST LAKE DR. BEND
	Jesse J Robson	PO BOX 8833 Bend
	Cody Seriff	20200 Caley road, Bend
	Rob Umphress	460 NE BELLEVUE Dr Bend
	SCOTT A SMITH	1161 NW Remarkable Dr
	DON LEAVEY	20613 Redwing Ln
	Brian Doran	20811 Pony Ave. Bend
	DARIN LONES	62687 WAUGH RD, BEND

Signature	Print Name	Address
<i>Susan V. Gregory</i>	SUSAN V Gregory	725 NE Ross Rd Bend OR 97701
<i>Judy Powell Mess</i>	Judy Powell Mess	339 SW Cleveland Ave, Bend OR 97702
<i>Sylvia Henderson</i>	Sylvia HENDERSON	67170 N. Holman Dr Bend, OK 97703
<i>Pamalyann Steinfeld</i>	Pamalyann Steinfeld	18285 Snow Creek Ln Bend OR 97701 97754
<i>Cheryl Price</i>	Cheryl Price	16488 West Rd. Sisters OR
<i>Teresa Pelly</i>	Teresa Pelly	19565 Salmonberry Ct Bend, OR 97702
<i>Jennifer N. Edwards</i>	Jennifer N. Edwards	340 S. Timbercreek Sisters, OR 97759
<i>Ruth Barrios</i>	Ruth Barrios	14584 Bluegrass Ln Sisters OR 97759
<i>Karen Cardin</i>	KAREN CARDIN	69739 W. Meadow Pkwy Sisters OR 97759
<i>Renee Jarvis</i>	Renee Jarvis	70150 Holmes Rd Victoria OR 97754
<i>Pamela Lovgren</i>	Pamela Lovgren	19650 Blue Sky Ln Bend, OR 97702
<i>Rebecca Devereaux</i>	Rebecca Devereaux	1940 Sams Loop #1 Bend OR 97702
<i>Ruth L. Lovgren</i>	Ruth L. Lovgren	31401 SW Lovgren Ave Sisters OR 97759
<i>April K. Johnson</i>	April K. Johnson	11349 SW Reif Rd
<i>Richard C Johnson</i>	Richard C Johnson	11349 SW Reif Rd
<i>Monika E. Piatt</i>	Monika E. Piatt	23095 Alfalfa Mkt Rd Bend
<i>LANCE I Piatt</i>	LANCE I Piatt	23095 Alfalfa Mkt Rd Bend
<i>Tom Jenkins</i>	Tom Jenkins	7048 NE Yellow Ribbon Bend OR 97701
<i>Ron Barry</i>	Ron Barry	69300 LADISO SISTERS
<i>Debbie Bucher</i>	Debbie Bucher	160 S. Oak St #408 Sisters OR 97759
<i>Kathy Maggors</i>	Kathy Maggors	1944 SW 5th St RAMOND OR 97756

Petition against marijuana production facility at 23450 Walker Road, Bend, OR 97701

Owner: Brightside Oregon, LLC

File #: 247-17-000833-AD

Land Planning Consultant: Blackmore Planning and Development Services, LLC

From: The Below Signed Citizens of Deschutes County

Date: October 30, 2017

WHEREAS, you are our elected representatives; and

WHEREAS, it is universally accepted the first duty and responsibility of elected representatives is to provide for the safety and security of their constituency; and

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WHEREAS, we the public of Deschutes County oppose our water to be used for the growing of marijuana; and

WHEREAS, irrigation districts in Central Oregon have received a federal grant; and

WHEREAS, marijuana growing and cultivation are federally illegal; and

WHEREAS, marijuana growing operations threaten our water availability, natural resources, and endangered species; and

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WHEREAS, COID is required to meet certain flow levels on the Upper Deschutes River in order to preserve the Oregon spotted frog's habitat,

WHEREAS, per COID, no new amounts of water are available; and

THEREFORE, for the reasons stated above we the undersigned do respectfully request the Deschutes County Commissioners wholly deny this application.

Signature	Print Name	Address
	Ramona L. Neuman	23042 Donna Ln Bend Or 97701
	Allison Lee	59622 Okanagan Ln. Bend, OR 97702
	Leonardo Hernandez	2015 W. Univ Way Bend OR 97701
	Jon Hayes	20959 Lupine AVE Bend OR 97701
	Charles Whistler	144936 Greenwood Pl Lupine OR 97739
	Jeremiah King	60135 Hopi Rd. Bend OR 97702
	Lisa Rosette	2556 NE Lynda Ln Bend, OR 97701
	Vonda King	21720 Hwy 20 E. Bend, OR 97701
	RICHARD KING	21720 Hwy 20 East Bend OR 97701
	Kristy Hayes	20959 Lupine Av Bend, OR 97701
	Franklin Austin	1930 Nestles Dr. #1028 Bend OR 97701
	Joel Hayes	20959 97701 Lupine Ave
	Elizabeth Valentine	54995 Huntington Rd. Bend OR 97701
	Camille Newman	3138 NE Stonebrook Dr Bend, OR 97701
	Ronald T Dahm	2200 NE Hwy 20 #41 Bend Or 97701
	Roberta L Dahm	2200 NE Hwy 20 #41 Bend Or 97701
	Danny Newman	3138 NE Stonebrook Dr. Bend OR. 97701

Signature	Print Name	Address
	R.F. BOWEN	63055 CARVELLA LN BEND OR 97703
	R Power	20297 SILVERSAGE BEND ORE 97701
	Don Marlar	8828 Bend OR 97701 21339 S. Sterling Dr
	ERIC OLSON	69057 NE 97th
	Melissa R. Barber	19238 Shadowe Rd Bend OR.
	Loren E. HAMMAN	2103 NE Mistletoe Ct Bend OR 97701
	Kaylin Bottles	20920 Juney Ave Bend OR 97701
	PAUL TORNAY	60965 Creekstone Ln, Bend OR 97702
	Jill Tornay	60965 Creekstone Ln, Bend OR 97702
	Kim Hollands	20740 Journey Dr. Bend, OR 97703
	Scott Steinbrecher	1259 NE 2ND St. Bend OR 97701
	Brandon Jegen	7915 W Hwy 126
	Tom Couser	60229 Fall Pine Ave Bend, OR. 97702
	Aaron Murray	784 N.E. Robin Ct Bend OR 97701
	BRENT L. HAMMAN	60292 Tumalo CR Bend OR 97702
	Ricarda Lopez	64626 W. Austin Bend 97703
	Becky Sprague	63825 Pioneer Loop Bend 97701
	Harold AE Davis	736 C AVE Tombona 97701
	Christopher Conant	107 NW St. Helens Bend OR 97701
	DANIEL GILDER	63480 VOGTRD Bend OR 97701
	Don L. Barbour	21530 Barnes Boulevard Bend, OR 97701

Water issues related to marijuana growing operations in Central Oregon

The Oregon spotted frog was listed as threatened under the Endangered Species, in part, due to habitat loss from human activities such as water diversions and dams. The Wickiup and Crane Prairie dams are near and upstream of the remaining breeding areas in the Deschutes basin. The Bureau of Reclamation's operation of the dams inundates and desiccates the Oregon spotted frog habitat, which harms the frog by washing its eggs away or stranding the frog.

Water is a precious resource in Central Oregon. As the documentation below indicates, we are not getting more water, and there is an expected water shortage in the future. The irrigation districts of Central Oregon have recently received a federal grant to assist them in evening out shortfalls and surpluses that have contributed to the Spotted Frog habitat loss. In its "will serve" letter, COID indicates that "Water rights are subject to the laws and rules of the State of Oregon, the ***federal government***, and the policies of the District." Marijuana cultivation is illegal per federal law; therefore, the application should be denied outright. Furthermore, the source of Bend Water Hauling's water is not clear and must be fully determined.

Additionally, the applicant's application indicates in Section 5 that they are not near any streams or lakes near the property. While the property in question is not near a stream *per se*, COID has two irrigation canals that run right up to and serve the property (in addition to a large number of properties in the area). The adjacent BLM land is known as the "Juniper Woodlands Recreation Area"

https://www.blm.gov/or/districts/puneville/recreation/files/juniper_woodlands_map.pdf and is home to many forms of wildlife (deer, elk, hawks, eagles, ducks to name just a few) that use the irrigation canal as a source of water. Groundwater and/or irrigation canal contamination is a very real threat from a marijuana growing operation. The recreation area is used by mountain bikers, hikers, dog walkers, horseback riders, and hunters.

The application shows the waste water is intended for an onsite septic system. From the ODA's website, discharge of industrial wastewater into an onsite septic system is prohibited since these systems are only designed to treat domestic wastewater. DEQ has a regulatory role in managing wastewater from growing operations if it is being discharged into a sanitary sewer system, an onsite septic system, or being discharged directly into a surface water body through a ditch, channel, or pipe. Surface water discharges may require a National Pollutant Discharge Elimination System (NPDES) permit. Again, considering the property's location directly next to two irrigation ditches, the threat of wastewater contamination should prohibit this growing operation.

Please read the following sources to understand how marijuana growing operations threaten our water availability, natural resources, and endangered species.

From COID's website (<http://coid.org/about.us/>):

Overview

Established in 1918, the Central Oregon Irrigation District ("COID") is a Municipal Corporation of the State of Oregon.

The system consists of two main canals: the Pilot Butte Canal, which runs north, through Bend, Redmond and Terrebonne; and the Central Oregon Canal, which runs east, through Bend, Alfalfa and Powell Butte. Both canals divert water from the Deschutes River.

The District provides water for about 45,000 acres within an 180,000 acre area in Central Oregon. More than 700 miles of canals provide agricultural and industrial water to the Terrebonne, Redmond, Bend, Alfalfa and Powell Butte areas. In addition, COID provides water to the City of Redmond and numerous subdivisions; in Bend, many parks and schools receive water through the COID system.

In 1989, COID commissioned and completed the Siphon Power Project. Profits from the power plant will be returned to the District to be used for capital improvements to make our distribution system more efficient.

In addition, the COID is the managing partner in the operation of the 55,000 acre foot Crane Prairie Reservoir, located on the east side of the Central Cascades.

History

The Cascade Mountains provide more than just a scenic backdrop for the people living in Central Oregon. They are at the same time a blessing and a curse. While the mountains block the rains from Central Oregon, they also accumulate a vast reservoir of snow. This snow melts during warmer months to swell the rivers, filling canals, irrigating semi-arid land.

A.M. Drake initiated the first water diversion company in Central Oregon, the Pilot Butte Development Company, that also platted and mapped Bend, Oregon. Prior to any water running, the company was sold to the Deschutes Irrigation & Power Company (D. I. & P.) the precursor of Central Oregon Irrigation Company.

"Free land in Oregon, in the richest grain, fruit and stock section in the world!" was D. I. & P.'s aggressive sales campaign, offering land to settlers for the cost of irrigation. 1904 marked the flow of irrigation water to the first 40 acres of land. By 1924, the local population had grown to 2,000 people with an impressive 28,500 acres under irrigation. Irrigation helped create the city of Bend and helped drive its growth and industrialization to its present levels.

Before any water was diverted from the Deschutes River, appropriations to divert had to be filed with the State of Oregon. The filing had to identify where the diversion would occur and how much water would be diverted. Today, those very same appropriations are still in force.

Water rights were assigned on a first-come, first-serve basis. But the ranch at the start of the canal must conserve and husband the use if there is to be any water for a ranch at the end of the canal. That same philosophy still holds sway today. Clean water is a resource to share and respect.

By 1907, the Central Oregon and Pilot Butte Canals had been constructed. In 1910, as a result of foreclosure and ensuing reorganization, the Central Oregon Irrigation Company was created. On December 17, 1917 the Central Oregon Irrigation Company was turned over to its users who organized the Central Oregon Irrigation District. The transition was not without rancor and was finally resolved by the courts on July 9, 1921.

The construction of canals and dams continued. 1912 saw the completion of the North Canal Dam and connection to the Pilot Butte Canal. To accommodate the need for increased industrial water flow, the Pilot Butte Canal was terminated just north of the town site. The Pilot Butte Canal diversion is a dam located immediately south of the Riverhouse Motel in Bend. The Central Oregon Canal diversion is at the south city limits of Bend.

The District employs patrolmen who oversee the delivery of irrigation water. These patrolmen serve a particular portion of the district, delivering water to users and taking daily water readings.

The Carey Act of August 18, 1894 initiated many of these irrigation projects by authorizing the federal government to contract with the states for land reclamation. The water rights established under the Carey Act were inchoate or temporary until the land was actually irrigated and producing crops. The State decided that as of June 30, 1950 sufficient time had passed to establish the rights as required by the Carey Act. As numerous claims had been made, both by the districts and private parties, it was not until 1958 that the courts finalized the various claims and rights to the Deschutes River water.

Throughout this time, various upgrades were necessary. Wooden flumes were replaced by steel pipes, and mechanical cleaners added to intake screens. In 1938 COID, Crook County Improvement (Lone Pine) District and the Arnold Irrigation District formed a cooperative effort with the federal government to construct a dam at Crane Prairie for winter water storage.

In 1989, after nearly ten years of work, COID completed the Siphon Power Project. This hydroelectric power plant can produce 5.5 megawatts of electricity, which is being sold to Pacific Power. This enables the District to further develop capital improvements to make the distribution system more efficient and upgrade the canal system to benefit the water users.

No new amounts of water are available. Surface water in Central Oregon is a finite resource. The only way additional water will become available to COID's subscribers is through conservation.

The District is very much the product and tool of its subscribers. It provides municipal and industrial irrigation water to over 4,000 accounts and to the Cities of Bend and Redmond. Like any municipal corporation, COID exists solely to serve its constituents and relies on them for its well-being. COID is proud of its partnership in the development of Central Oregon. We all look forward to continued involvement in our future and as part of that we actively support the conservation of all our natural resources.

From Capital Press regarding Oregon Spotted Frog lawsuit

(<http://www.capitalpress.com/Oregon/2016/10/28/oregon-spotted-frog-lawsuit-settled>)

Oregon spotted frog lawsuit settled

Mateusz Perkowski

Capital Press

Published on October 28, 2016 3:38PM

Last changed on October 28, 2016 4:52PM

Environmentalists have agreed to settle a lawsuit that accused Central Oregon irrigators of violating the Endangered Species Act by harming the Oregon spotted frog.

The Center for Biological Diversity and Waterwatch of Oregon filed two complaints against the U.S. Bureau of Reclamation and five irrigation districts — Arnold, Central Oregon, Lone Pine, North Unit and Tumalo — that were consolidated earlier this year.

The environmental groups asked U.S. District Judge Ann Aiken for an injunction that would drastically alter the operation of the Crane Prairie, Wickiup and Crescent Lake reservoirs, which the districts depend on.

In March, Aiken denied that request, holding they did not meet the high burden of proving such an injunction was necessary, which led to months of settlement discussions.

Under the deal submitted to Aiken on Oct. 28, the irrigation districts have agreed to keep minimum flows in the Upper Deschutes River at 100 cubic feet per second in autumn and winter, up from 20 cubic feet per second in some past years.

The increased flow level is intended to provide a more stable water supply for the frogs, which were declared a threatened species in 2014.

The Bureau of Reclamation, which operates the dams that regulate water flows, has also agreed to complete an already-underway "consultation" on irrigation system impacts to Oregon spotted frogs. The irrigation districts formally committed to other changes they've voluntarily implemented this year.

The deal requires approval from Aiken to become final.

Irrigators hope the settlement will give them some breathing room until more permanent plans to conserve water and improve conditions for the frog are implemented.

"It's a step in the right direction. It doesn't solve the long-term problem," said ShanRae Hawkins, spokeswoman for the irrigation districts.

By the time the settlement expires on July 31, 2017, the irrigation districts and the Bureau of Reclamation expect to have completed a "habitat conservation plan" for the frog, which would provide irrigators protection under the Endangered Species Act.

Conservation measures will require heavy investment in piping and lining canals, reducing seepage and allowing water to be distributed more efficiently, she said.

The Tumalo Irrigation District expects the settlement will cause it to forgo 42 percent of the water it stores in Crescent Lake, according to a letter sent to irrigators by Kenneth Rieck, the district manager.

However, if the region experiences an adequate water year over winter, the district should still be able to deliver 70 percent of normal flows, he said.

"This was not an easy choice, but the (district) board believes this settlement is in the best interest of the district," Rieck said.

The Central Oregon Irrigation District voluntary left 35,000 acre-feet of water in the Crane Prairie reservoir this year for frog habitat instead of pulling water for irrigation and reducing the level to about 20,000-25,000 acre-feet, said Craig Horrell, its district manager.

Because the district left all of its stored water in the reservoir, it was forced to reduce deliveries by 20 percent, Horrell said. The district also owns in-stream water rights, which provided water for irrigators.

If the coming winter again results in insufficient water supplies, the district may need to cut deliveries short again in 2017, he said.

In an average water year, though, the settlement terms should not impact deliveries, Horrell said.

Now that the district anticipates more stored water will be released, it can also adjust its management of the reservoirs to mitigate negative effects, he said. "Knowing what we know now, we can plan for it better."

From the DCCB website

(<http://dhhcrrigation.com/uncategorized/uneven-impacts-seen-oregon-spotted-frog-settlement/>):

UNEVEN IMPACTS SEEN IN OREGON SPOTTED FROG SETTLEMENT

Oregon spotted frog habitat is improving in some areas and seasons while degrading in others under a legal settlement in the Deschutes Basin.

Mateusz Ferkowski

Capital Press

Published October 4, 2017

A legal settlement intended to upgrade conditions for the Oregon spotted frog is having uneven impacts on the threatened species' habitat, according to federal biologists.

The agreement was struck last year to resolve a lawsuit between environmental groups, irrigation districts and the federal government over the operation of several dams in the region.

While conditions for the spotted frog improved in portions of the basin during certain seasons, they were degraded in other locations and times under the deal, according to a recent "biological opinion" from the U.S. Fish and Wildlife Service.

"We call this the push-down, pop-up system," said Bridget Moran, field supervisor of the agency's office in Bend, Ore.

In other words, when problems are suppressed in some areas they are aggravated in others due to the complexity of the irrigation system, which relies on water from the Crane Prairie, Wickiup and Crescent Lake reservoirs.

Under the settlement, the amount of water is reduced for growers in five irrigation districts to make more available to the frog, which is protected under the Endangered Species Act.

As reservoirs are drawn down, the water level falls below vegetation that spotted frogs rely upon for breeding and shelter from predators, said Moran.

"It's really about whether the level of flow allows the frogs to access their habitat," she said.

However, retaining water in one part of the system means that it's reduced somewhere else, she said. For example, filling a reservoir requires reducing downstream river flows.

Nonetheless, the Fish and Wildlife Service concluded in its biological opinion that the water regime mandated by the settlement won't jeopardize the frog's continued existence or destroy its habitat.

"On the balance, there is slight improvement, most notably at the Crane Prairie reservoir," which is important because it contains a healthy population of frogs, Moran said.

Moran characterized the legal settlement as the “bridge” to a more comprehensive “habitat conservation plan,” or HCP, for the spotted frog that’s due in 2019. At that point, the current deal is expected to expire.

“It will be many different features but they all build around increasing winter flows over time,” which provides frogs with the opportunity to reach overwinter habitat, she said.

Increased flows will be supplemented with habitat restoration work aimed at returning the system’s rivers to a more natural state.

Over the 70 years of reservoir operations, heavy water flows released from reservoirs during summer have “scarred” river beds, making channels deeper, said Moran. As a result, water doesn’t reach adjacent wetland vegetation, cutting off spotted frogs from habitat.

Meanwhile, what vegetation does grow along river banks is flooded, she said. “It comes up so high, everything gets inundated.”

Habitat restoration work aims to reconnect the river flows with nearby habitat. The HCP will also include control of bull frogs, which predate on spotted frogs and compete for habitat, and treatment of reed canary grass, an invasive species.

Due to a healthy snowpack last winter, the settlement wasn’t seriously damaging to irrigators in 2017, said Ken Rieck, general manager of the Tumalo Irrigation District, a defendant in the case.

On average, the district stands to lose about half the stored water that would usually be available for irrigation due to the agreement, he said. This year, it only lost about 20 percent, but in a “bad year,” the loss could reach 80 percent.

“We really didn’t get the full effect we could have,” Rieck said.

Under the settlement, water that would normally be stored in Crescent Lake for the district’s irrigation system is being redirected into winter stream flows for the spotted frog.

Traditionally, the district lost roughly half of available irrigation water to seepage in unlined canals, Rieck said. Now, it’s installing piping to stop the leakage, allowing more water to be devoted to frog habitat without reducing irrigation supplies as sharply.

“The more pipe we put in the ground, the more of that water we’ll be able to recover,” he said. “Our goal is to be as close to 100 percent efficient in our delivery system as possible and that will be our defense.”

From the Deschutes River Conservancy

(<http://www.deschutesriver.org/blog/category/oregon-spotted-frog/>):

Category : Oregon Spotted Frog

Coalition Program Highlighting Upper Deschutes Flows and Oregon Spotted Frog Draws a Large Crowd

January 26th, 2017

Frogs and flows were the topic of conversation on Tuesday night for a packed house at McMenamins. The [Coalition for the Deschutes](#) hosted a community education program presented by Jason Gritzner of the US Forest Service and Jennifer O'Reilly of the US Department of Fish and Wildlife Services.

Jason Gritzner presented flow and riparian studies from the Upper Deschutes River that span the past 60 years starting from the completion of Crane Prairie and Wickiup Reservoirs. Prior to the construction of Wickiup Dam, flows in the spring-fed Deschutes River varied little between seasons and years. Historically, flows in the summer averaged 730 cubic feet per second (cfs) and dropped to an average of 660 cfs in the winter. Today flows fluctuate dramatically between an average of 1800 cfs in the summer and a minimum of 20 cfs in the winter storage season. This new flow pattern creates significant challenges for a river that was not built for fluctuations, including significant erosion that has resulted in a widening of the channel by about 20% and a straightening of the channel. [This winter, as a result of the Oregon Spotted Frog Coalition's efforts, we've been able to restore some of the lost habitat.](#)

Jennifer O'Reilly informed last night's seminar attendees about the lifecycle, breeding needs and habitat requirements of the Oregon spotted frog. The frog was listed as a Threatened Species in 2014 under the Endangered Species Act. Environmental groups have filed litigation to restore flows in the Upper Deschutes to protect frog habitat. The fluctuations in streamflow resulting from irrigation fulfillment in the summer and storage in the winter have created a difficult environment for the frogs to thrive.

To conclude the evening, Jason Gritzner highlighted the connection between the plight of the Oregon spotted frog and the overall health of the river. Because amphibians are considered an environmental indicator species, a distressed population confirms distress in the overall ecosystem in the Upper Deschutes.

Per the Oregon Spotted Frog and Deschutes Redband Trout and Habitat Remodeling and Riparian Analysis at Two Sites on the Upper Deschutes River

(<https://www.usbr.gov/pn/studies/deschutes/drecologicalassessment.pdf>)

1. (2 – Existing Conditions Summary) The Deschutes River originates at the outflow of Little Lava Lake on the eastern slope of the Cascade Mountains, flows to the south through Crane Prairie Reservoir and Wickiup Reservoir before turning and trending to the northeast through La Pine, Oregon. Extensive spring complexes discharge to the upper Deschutes River upstream from Wickiup Dam. Historically, spring discharge created a hydrologic regime in the upper Deschutes River with considerably less seasonal and year-to-year variation than most other Cascade streams. USBR-owned dams on the Deschutes River create Crane Prairie Reservoir (ca. 1940; 50,000 AF of authorized storage) and Wickiup Reservoir (ca. 1942; 200,000 AF of authorized storage). The reservoirs are operated to store and release water for downstream use by four irrigation districts. Two other irrigation districts divert and distribute upper Deschutes River live flows to their respective patrons. In addition to irrigated agriculture, other water users include municipalities, individual landowners, and recreationalists.
2. (2.1) Alteration of the historical hydrology has allowed basin agriculture and development to flourish, but is also responsible for diminished ecological function in the river corridor.
3. (2.3) Large flow fluctuations over long durations create a zone in which neither aquatic nor riparian species of plants can survive (USFS 1994). In the upper Deschutes River the high, regulated flows of irrigation season coincide with the growing season for streambank vegetation. The high flows during the growing season make the establishment or reestablishment of vegetation an unlikely proposition in the draw down zone (due to being submerged) and hinders one of the primary natural means of stabilizing the river channel. As a result, this zone is mostly devoid of aquatic and riparian vegetation which would otherwise armor the riverbed and banks and is referred to as the draw down zone.

From DBBC website

(<http://dbbcirrigation.com/districts/federal-grant-help-irrigation-districts-share-water/>):

FEDERAL GRANT TO HELP IRRIGATION DISTRICTS SHARE WATER

Study designed to help even shortfalls, surpluses in Deschutes Basin

Bend Bulletin / Stephen Hamway

October 16, 2017

Thanks to aging infrastructure, complicated legal snags and other factors, some of the irrigation districts operating within the Deschutes Basin are falling short of water. However, a grant from the U.S. Bureau of Reclamation should provide a partial solution.

In September, Central Oregon Irrigation District received a \$400,000 grant from the bureau, designed to help irrigation districts set up a comprehensive approach to sharing and loaning water. The Central Oregon Irrigation District project was one of nine chosen in September by the Bureau of Reclamation, which provided a total of \$2.1 million.

Kate Fitzpatrick, program director for the Deschutes River Conservancy, said the \$400,000 grant, which will be matched by the district, would go toward a study that will provide ways to share water between districts legally and effectively, improving on a system that leaves some districts in the basin with a water surplus, and some with significant shortfalls.

"All of the districts are highly motivated to solve this," Fitzpatrick said.

The eight irrigation districts operating in the Deschutes Basin provide water to approximately 150,000 acres of farms, ranches, cities and school districts in Central Oregon, but their water rights are not created equal. Fitzpatrick said COID, headquartered in Redmond, has senior water rights on the Deschutes system and has plenty of water. But more junior right-holders, including North Unit Irrigation District in Madras, are feeling the strain from farmers, municipalities and other water users.

Mike Britton, general manager for North Unit Irrigation District, said the district does fine during wet years, but during dry summers, especially over the last few years, the district has had to cap water for farmers, and draw Wickiup Reservoir down to record lows.

"It's hard to recover from those types of draw-downs," Britton said.

In 2014, the Oregon spotted frog was listed as threatened under the federal Endangered Species Act, triggering protections for the species in some of Central Oregon's bodies of water. Fitzpatrick said the species is found in Crane Prairie Reservoir [where COID draws their water from], to the southwest of Bend, and along the Deschutes River between Wickiup Reservoir and Bend, and requires specific water needs. The district draws much of its water from Wickiup, but a recent legal settlement involving the species requires the districts to meet certain flow levels on the Upper Deschutes River.

Ultimately, this means there's a significant gap between the supply of water and the demand for it. A 2013 study cited in the application predicts a shortage of 230,000 acre-feet of water by 2050.

Fitzpatrick said the Deschutes River Conservancy is collaborating with the irrigation districts and other stakeholders on a comprehensive study examining the future of the Deschutes Basin, which will include water sharing, piping along canals and other factors. However, the study will not be complete until May 2018.

In the meantime, Fitzpatrick said that providing a way for districts to share water could go a long way toward offsetting this shortfall. One aspect of the planning process involves finding cost-effective ways to move water from irrigation districts with senior rights to those with more junior rights. Shon Rae, who handles business development for COID, estimated that the district has around 135,000 acre-feet of marketable water available, from users with a surplus as well as correctable water loss from the existing system.

While Fitzpatrick said the irrigation districts have a long history of loaning water back and forth, state and federal water laws present barriers to doing so more regularly. The study funded by the Bureau of Reclamation grant could provide a framework for doing so more regularly.

Going forward, the districts will be planning ways to involve the public in the process near the start of 2018, working with residents and water-users to find better ways to distribute water between the various districts.

"We're a unique basin," Fitzpatrick said.



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Prineville District Office
3050 NE 3rd Street
Prineville, Oregon 97754



DEC 14 2017

In Reply Refer To:
2800 (ORP000)

CERTIFIED MAIL – 7016 1370 0001 9361 6951
Return Receipt Requested

Anthony Raguine
Deschutes County Planning Division
Bend, OR 97708

Dear Mr. Raguine:

The Bureau of Land Management (BLM) Prineville District Office provides the below comments regarding a marijuana production proposal off Walker Road near the Juniper Woodlands Recreation Area application file number 247-17-000833-AD.

Upon recent review of the project area BLM does have concern on a number of issues regarding this proposal. In response to question 8.c of the application, the applicant indicates that the access is via a private road across private property. A recent review of the property boundaries along Walker Road, as depicted in the Deschutes county property information website (<https://dial.deschutes.org/Real/InteractiveMap/106922>), indicates that the road may dip south off of the applicants parcel onto public lands. The applicant has not requested or received consent from the BLM to use this access route. BLM requests that a survey be completed to establish that the access road is not on public land.

Second, the location of the project area is very close to the Juniper Woodlands Recreation Area boundary. BLM recommends that the applicant have a boundary survey of the parcel conducted to ensure no unintentional future trespass onto public lands occurs. Additionally, the BLM has concerns over the use of pesticides and herbicides and chemical residue migration onto public lands. It is requested that if chemical are used in the operation, that protocols are required to ensure that chemical residue is contained and does not migrate onto public lands.

If you have any questions on these information requests, please contact April Rabuck, Acting Assistant Field Manager Lands and Minerals at (541) 416-6853.

Sincerely,

Dennis C. Teitzel
District Manager, Prineville District Office

RECEIVED
BY: ASR

DEC 10 2017

DELIVERED BY:



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Prineville District Office
3050 NE 3rd Street
Prineville, Oregon 97754

JUL 10 2018

In Reply Refer To:
2000/2800(ORP060)

CERTIFIED MAIL – 7017 3380 0000 1219 6855
RETURN RECEIPT REQUESTED

Anthony Raguine
Deschutes County Planning Division
117 NW Lafayette Avenue
Bend, OR 97708

Dear Mr. Raguine:

Since December 2017 our office has sent you two letters regarding applications filed with Deschutes County for marijuana production facilities. The two cases were application file numbers 247-18-000047-AD (located at 6829 NW 66th Street in Redmond) and 247-17-000833-AD (located off Walker Road near the Juniper Woodlands Recreation area). In those letters, our office stated that, upon review of the applications, access to each of the proposed project areas would or could involve crossing federal public lands managed by the Bureau of Land Management (BLM). We further expressed our concern that, if either applicant chose to access its project area by travelling on or across BLM lands, in light of the nature of the proposed production facilities at issue, such activity would very likely involve transporting controlled substances across federal lands in violation of federal law. Given our concern in this regard, the BLM recommended that boundary surveys of portions of the project areas where they abutted public lands be conducted to ensure against this outcome as well as other unintentional future trespass. We also noted our concerns over the potential use of pesticides or herbicides in connection with the proposed production facilities, and asked that the County require protocols be adopted to ensure that chemical residue from such use be contained and not migrate onto public lands.

In June of this year, Nicole Mardell from your office reached out to Jeff Kitchens, BLM Deschutes Field Manager, to gain additional clarification on our Agency's concerns related to access and proximity to public lands for a hearing on case 247-18-000047-AD. In response, we sent the following information in an email to Nicole on July 2nd:

- Although BLM is aware that Oregon has enacted laws permitting various types of activities related to marijuana, it remains classified by Congress as a schedule 1 drug/controlled substance under the federal Controlled Substances Act (CSA).
- Under the CSA, it is "unlawful for any person knowingly or intentionally to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense a controlled substance."
- As a result, the BLM cannot permit activities on public lands that will violate, or pose a reasonable likelihood of violating, the CSA. This includes issuing a right-of-way (ROW) that would be used for commercial activities associated with federal illicit substances such as marijuana.

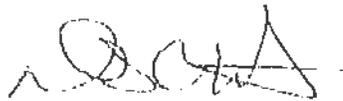
We also reiterated the following: Access across public lands for commercial purposes (which would include access for the proposed marijuana production facilities) requires a ROW grant issued by the BLM. Additionally, it is our understanding based on our review of the applications at issue that the nature of the proposed production facilities and the current routes that exist for access to them could very likely result in transportation of controlled substances across federal lands in violation of federal law, as explained above

In conclusion, then, although we are not certain as to the actual route(s) (existing or otherwise) that either applicant intends to use to access their proposed production facilities, in the interest of fairness and transparency we want to put the County and both applicants on notice that, to the extent any such route(s) would traverse public lands, doing so would violate federal law and BLM would therefore be unable and unwilling to grant a ROW to legally permit such access. Furthermore, it is a standard for our agency to ensure all ROW holders comply with the regulations of State, Borough and Municipal laws, ordinances, or regulations, which are applicable to the area or operations covered by a grant. We respectfully ask the county to consider the same in regard to the federal regulations of the Department of the Interior when issuing a permit.

We are now following up by submitting our views on these matters in a formal letter for the record, both for the hearing that occurred on July 2nd, 2018, on case 247-18-000047-AD, as well as for the hearing occurring on July 11th, 2018, on case 247-17-000833-AD.

If you have any further questions, please feel free to contact Jeff Kitchens, Field Manager, Deschutes Field Office at (541) 416-6766.

Sincerely,



Dennis C. Teitzel
District Manager, Prineville District Office

cc:

CERTIFIED MAIL – 7017 3380 0000 1219 6848
Brett Riehwin
Cascade Estate Farms, LLC.
6829 NW 66th Street
Redmond, OR 97756

CERTIFIED MAIL – 7017 3380 0000 1219 6831
Briteside Oregon, LLC.
832 Georgia Ave #510
Chattanooga, TN 37402

Anthony Raguine

From: KC Burk <kc@northwestbelt.com>
Sent: Wednesday, November 1, 2017 1:04 PM
To: Anthony Raguine
Cc: William Groves; Peter Russell; kcburk@mindspring.com; KC Burk
Subject: Deschutes County proposed land use action for marijuana production, comments on file number 247-17-000833-AD

I, Keith C. Burk and my wife Valeisha R. Burk are the landowners and residents at 23367 Alfalfa Market Rd. Bend 97701. This email will serve as our official, initial comments on the proposed land use action by Brideside Oregon LLC to produce and cultivate marijuana right behind on the property directly south of our dwelling.

We are 100 percent opposed to the production of marijuana on the neighboring property. Here is a listing of our main concerns, but is not the limit of our concerns by any means:

1. Property Value - Being the closest neighboring property to the pot farm, our property loses significant value of at least \$500,000.00 but not limited to that amount. A good majority of potential buyers for a property like ours quite simply will not consider purchasing so close to drug production and distribution. Significantly lower potential buyers, on an already unique and valuable property means a very significant drop in real value.
2. Quality of Life – Pot farms are notorious for strong skunk-like odors that can give local residents headaches and make it impossible to go outside and enjoy anything. Noise from construction, fans, processing equipment, highly increased traffic etc. significantly decrease the peace and quiet that come with living in a rural, farming neighborhood like ours. Use of grow lights can significantly change the night sky as well. The applicant has been performing significant construction over the last few months already, operating very large rock hammers, a rock crusher, impactors, blasting with dynamite, excessive dust, etc.
3. Well water- the applicant will be using a significant amount of underground water, we are very concerned about how that will affect the availability and quality of our well water supply.
4. Morality of drug production – Marijuana use and profiting from the sale of an addictive, life ruining substance are very morally wrong. **Deschutes County will be violating our family's religious freedom right** by forcing us to live next to such a morally wrong business.
5. Our Family – We have three teenage boys that we have spent years trying to protect and raise to be healthy, positive contributors to society; only an idiot would want their family to be living so close to 20,000 SF of pot plants.
6. Community safety – these drug businesses attract criminals and desperate people, which will only increase crime and decrease safety in our neighborhood.

This is a short listing of our major concerns. We are very much against being forced by the county to live next to such a despicable, greedy business. We have seen marijuana use destroy many lives in our lifetime. The state and county should handle these operations more carefully and probably should completely take over all of the production and distribution at the state level. Controlling the industry and production more will get us away from destroying so much of the traditional rural neighborhoods.

K.C. and Valeisha Burk
11/01/17

Tracy Griffin

From: Northwest Belt <kcburk@mindspring.com>
Sent: Tuesday, July 17, 2018 4:20 PM
To: Anthony Raguine
Cc: kcburk@mindspring.com
Subject: Briteside Walker Road CUP appeal
Attachments: Briteside 7 17 18.docx; USAOR- Marijuana Enforcement Priorities-Final (1).pdf

Mr. Raguine,

Attached is our letter with concerns in opposition of the proposed marijuana production behind our house. Also is the letter from US Dist Att. Billy J Williams regarding enforcement of federal laws in Oregon - specifically the last paragraph is most applicable to land use issues and BLM proximity as well:

Priority 5: Protecting Federal Lands, Natural Resources, & Oregon's Environment We will prioritize enforcement of federal marijuana violations that have serious adverse effects on federal land or natural resources, including water, air, and listed species. The United States has a fundamental interest in protecting its property and natural resources. This priority also reflects the appreciation Oregonians share for our public lands, and our longstanding dedication to its appropriate conservation for current and future generations. Examples falling within this priority include cultivating marijuana on federally managed lands, using unlawful pesticides that pose a threat to human health, wildlife, and our environment, or using large amounts of water for grow operations without proper authorization. Oregon's livability transcends the interests of any one industry.

Thank you -
The Burks

July 17, 2018

Anthony Raguine – Senior Planner

Deschutes County Board of Commissioners

247-18-000424-A (247-17-000833-AD)– written arguments against

Our property address is 23367 Alfalfa Market Rd. – Taxlot 171327-C0-00100, our residence is the closest to the location of the proposed marijuana production facility. We strongly oppose the approval and usage of this property for marijuana production.

We are very concerned by the behavior of Briteside Oregon LLC since they purchased the property last year. They very quickly began blasting, rock hammering and crushing operations, followed by drilling of a very deep well that taps into our ground water for their production purposes. The mining operations left a large mountain of dusty gravel in the center of the property, with plans to spread a 6 acre pad for building production. The fact that Briteside constructed a production building violating required setbacks even before having approval for marijuana production is very concerning. This setback violation must be rectified before any approval moves forward. There has been absolutely no property maintenance of the grounds, what has been green hay pastures for several years has now turned into a tremendous fire hazard of 3 ft tall dead grass and dust. This property is an investment for industrial production and distribution, the investment group has shown it is only focused on profits and does not care about those of us that actually live here. Because of the behaviors of the last year, we have no reason to believe that Briteside will be diligent in its efforts to mitigate odor, noise, lighting, dust, etc. The fact that no actual representative of Briteside itself was at the hearing on July 11th shows their lack of concern for the residents of our county.

Here is a condensed list of the major issues that must be considered for the approval of this CUP, and at the very least be handled by conditions of approval:

- Water usage – there should be no usage of groundwater from the well(s) at any time of the year for production of marijuana. Growing 20,000 SF of highest potency marijuana requires an extremely large amount of water to flush the plants regularly. Briteside's attorney July 11th stated they did not need to use groundwater (5:46:20 mark on the video of hearing), so please make sure they do not use well water for this production. The county should also use a meter or another way of tracking any well water use on the property to ensure compliance. This groundwater is for existing single family residences in the area. COID water is allowed for beneficial use based on the acreage covered, which will be less than half acre as stated in the hearing. Also COID water is only available April through October each year. The usage of water from COID and Bend Water hauling needs to be proven legal before final approval of the CUP.
- Property values – perception is reality. Even if the operation becomes the cleanest, best neighbor ever type of facility, our property values will go down with this approval. The pool of prospective buyers decreases dramatically with the paradigm of horrors related to living next to a pot grower.
- Odor – a proven plan for eliminating odor must be in place prior to final approval. As stated in the hearing, carbon filtering does not work. Briteside must prove that ours and other's properties in the area will not be trespassed by any odors.
- Access road and BLM land issues must be sorted out and clear before approval.
- Noise – Concrete walls are not sufficient, there must be a better plan for capturing noise and keeping it from affecting surrounding properties.

- Lighting – no visible lighting from production operations during dark hours, especially grow lights that effect the night sky. Deschutes County should have access to all electric usage records to help monitor lighting. The average marijuana growing operation uses 18 hours of lighting, wether natural or artificial, to maximize production.
- Farming - Require the property owner return to fully irrigating and maintaining the fields with greenery instead of letting it die and endangering their COID water rights. There are many ways they could beneficially use that 30 plus acres with traditional, non-THC crop production and/or livestock raising. Briteside's attorney stated on July 11th that they would be willing to do this (5:47:00 on the video of hearing), so make it condition of approval at the least.
- Waste – Briteside needs to present a comprehensive, detailed plan for legally and safely handling pesticides and residues from pesticides, waste water from production, and waste from production. The introduction of all of these new toxins in our area is of great concern to our community and we need assurance that it will not affect our health and safety.
- Employees/traffic- As with all CUP's in Deschutes County. There needs to be a reasonable limit on the number of employees and daily business related trips to and from the property. Briteside needs to provide the county with detailed, comprehensive explanation of the anticipated employee and shipping activities it intends to use with this operation. Included must be maximum limits of employees based on seasonal activities related with growing and harvesting/trimming.
- Overproduction – the overproduction of marijuana in Oregon and the subsequent black market activities are a major concern for all Oregonians. This has resulted in an increase in criminal activity all over the state. We are very concerned about the security issues these production facilities bring with them.
- Complaints – our neighborhood will very closely monitor activities on any approved marijuana production facility. This will further increase workload for Code Enforcement and DCSO due to the inevitable odor, noise, lighting, waste handling, traffic, water useage issues, etc..

Thank you for considering our very real, and troubling concerns. We ask in closing hthat you help us to preserve our rural residential lands in Deschutes County by rejecting further approval of this CUP.

K.C. and Valeisha Burk

PORTLAND MAIN OFFICE
1000 SW Third Avenue, Suite 600
Portland, Oregon 97204
(503) 727-1000
www.usdoj.gov/usao/or



EUGENE BRANCH
405 E 8th Avenue, Suite 2400
Eugene, Oregon 97401
(541) 465-6771

Billy J. Williams
United States Attorney
Bill.Williams@usdoj.gov
(503) 727-1000
Reply to Portland Office

U.S. DEPARTMENT OF JUSTICE
United States Attorney's Office
District of Oregon
Billy J. Williams, United States Attorney

MEDFORD BRANCH
310 West Sixth Street
Medford, Oregon 97501
(541) 776-3564

May 18, 2018

FROM: THE UNITED STATES ATTORNEY FOR THE DISTRICT OF OREGON

SUBJECT: PRIORITIES IN ENFORCEMENT OF FEDERAL LAWS INVOLVING MARIJUANA IN THE DISTRICT OF OREGON

On January 4, 2018, Attorney General Jefferson Sessions, III, rescinded previous Justice Department guidance related to enforcement of federal marijuana laws. U.S. Attorneys around the country were instructed to determine marijuana enforcement policy in light of the specific circumstances in their individual districts. Because Oregon, under state law, previously legalized marijuana, this change raised questions regarding how our District intended to exercise its discretion in marijuana enforcement under the federal Controlled Substances Act. That act prohibits the cultivation, possession, and distribution of marijuana.

In response, and to provide an opportunity to hear and learn from the diverse range of Oregonian viewpoints, I convened a Marijuana Summit on February 2, 2018. The summit was attended by more than 130 people from nearly 70 organizations and represented a wide cross-section of interests and perspectives bearing on federal marijuana enforcement in our state. Among those in attendance were the Governor of Oregon, representatives from 14 U.S. Attorney's Offices, and Oregon congressional delegation staff. The Summit featured presentations by State officials, including the Governor's Marijuana Policy Advisor and Criminal Justice Commission, as well as representatives of the Association of Oregon Counties, Oregon-Idaho High-Intensity Drug Trafficking Area (HIDTA), Federal Bureau of Investigation, Drug Enforcement Administration, Oregon Cannabis Association, affected landowners, banking industry, medical community, and leadership from tribal nations.

Although the views expressed at the Summit were often divergent, the group found consensus in three principal areas. First, there is urgent need for more comprehensive and accurate data on the scope and effect of marijuana production and distribution in Oregon. Second, too few resources are devoted to enforcement and oversight of the State's marijuana regulatory regime. Third, there can be no doubt that there is significant overproduction of marijuana in Oregon. As a result, a thriving black market is exporting marijuana across the country, including to states that have not legalized marijuana under their state laws.

PRIORITIES IN ENFORCEMENT OF FEDERAL LAWS INVOLVING MARIJUANA
IN THE DISTRICT OF OREGON

Page 2

May 18, 2018

Overarching Principles

As the primary federal law enforcement official in Oregon, I will not make broad proclamations of blanket immunity from prosecution to those who violate federal law. When I became the U.S. Attorney for this District, I swore to uphold the rule of law in this state, and I take that responsibility extremely seriously; indeed, all of my actions in this job derive from that solemn pledge. The U.S. Constitution is the source for the rule of law in our nation, and two of its bedrock principles direct my deliberations on this subject. The first is that federal law is the supreme law of the land. Second, Congress determines the content of that federal law. The fact that a State may pass a law that conflicts with, or reflects a different policy from federal law cannot nullify these principles or shield an activity from federal prosecution regardless of whether the substance of the law addresses marijuana, environmental protection, or any other subject.

At the same time, our office's resources are finite. By necessity, we must use appropriate discretion before prosecuting any federal case. This has several implications for purposes of the present guidance. It means, for example, that we will strategically consider and use available civil law enforcement mechanisms in conjunction with or as an alternative to criminal prosecution in appropriate cases. Such options include asset forfeiture, civil litigation, and administrative enforcement. Next, we will continue to efficiently leverage federal resources by closely coordinating with our partners in state, tribal, and local governments around the state. As an example, our office is currently participating with the Oregon State Police's Northwest and Southwest Regional Marijuana Teams and we regularly confer with local law enforcement agencies around the state to address and support their marijuana enforcement concerns. Lastly, it means we will focus our enforcement efforts on federal violations implicating one or more of the priority elements of this guidance.

Finally, consistent with the Attorney General's direction, we will apply this guidance in a manner consistent with well-established principles the Justice Department and our office has employed for many years. As noted in the Attorney General's memorandum, these principles include "federal law enforcement priorities set by the Attorney General, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community." Such principles ensure that enforcement of federal law is fair, equally administered, and not influenced by any personal biases or feelings that any of our Assistant U.S. Attorneys or I may have about particular laws, including those involving marijuana.

PRIORITIES IN ENFORCEMENT OF FEDERAL LAWS INVOLVING MARIJUANA IN THE DISTRICT OF OREGON

Page 3

May 18, 2018

Five Federal Enforcement Priorities

The Importance of Effective Partnerships

As a preliminary matter, I am fully committed to continuing the long tradition in Oregon of carrying out law enforcement in close coordination with our partners at the State, Tribal, and local levels, including all Oregon Sheriffs and municipal police departments. I am committed to working in coordination with Oregon officials to address the issues the state marijuana law has engendered. I am encouraged that the Oregon Legislature recently enacted SB1544. That legislation establishes an Illegal Marijuana Market Enforcement Grant Program to help local governments and their law enforcement agencies combat unlawful marijuana cultivation with \$9 million in state funding over the next six years. We will also continue to leverage federal resources in conjunction with those of our state, tribal, and local law enforcement partners to achieve the most efficient results possible using the latest and best data. At the same time, however, and especially to the extent major enforcement or state regulatory oversight gaps persist, we will not hesitate to act as the law and facts warrant. In so doing, we will focus our resources primarily on situations involving one or more of the following priorities

Priority 1: Overproduction and Interstate Trafficking

We will prioritize enforcement of federal marijuana violations that have national or interstate implications, particularly when the Oregon-based criminal activity adversely affects states that have not legalized marijuana. This will be a top priority until overproduction that feeds exportation of marijuana across Oregon's borders stops. Notably, since broader legalization took effect in 2015, large quantities of marijuana from Oregon have been seized in 30 states, most of which continue to prohibit marijuana.

Priority 2: Protecting Oregon's Children

We will prioritize enforcement of federal marijuana violations that threaten public health, with particular emphasis on the access to marijuana by minors. This priority is consistent with state law, which strictly limits marijuana use to those 21 years of age and older. More can and must be done to ensure that both state and federal law are upheld in this regard, and I look forward to working with the Governor and our state law enforcement partners to ensure this occurs. The need to gather more data is particularly acute on this front, as numerous educational and social-services officials report significant increases in use by young people in their communities. We can, and must, do better by our youth.

PRIORITIES IN ENFORCEMENT OF FEDERAL LAWS INVOLVING MARIJUANA IN THE DISTRICT OF OREGON

Page 4

May 18, 2018

Priority 3: Violence, Firearms, or other Public Safety Threats

We will prioritize enforcement of federal marijuana violations that involve or pose a substantial risk of violence or other threats to public safety in our communities, especially those involving firearms. During the Summit, I heard landowners describe feeling intimidated by marijuana producers, some of whom were armed. Federal marijuana violations associated with violence are of particular concern given that the protection of public safety is our paramount objective. Another public safety concern is the illegal manufacture of butane hash oil resulting in dangerous explosions and fires. Federal prosecutors throughout the district will continue to bring appropriate cases under federal law that fall within these public safety concerns.

Priority 4: Organized Crime

We will prioritize enforcement of federal marijuana violations that serve to fuel other criminal activity, especially through racketeering and the involvement of organized crime. Regardless of the underlying criminal offense involved, groups acting in concert to violate the law on an ongoing basis pose a particularly grave threat to the communities in which they operate. This includes not only violent crimes, but also non-violent criminal activity, such as federal income tax evasion or systematic money laundering to evade detection of illegal proceeds.

Priority 5: Protecting Federal Lands, Natural Resources, & Oregon's Environment

We will prioritize enforcement of federal marijuana violations that have serious adverse effects on federal land or natural resources, including water, air, and listed species. The United States has a fundamental interest in protecting its property and natural resources. This priority also reflects the appreciation Oregonians share for our public lands, and our longstanding dedication to its appropriate conservation for current and future generations. Examples falling within this priority include cultivating marijuana on federally managed lands, using unlawful pesticides that pose a threat to human health, wildlife, and our environment, or using large amounts of water for grow operations without proper authorization. Oregon's livability transcends the interests of any one industry.

Tracy Griffin

From: KC Burk <kcburk@mindspring.com>
Sent: Monday, July 23, 2018 4:52 PM
To: Anthony Raguine
Cc: kcburk@mindspring.com
Subject: Response to letter from S Ritter 7-17-2018 - File no. 247-17-000833-AD RE: Briteside Walker Rd.

Mr. Raguine,

In response to section 5 – “Improper waste disposal” from Ms Ritter’s email, I would like to explain the following public health threat posed by improper waste disposal at this operation:

All of the water that feeds Mayfield pond flows onto and through the actual 40 acre lot at 23450 Walker Rd., the same lot of the proposed Briteside marijuana production facility. Mayfield pond is a large body of water, heavily used by the public for recreation, swimming, fishing, drinking by campers and transients. It is part of the B.L.M. managed Mayfield Pond Recreation Area of 19,500 acres. It is around 1 mile downstream from the Briteside property. The canal that feeds Mayfield pond actually flows through the property for several hundred feet in the SE corner. The overflow for the Briteside irrigation pond ties also back into the Mayfield canal.

B.L.M. requested twice in letters dated 12/14/2017 and 07/10/2018 that Deschutes County “require protocols be adopted to ensure chemical residue be contained and not migrate onto public lands.” So far, as Ms. Ritter stated, Briteside has only said they will have “secured waste receptacles”, with no further details of handling waste. The possibility of toxic chemicals and waste from this operation finding their way to Mayfield pond is highly likely. This is a public health risk that must not be taken and therefore the application should be denied on these grounds.

Thank you –

KC Burk

Anthony Raguine

From: Jan Davey <jdaveyoregonhomes@gmail.com>
Sent: Thursday, November 2, 2017 2:22 PM
To: Anthony Raguine
Subject: Re: File # 247-17-000833-AD

Jan & Jerome Davey
62443 Waugh Rd.
Bend, OR 97701

Thank you.

*Jun Davey, PC, ABR, GRI
Davey - Bishop Home Selling Team
Fred Real Estate Group
Broker Licensed in the State of Oregon*

Jun's Cell: 541-390-1609

<http://www.stagetosellbend.com/>

On Thu, Nov 2, 2017 at 2:12 PM, Anthony Raguine <Anthony.Raguine@deschutes.org> wrote:

Thank you for your comments Jan and Jerome. I've added your email and letter into the record. If you would like to be notified of any land use decision related to this matter, please provide a mailing address.

Anthony Raguine

Senior Planner

Deschutes County Community Development Department

117 NW Lafayette Avenue

Bend, OR 97701

(541) 617-4739

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: Jan Davey [mailto:jdaveyoregonhomes@gmail.com]
Sent: Wednesday, November 1, 2017 4:30 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>; Tammy Baney <Tammy.Baney@deschutes.org>; Phil Henderson <Phil.Henderson@deschutes.org>; Tony DeBone <Tony.DeBone@deschutes.org>
Subject: File # 247-17-000833-AD

Please add the attached letter to the file.

I hope you actually read these letters and not just stick them in the file and not read what our concerns are.

Jan Davey

and Jerome Davey

Jerome's Cell: 541-390-1527

Jan's Cell: 541-390-1609

November 1, 2017

TO: Deschutes County Board of County Commissioners

Anthony Raguire, Tammy Baney, Phil Henderson, Tony DeBone

PLEASE ADD THIS LETTER TO THE FILE: File #247-17-833-AD

Dear Deschutes County Commissioners:

Our names are Jerome Davey and Jan Davey and we live at 62443 Waugh Road, close to several proposed marijuana grow operations. We moved into our home, which we built, in 2008 but we have lived in Bend for 25 years. We love our home and the country setting. This is the home where our family comes to enjoy holidays, summer and winter activities. At least 3-4 times a week we will have grandchildren and great nieces and nephews at our home. Our property is zoned R10 and it is a 5-acre parcel.

We have come to as many hearings as we could. We both work but, it has been important enough for us to be there to voice our concerns and for you to see the real people, real faces of those of us this is impacting with your decision to allow grow operations in Deschutes County. No other county approved this. Why did you make this decision without going to the people?

Surrounded by smaller parcels with children

The properties that are being considered are near smaller lots with families who have small children who are either living on the property or who are regular visitors to the property. In our opinion the areas being considered are not appropriate areas for grow operations. How many of these applications are you going to consider? How many grow operations will be enough? If you are going to allow more and more of these operations, you need to put them in a place where they are not affecting families. What are you turning Bend into? Not what I have come to love about Bend.

Odor

I want to address the odor issue because as a realtor I am seeing more and more buyers avoid properties that are in proximity to a marijuana growing operation. Their concerns are not only the criminal element the operation might bring, but the odor these operations cause has been an issue in other areas. This property, because it is surrounded by smaller parcels, seems to show that it is predictable that odor will be an issue; there just isn't enough separation from families surrounding the property.

When I went online to the County website, the regulations listed include requirements which marijuana growing operations must abide by with regard to timing of lights, fans, and odor controls, to name a few.

I know that Lane County has been having a real issue with complaints from families living near marijuana growing operations; and an article last year in the *Register-Guard* gives us a pretty good indication that we need assurances that regulations can be enforced.

Lane County Commissioner Jay Bozeivich says more needs to be done to make sure the odors of marijuana growing operations don't interfere with Lane County homeowners' quality of living. **"This high impact and sometimes dangerous commercial activity needs to be limited in residential setting."** I have met with people locally who have marijuana operations next to their properties and it is a living hell. The smell is so bad during harvesting they cannot open their windows and even with the windows closed it still stinks up their house. They have multiple complaints into the county and all have been ignored.

My question to the board is, since it is predictable that odor will affect the quality of life for citizens in the surrounding smaller parcels, how are you going to handle compliance from this grow operation? What assurances can you give surrounding homeowners? Finally, who will enforce and what is our recourse if odor becomes an issue and does affect our quality of life? Stories from other citizens in this county reveal that despite numerous complaints, no enforcement is happening.

I think that you need to consider this before approving any new applications.

Marijuana waste disposal—liquids and solids

The Commissioners need to let us know who is making sure this waste is disposed of in a proper manner. For example, Washington's marijuana laws state:

- (1) Solid and liquid wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.
- (2) Wastewater generated during marijuana production and processing must be disposed of in compliance with applicable state and local laws and regulations.
- (3) Wastes from the production and processing of marijuana plants must be evaluated against the state's dangerous waste regulations (chapter 173-303 WAC) to determine if those wastes designate as dangerous waste.

What environmental impact studies have been done by the State of Oregon to properly designate marijuana waste and its disposal thereof? Bend likes to tout itself as an environmentally friendly/conscious place to live and visit. Do we stand by our values of our commitment to the environment and providing healthy living for our citizens?

Losing Bend

Finally, my comment is that as Commissioners for Deschutes County you have a responsibility to your community, to your voters, and to all citizens to take the time to make this pivotal decision in a thoughtful manner and not rush to get it over with. We expect strict regulations to be set and enforced to ensure that Bend and surrounding areas will remain the family-friendly area that it is; we do not welcome "legal cartels" in this community.

Did you know that the area is producing more marijuana than it sells locally and legally? What is happening to the excess? It is being taken out of state for the black market in states where marijuana is still illegal. The OLCC is not enforcing marijuana laws and codes. Just yesterday it was announced that Governor Brown is likely to cut drug enforcement officer positions. What happens next? Central Oregon becomes even more popular as a trafficking destination and there won't be much done to enforce it. Is that how you see the future of Bend?

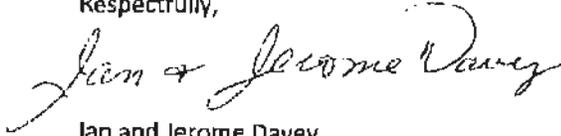
Bend is a very special community with people coming here because of the active lifestyle and beauty it offers. We need stricter regulations that set the greater good of our community as the highest goal, rather than allowing this "cash crop" to take over our community and rural neighborhoods. You must not put cash before your community; that is not what Bend is about -- or, I hope that you don't think it is.

When the State voted on legalization of marijuana the majority voters in Deschutes county voted no. Yes, the state approved but, our county did not want this. You, our representatives, took it upon yourselves to make this decision for us. Any new approvals should stop until we can bring this back to a citizen vote with all the facts and let the people decide. I would like to ask each one of our commissioners. Do you live in a rural area where this would affect you personally or, do you live in an area safe from having this affect your personal way of life?

This decision is important to us as a neighborhood/community and we are putting in your hands our concerns; we pray you take the time to reflect and make the right decision to hold back on any more approvals until you know and understand how this will affect Bend in the future and how it is affecting those of us now.

Thank you for hearing our concerns.

Respectfully,

A handwritten signature in cursive script that reads "Jan & Jerome Davey". The signature is written in black ink and is positioned above the printed name.

Jan and Jerome Davey

Tracy Griffin

From: Nunzie <nunzie@pacifier.com>
Sent: Wednesday, July 18, 2018 4:57 PM
To: Anthony Raguine
Subject: Gould comment #2 re 247-18-000424-A
Attachments: Doctrine of Merger - Briteside.pdf; ATT00001.htm

Regarding 247-18-000424-A

Please enter the following files into the above Briteside Appeal file:

247-18-000424-A, 247-17-000833-AD, 247-17-004406-AGE, 247-17-000210-LR,

Environmental Soils records from 2002 further found : <<https://weblink.deschutes.org/cdd/DocView.aspx?id=254684&cr=1>>

It is inappropriate to give taxlot 3400 a Walker Road address as Walker Road has been vacated and access to taxlot 3400 is not from BLM to the East where Walker Road ends at the SE corner of taxlot 3400.

It is inappropriate to give taxlot 1500 a Walker Road address because Walker Road is vacated and there is no access from Walker road East of taxlot 3400 to taxlot 1500.

Please enter this file into the above Appeal record:

247-17-000720-LL because conditions of that land use decision have not been completed and because a self imposed easement is not allowed by law per the doctrine of merger (Briteside ownstaxlot 1500 and taxlot 1400 and cannot self impose an easement in particular the proposed marijuana access easement according to the Doctrine of Merger). See attached doctrine of merger.

Only if taxlot 1500 were sold to another could Briteside record an easement for marijuana. Today taxlot 1500 and taxlot 3400 are both owned by Briteside Oregon LLC so the recorded easement is against the law.

Also please enter this file into the above Appeal record:

247-17-000210-LR because CDD did not understand these properties (1400, 1500 or 3400) or that none have legal accesses.

Thank you

Nunzie Gould

1 attachment: Doctrine of Merger

RESTATEMENT OF THE LAW THIRD

THE AMERICAN LAW INSTITUTE

RESTATEMENT OF THE LAW

PROPERTY

Servitudes

As Adopted and Promulgated

BY

THE AMERICAN LAW INSTITUTE

AT WASHINGTON, D.C.

May 12, 1998

Volume 2

Chapters 5 to 8

Tables and Index



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parties, § 887.020) is abandoned if all of the following conditions are satisfied for a period of 20 years immediately preceding commencement of the action to establish abandonment: (1) the easement is not used at any time; (2) no separate property tax assessment of the easement is made, or if made, no taxes are paid; (3) no instrument creating, reserving, transferring, or otherwise evidencing the easement is recorded. Section 887.060 permits recordation of a notice to preserve the easement up to the time judgment is entered in the action to establish abandonment. These provisions for termination supplement and do not limit or otherwise affect the common law governing abandonment of an easement, § 887.030. Easement for purposes of this chapter means a burden or servitude on land, whether or not attached to other land as an incident or appurtenance, that allows the holder of the burden or servitude to do acts upon the land, § 887.010. (This chapter applies to affirmative easements, whether appurtenant or in gross, but does not apply to negative easements, 18 Cal. L. Rev. Comm. Reports 257 (1985)).

Cal. Civ. Code § 811(3); Cal. Civ. Code § 811(4): A servitude is extinguished . . . when the servitude was acquired by enjoyment, by disuse thereof by the owner of the servitude for the period prescribed for acquiring title by enjoyment.

Georgia: Ga. Code Ann. § 44-9-6, Loss of easement by abandonment or nonuse: An easement may be lost by abandonment, or forfeited by nonuser, if the abandonment or nonuser shall continue for a term sufficient to raise the presumption of release or abandonment.

Montana: Mont. Code Ann. § 70-7-111(3): a servitude is extinguished by "the performance of any act upon either tenement by the owner of the servitude or with his assent that is incompatible with its nature or exercise."

Indiana: Ind. Code § 32-5-12-6(a)(2) (railroad right of way deemed abandoned when ICC issues certificate authorizing abandonment and railroad removes rails, switches, ties, and other facilities from the right of way).

North Dakota: N.D. Cent. Code § 47-05-12(3).

Oklahoma: Okla. Stat. Ann. tit. 60, § 59(3).

South Dakota: S.D. Codified Laws Ann. § 43-13-12.

§ 7.5 Termination by Merger

A servitude is terminated when all the benefits and burdens come into a single ownership. Transfer of a previously benefited or burdened parcel into separate ownership does not revive a servitude terminated under the rule of this section. Revival requires re-creation under the rules stated in Chapter 2.

MERGER

Cross-References:

Chapter 2, Creation of Servitudes; § 2.2, Intent to Create a Servitude; § 2.12, Servitudes Implied from Prior Use; § 2.15, Servitudes Created by Necessity.

Comment:

a. Rationale. A servitude benefit is the right to use the land of another or the right to receive the performance of an obligation on the part of another. A servitude burden is the obligation not to interfere with another's use of the burdened party's land, or the obligation not to use land in the burdened party's possession in particular ways, or the obligation to render a specified performance to another. When the burdens and benefits are united in a single person, or group of persons, the servitude ceases to serve any function. Because no one else has an interest in enforcing the servitude, the servitude terminates. The previously burdened property is freed of the servitude. If the ownership of the property is separated, no new servitude arises unless a new servitude is created under the rules stated in Chapter 2.

b. Creation of servitudes after termination by merger. A subsequent conveyance of the property that results in separate ownership of the previously dominant and servient estates raises the question whether the parties can re-create the servitude that previously existed on the property without complying with the requirements set forth in Chapter 2. Under the rule stated in this section they cannot. Because a servitude is an interest in land subject to the Statute of Frauds, their intent to re-create the servitude must either be expressed in a written instrument or their actions must fall within one of the recognized exceptions to that requirement. If the circumstances are otherwise appropriate for creation of a servitude by implication, the fact that the servitude previously existed may warrant the inference that the parties intended to re-create it on severance.

Illustrations:

1. O, the owner of Blackacre, a parcel burdened by an easement for access to and use of a lake on Blackacre in favor of Whiteacre, acquired ownership of Whiteacre. Three years later O conveyed Whiteacre to X. The deed made no mention of an easement to use the lake. In the absence of other facts or circumstances, Whiteacre does not enjoy the benefit of an easement to use the lake on Blackacre.

2. Recreation Club owned an easement in gross for hunting and fishing on Blackacre. Recreation Club then acquired the fee-simple interest in Blackacre. Ten years later Recreation Club

conveyed Blackacre to Developer. The deed made no mention of an easement. In the absence of other facts or circumstances, Blackacre is not subject to an easement for hunting and fishing in favor of Recreation Club.

3. Blackacre is burdened by covenants prohibiting the construction of any structure that would interfere with the view from Whiteacre and requiring that vegetation on Blackacre be trimmed to protect the view from Whiteacre. O, the owner of Blackacre, acquired ownership of Whiteacre. Later O sold Whiteacre to Able. The deed made no mention of any right to a protected view. In the absence of other facts or circumstances, Blackacre is not subject to an obligation to protect the view from Whiteacre.

4. O is the owner of Blackacre, a parcel burdened and benefited by an easement for a common driveway shared with Whiteacre. O then acquires ownership of Whiteacre and later sells Blackacre to Able. The conveyance of Blackacre does not revive the previous easement, but may create a new implied easement for the common driveway based on prior use under the rule stated in § 2.12.

5. O owned Blackacre and Whiteacre. O then sold Blackacre to Baker assuring Baker that drainage into a borrow pit on Whiteacre would permit development of Blackacre under circumstances that resulted in creation of an easement by estoppel under § 2.10. After Blackacre was developed, O sold Whiteacre to Charlie. Charlie had notice of the easement because it was apparent that runoff from Blackacre drained into the borrow pit on Whiteacre. Charlie subsequently sold Whiteacre to Baker, the owner of Blackacre, taking back a purchase-money mortgage from Baker. Baker subsequently defaulted on the mortgage and Charlie purchased Whiteacre at the foreclosure sale. Whiteacre is subject to an easement for drainage benefiting Blackacre. The conveyance of Whiteacre to Blackacre extinguished the original easement by merger, but a new easement for drainage based on prior use under § 2.12 was created when Baker mortgaged Whiteacre to Charlie.

c. Application to property subject to general plan of development. Because merger takes place only when all the benefits and burdens of the servitude come into a single ownership, subdivision covenants and servitudes in other developments with reciprocal servitudes are rarely terminated by merger. Since each lot, unit, or parcel enjoys the benefit of the servitudes imposed on every other property in the development, see § 2.14(a), the occasion for merger can arise only when the entire development is acquired by a single owner.

d. Merger does not take place if there are any outstanding interests in the servitude. So long as there are any outstanding interests in the property or estate benefited or burdened by the servitude, merger does not take place. If the outstanding interests are future rather than present interests, and the owner of the future interest has no right to present enjoyment of the servitude; the servitude is suspended until the future interest becomes possessory.

Illustrations:

6. Blackacre is burdened by an easement for ingress and egress in favor of Whiteacre. O, the owner of Blackacre, leased Blackacre to the owner of Whiteacre for 10 years. In the absence of other facts or circumstances, the easement is suspended during the term of the lease because the lease entitles the lessee to make any use authorized by the easement in addition to other uses. At the end of the lease term Blackacre remains subject to the easement.

7. O owned Blackacre. Able and Baker owned Whiteacre as tenants in common. Whiteacre is subject to an easement for ingress and egress appurtenant to Blackacre. Able acquired ownership of Blackacre. Able and Baker then conveyed Whiteacre to Charlie. The deed made no mention of an easement in favor of Blackacre. In the absence of other facts or circumstances, Whiteacre remains subject to the easement appurtenant to Blackacre.

8. O, the owner of Blackacre, granted a conservation easement to the Heritage Foundation. Subsequently O conveyed the fee simple in Blackacre to the Heritage Foundation subject to O's retained life estate. Heritage Foundation later conveyed Blackacre to the State. O is still alive. In the absence of other facts or circumstances, Blackacre remains subject to the conservation easement.

REPORTER'S NOTE

The rule stated in this section is generally accepted and is similar to that stated in the Restatement of Property §§ 497-499 and § 555. See Gerald Korngold, *Private Land Use Arrangements* §§ 6.11, 11.04 (1990); Jon W. Bruce & James W. Ely, Jr.,

The Law of Easements and Licenses in Land ¶ 9.09 (1988).

Rationale, Comment a. Tract Dev. Serv., Inc. v. Kepler, 199 Cal.App.3d 1374, 246 Cal.Rptr. 469 (1988) (common ownership of lots on each side of street in which easement was located

did not result in merger where there was not common ownership of entire subdivision).

Illustration 5 is based on *Tatum v. Dance*, 605 So.2d 110 (Fla. Dist. Ct. App. 1992) (right to use borrow pit on adjacent property for drainage not destroyed by merger when owner subsequently obtained title to servient estate and then lost it by foreclosure of purchase-money mortgage; majority reached result by classifying drainage right as personal irrevocable license not subject to merger; concurring opinion more accurately analyzed the right as an easement created by estoppel extinguished by merger and recreated by implication based on prior use on conveyance of mortgage).

Cheever v. Graves, 32 Mass. App. Ct. 601, 592 N.E.2d 758 (1992) (single owner's acquisition of title to several subdivision lots, including lot subject to easement for use of beach and access to beach for benefit of all lots in subdivision, extinguished benefit of easement by merger; for merger to occur, ownership of the estates must be coextensive, but the land area comprising the dominant and servient estates need not be; when one person holds one estate in severalty and only a fractional part of the other, the easement is not extinguished, but if one person owns the servient estate and some but not all of the benefited lots, the benefit is extinguished as to the owned lots).

Swartz v. Sinnot, 6 Mass. App. Ct. 838, 372 N.E.2d 282 (1978) (easement that may have existed was extinguished when ownership of both parcels was united in grantee; evidence did not establish that new right of way was created on severance of common ownership).

Breliant v. Preferred Equities Corp., 918 P.2d 314 (Nev. 1996) (easement extinguished by merger; absence of wives as grantees in deed to one of the parcels did not negate unity of ownership; presumption that all property acquired during marriage is community property prevailed).

Pollock v. Ramirez, 870 P.2d 149 (N.M. Ct. App. 1994) (even if landowner created servitudes by filing declaration, subsequent transfer of entire subdivision to single owner extinguished covenants by merger; covenants were not revived by later transfer of the subdivision property; transferee's subsequent filing of document entitled "Amendments to Declaration of Covenants" to permit construction of single-family homes on 1-acre lots did not unambiguously indicate intent to revive original covenants).

Will v. Gates, 680 N.E.2d 1197 (N.Y. 1997) (merger doctrine proceeds from recognition that a person cannot have an easement in his or her own land because all the uses of an easement are fully comprehended in the general right of ownership; when dominant and servient estates become vested in 1 person the easement no longer serves a purpose and terminates; where only a portion of dominant or servient estate is acquired, termination does not occur because the rights of other owners cannot be affected; termination does not occur as to only a fractional part of the estate).

Stilbell Realty Corp., 43 A.D.2d 966, 352 N.Y.S.2d 656 (1974) (acquisition of dominant and servient estates in fee in single ownership extinguishes easement, other than easement by necessity; once extinguished, the easement is gone forever and cannot

be revived, although it may be created de novo).

Witt v. Reavis, 284 Or. 503, 587 P.2d 1005 (1978) (easement acquired by prescription before 1956 was extinguished by merger in 1966 when easement holder acquired title to servient estate and held fee simple in both dominant and servient estates; court rejected "minority Pennsylvania rule," which engrafted the rules of implied easements onto those for extinguishment by merger, in favor of treating the issue whether a new easement was created on separation of the 2 estates as a separate issue to avoid confusion).

Thar v. Edwin N. Moran Rev. Trust, 905 P.2d 413 (Wyo.1995) (easement granted to lessee was terminated when lessee acquired the fee in the dominant estate; easement disappears when estate it is created to serve disappears; leasehold was destroyed by merger).

Merger does not take place if there are any outstanding interests in the servitude, *Comment d. Guy v. State*, 438 A.2d 1250 (Del.Super.Ct.1981) (outstanding possessory estate prevents merger of dominant and servient estates to terminate easement).

General American Realty Co. v. Greene, 107 Ill.App.3d 1011, 438 N.E.2d 540 (1982) (restrictions included in contract were not intended solely to protect lender until payment of purchase price and did not terminate

on delivery of deed to vendee; deed provisions making it subject to restrictions of record indicated intent that recorded Supplemental Articles survive delivery of deed).

Parkinson v. Board of Assessors, 398 Mass. 112, 495 N.E.2d 294 (1986) (conveyance of fee simple in property subject to conservation easement to beneficiary of easement did not destroy easement where grantor retained life estate subject to the easement; easement was not extinguished where intervening life estate prevented complete unity of ownership in dominant and servient estates).

Heritage Communities of N.C., Inc. v. Powers, Inc., 272 S.E.2d 399 (N.C.Ct.App.1980) (outstanding deed of trust is sufficient interest to prevent termination of easement by merger of dominant and servient estates).

Boorum v. Rau, 640 A.2d 963 (R.I. 1994) (right of way benefiting 4 lots and burdening 4 lots not extinguished by merger when owner of westernmost benefited lot acquired fee title to the portion of the right of way adjacent to his lot; unity of title between the servient estate and every dominant estate is required for merger).

Aasland v. County of Yankton, 280 N.W.2d 666 (S.D.1979) (tax sale did not vest title in county; county's easement for road was not extinguished by merger).

§ 7.6 Modification or Extinguishment by Estoppel

A servitude is modified or terminated when the person holding the benefit of the servitude communicates to the party burdened by the servitude, by conduct, words, or silence, an intention to modify or terminate the servitude, under circumstances in which it is reasonable to foresee that the burdened party will substantially change position

From: Nunzie
To: Anthony Baquie
Subject: Briteside testimony
Date: Tuesday, July 17, 2018 5:06:03 PM
Attachments: [Briteside Gould testimony.doc](#)

Attached are color photos of the Briteside Lectrus metal pre manufactured mobile agricultural exempt structure placed on taxlot 3400 and other items discussed at the hearing and in this testimony. Notice the HVAC units which abut the building and which are not included in the floor plan of the ag exempt structure application materials.

Also see the attached testimony.

Thanks you

Nunzie Gould

Deschutes County Commissioners

You've spent time creating a marijuana production plan for EFU land. You've invested energies to manage marijuana odor, noise and setbacks in Deschutes County.

Now it's time to deny the Briteside Lab Prototype Lectrus (ag exempt building) and the Proposed Briteside marijuana grow structure on taxlot 3400.

Applicant simply has not met many burdens of proof.

Setback: Briteside has thru their attorney David Peterson removed the building envelope on their site plan yet there is no site plan that today conveys what Briteside is proposing and their existing premanufactured mobile Lectrus metal building does not meet the 100' setback from the west property line of taxlot 3400.

Access: As you should know by now: Taxlot 3400 is land locked. When Briteside purchased the property, that portion of Walker road was vacated where it abutted taxlot 3400 and taxlot 1400 and taxlot 1500. There is no Walker road here anymore. Walker Road is the wrong address to be using since Walker road does not exist at these properties.

Subsequent to the lot line adjustment reconfiguring taxlots 1400 and 1500 there was no access granted from Alfalfa Market Road to taxlot 1400 or to taxlot 1500 or to taxlot 3400.

The marijuana easement does not meet the criteria of a road to taxlot 1500 or a road to taxlot 1400 or a road to taxlot 3400. Briteside marijuana approval should be denied.

More than marijuana production and Not warehouse: Even before Briteside acquired it's properties, as early as 3/10/2017 Briteside's intention was for marijuana production.¹ More recently Briteside advertises themselves as providing marijuana grow structures, transporting marijuana from dispensaries in Bend, Medford and Ashland and guiding and consulting others in the challenging marijuana industry. All of these activities are identified to occur at taxlot 3400. Yet none of these businesses (making or selling metal marijuana structures, vehicular deliveries or consultants) have been included in the applicant's description of activities. Certainly these sales, deliveries, consulting employees are not equal to warehouse activities and therefore a traffic study is needed.

At the appeal hearing, atleast 3 persons were employed by Briteside: David Petersen, Greg Blackmore, Amanda Cardenas yet none were able to identify the numbers of employees of Briteside. This is pretty bizarre since Amanda's title is compliance officer for Briteside Holding LLC which is the single member owner of Briteside Oregon LLC. This is a reason to deny a marijuana application because the County cannot assure that less than 10 people will be at the ag exempt Lectrus 4160 square foot building.

Larger than 20'000 square feet:

¹ See floor plan and elevation plans of Lectrus briteside Lab Prototype dated 3-10-2017 issued for construction 4-10-2017 (submitted in 247-17-004406-AGE)

4160 (existing ag exempt Lectrus + 18300 proposed marijuana grow building = 24460 square feet which exceeds 20'000 square feet. Code for this purported 40 acre size property is 20'000 square feet. Only with a survey can you assure that taxlot 3400 is 30 acres... but certainly approving both buildings is in violation of county code.

1. The ag exempt application 247-17-004406-AGE dated 8-7-17 states that the current use of the farm was ag/farm hay, seed etc, cattle yet as of the appeal hearing date 7-11-18 applicant is not growing anything on the property because they are not using any irrigation water for ag, the farm, hay, seed or cattle. Applicant also did not grow anything on the property during 2017.
2. The ag building exemption application does not grant permission for more than 10 people to work on the premises. Brideside has not disclosed the numbers affiliated with the proposed building and the site plan shows parking striations for the area abutting the 4160 sq ft building only as being having
3. The environmental soils records that dial shows posted to taxlot 3400 dating to 1982 is for the septic system for the Manufactured Home which sits on taxlot 1500 not for the yellow house built in the 1930's which is on taxlot 3400. The proposed septic on the marijuana site plan is not designed or located to serve the yellow house or the illegal granny flat dwelling unit on taxlot 3400 .
4. The ag exempt application should not have been granted because the fire marshall will have oversight to any proposed marijuana grow building. "Agricultural building" does not include (c) a structure regulated by the State Fire Marshall pursuant to ORS chapter 476." In Oregon the State Fire Marshall has complete oversight to all building.
5. The marijuana site plan shows a septic and leach system to serve the ag exempt existing and the future building but this septic and leach system does not provide septic to the yellow home on taxlot 3400. It is important for the home on the property to be served by septic and not a drill hole especially since applicant stated at the appeal hearing that they rented this yellow home to an employee during the summer of 2017 and also in light of the mapped wetland on abutting BLM land near this yellow house and the 2nd dwelling unit.
6. There is a 2nd dwelling on taxlot 3400 a granny flat used by Kaesche the former owner. This 2nd dwelling which is next to the yellow house should not be used as it is unpermitted on EFU land.
7. Applicant's agricultural building exemption site plan shows an existing dwelling on taxlot 1400. There is no dwelling on taxlot 1400 only a barn.
<<http://dial.deschutes.org/Real/Improvements/109318>> The County has no assigned address for taxlot 1400 which is to the east of the little COID ditch.
8. Applicant would love you to think of all 3 lots as being 1 taxlot. This simply is not the case. As such the reason for your marijuana code is to assure that those not approved by OLCC cannot access the property. Additionally thru the lot line adjustment process, there are specific criteria that must be met.
9. There is no site plan that shows where fencing is proposed. There are several gates in many old fencelines which only a survey will disclose their actual location.
10. Applicant has not shown where barriers to entering the proposed marijuana grow will be located on taxlot 3400. This is important as there might be a tenant in the

yellow house who is not a licensed marijuana grower thru OLCC. Also there might be kids either living in this yellow house or in the manufacture dwelling on taxlot 1500 who like others on hot summer days want to be in water like a pond or in an irrigation ditch... The objective of OLCC's fencing regulations is to protect the public from marijuana. See this link for verification that taxlot 1500 has a dwelling unit and farm buildings <<http://dial.deschutes.org/Real/Improvements/109317>>

11. Today there is a little COID ditch that traverses from BLM northbound onto taxlot 1500, about 20 feet into taxlot 1500 there is a weir box that sends water thru pipe east under the ditch road and then thru open ditch to the pond that is on the east side of taxlot 3400. After the weir box on taxlot 1500, the ditch continues north thru taxlot 1500 and into and across taxlot 1400 where after the barn that is on the taxlot 1400, there is another weir box where the canal is piped for several other irrigators downstream. Weir boxes in all irrigation canals get blocked from time to time and farmers, property owners and/or irrigators are the ones tasked with removing this debris. Much as you might think ditch riders do this work, the reality is it's the farmers down gradient who manage open ditches in central oregon !
12. Taxlot 1500 has a manufactured home that has a gravel driveway west of this little irrigation ditch. East of the little ditch is a ditch road which begins at Bear Creek Road and follows the ditch thru BLM lands and onto taxlot 1500. It is this ditch road that a person gets access to the East pond on taxlot 3400 and to the barn on taxlot 1400. There is nothing in the marijuana easement that provides anyone access to taxlots 1500 or 1400 from Alfalfa Market Road for farm, irrigating or domestic dwelling accesses. In fact the easement in the record has no identifications to actually benefit taxlot 1500 or 1400. So thru the course of this land use process, staff errs in even suggesting that such a marijuana easement is a legal easement when it is a self created easement between Briteside Oregon LLC and Britesdie Oregon LLC. This process is faulty and this is reason to deny Briteside a marijuana permit.
13. The Hickman Williams mj easement ends at the SW corner of taxlot 3400. The site plan shows no roads or interior circulation methodologies for how one gets from this easement road to the ag exempt building or to the proposed marijuana grow structure or to the east pond or to any of the agricultural improvements on taxlot 3400 or to the yellow dwelling or to the unpermitted dwelling or to the East pond or to the Easterly COID ditch that traverses from BLM lands south of taxlot 3400 thru the S-SE area of taxlot 3400.

14. Survey is needed before things get even messier.

The public has a right to quiet use of abutting BLM land. Free of noise and odor. It's obvious that a survey is needed today. The approval criteria granted by the County is to punt this until there is a marijuana use. This is absurd ! The survey is needed so that access is in the correct format and location and does not trespass on public land.

15. Until the access is put in, staff has no accountability of how many juniper trees will be cut and neither does applicant. As such, applicant's noise study is bogus because you don't know whether the proposed building is one building or multiple 4160 square foot buildings.
16. The 'acoustic wall' on applicant's site plan is described simply as a concrete 6-7' wall. This is a concrete wall not an acoustic wall. A concrete wall will cause amplification of sound not sound buffering especially to the abutting BLM property

which is at higher elevation than taxlot 3400. A concrete wall sited between the existing ag exempt building and the proposed marijuana building will cause sound reverberations and sound amplifications from the HVAC units that are on the existing ag exempt building.

17. Odor - Carbon Filters and Foggers don't work

Today it's over 90 degrees. This is much hotter than the 60 degree testing of the nasal ranger fogger misting system performed by only 3 individuals one time in Nevada. According to the Hopmann appeal hearing oral testimony 247-18-000205-A the marijuana growers themselves admitted that here in Deschutes County carbon filtering does not control odor and that foggers were more preferred. Yet the fogger/misting system is unproven in our climate in Deschutes County (certainly you're not going to rely on 1 out of state sampling by 3 individuals in 60 degrees as a standard that matches conditions here in Deschutes County) therefore Briteside should be denied to use the carbon filtering system because it simply does not work and the industry acknowledges this. There is no system that works to control odor of noxious and evading marijuana.

18. It's time for the County to learn about the Juniper Woodlands Recreation Area which

has a wetland ! and is the most amazing recreation asset in Deschutes County. As is seen in the Tumalo area at Maston, BLM lands attract the public for diverse recreational and wildlife attractions. Not only do folks come to Juniper Woodlands Recreation Area from Deschutes County, but also from Crook County. As such an inholding piece surrounded by BLM land is not a prudent place to locate this commercial marijuana venture.

19. Applicant has no obligation to purchase the mitigation credits - read the agreement please. There is an entire carve out that voids the agreement. Mitigation credits are a paper device, mitigation credits are not water or a right to water.

20. Finally, attached is a photo of the Lectrus prefabricated mobile ag exempt building that is on taxlot 3400: it is 51'8" wide by 79'8" long, image bringing in multiple metal manufactured buildings onto farm land for Briteside Lab Prototype. Now imagine more of these, not quite sure how many are planned for taxlot 3400 even though Briteside advertises itself as guiding others in this complex marijuana industry and has been at this for **1.5 years**

21. **Fencing** is not shown to control or contain the proposed marijuana grow from the multiple entries to taxlot 1500 and to taxlot 3400 including the various ditch roads, COID canals and drive entrances which by the way are not identified driveway permits issued by Deschutes County.

Dear Commissioners: Briteside's marijuana production application on taxlot 3400 is poorly conceptualized, and is an incomplete application that does not meet the County Code. The County's standard of proof is higher than what Briteside has proved.

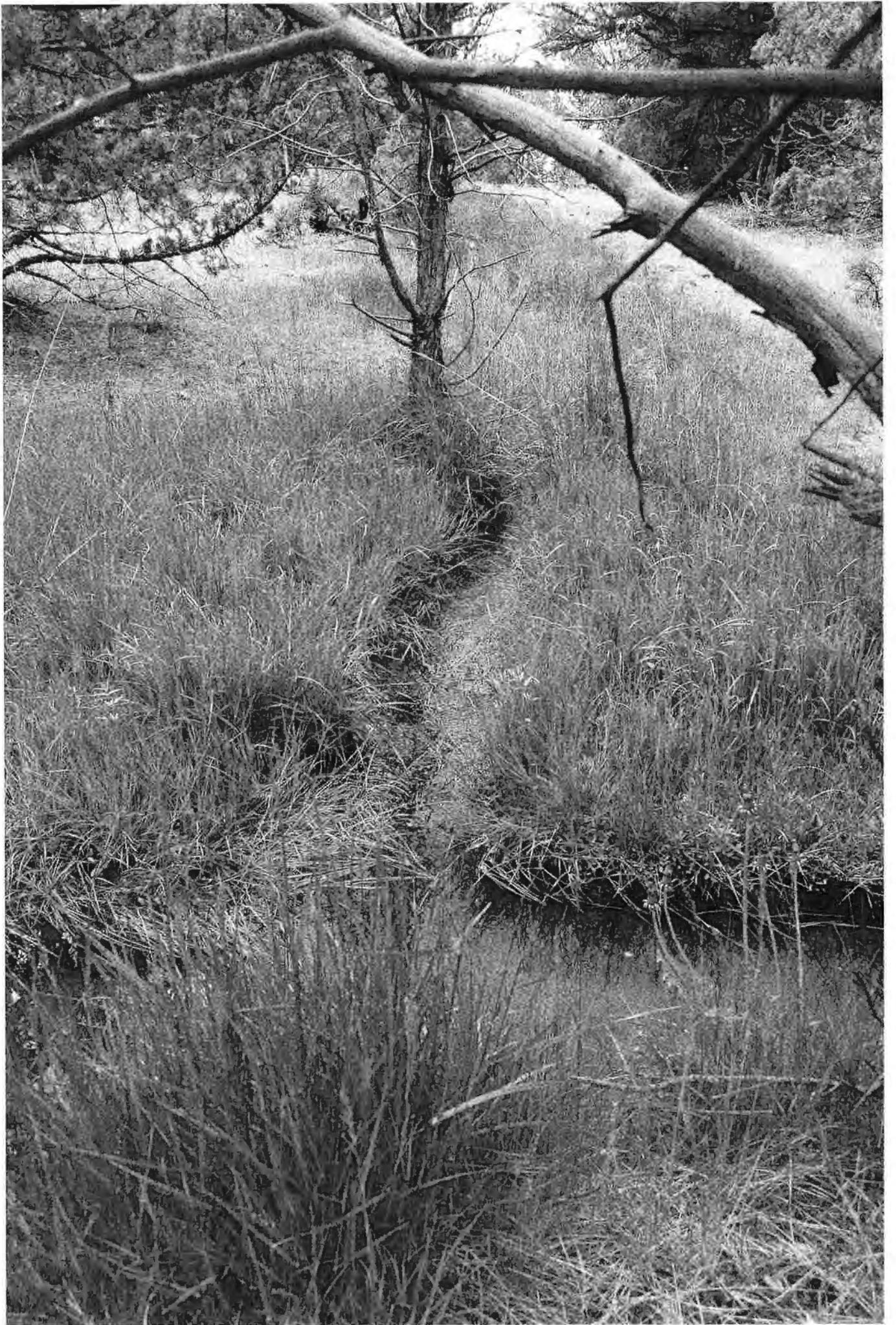
Briteside marijuana production should be disallowed.

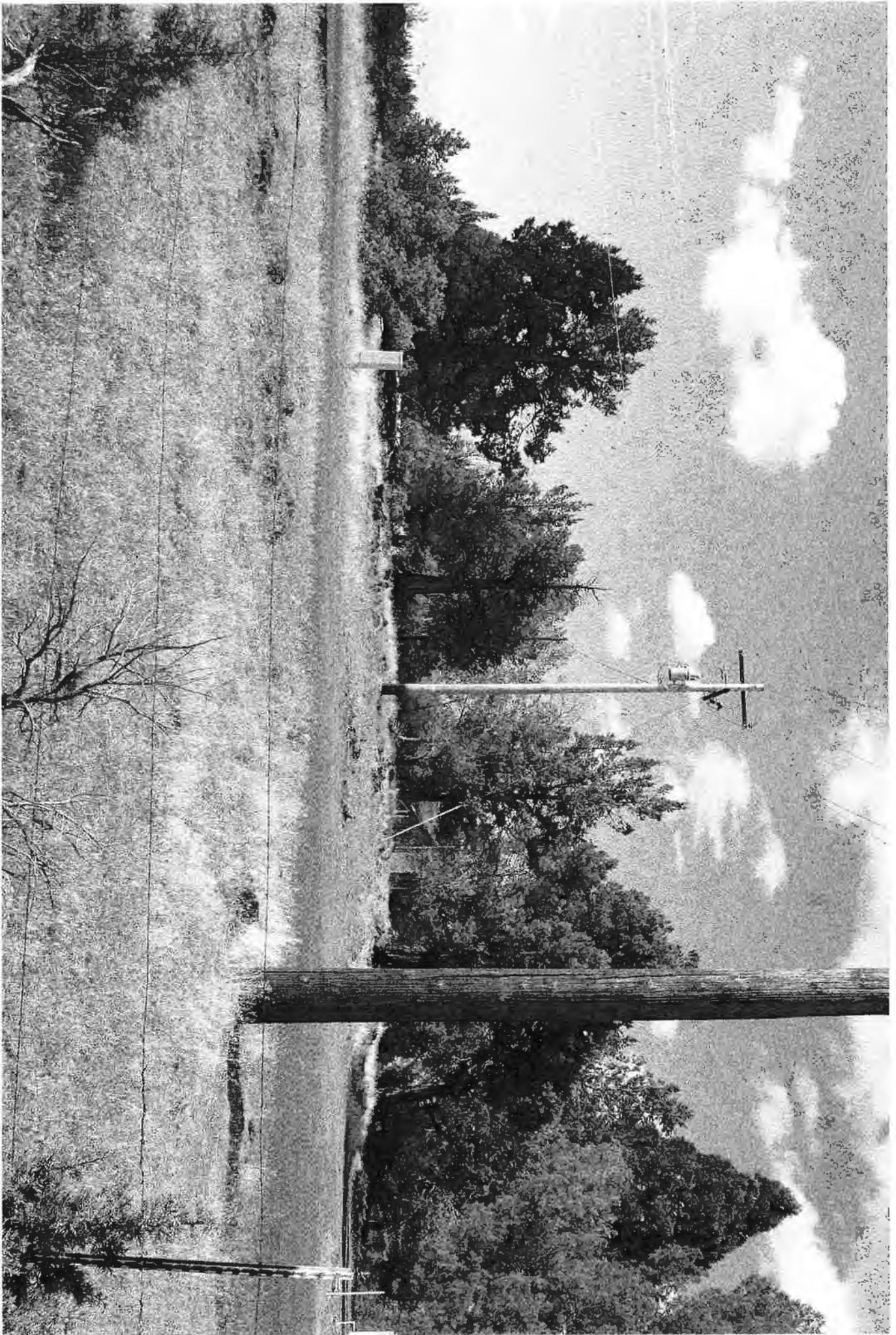
Thank you.

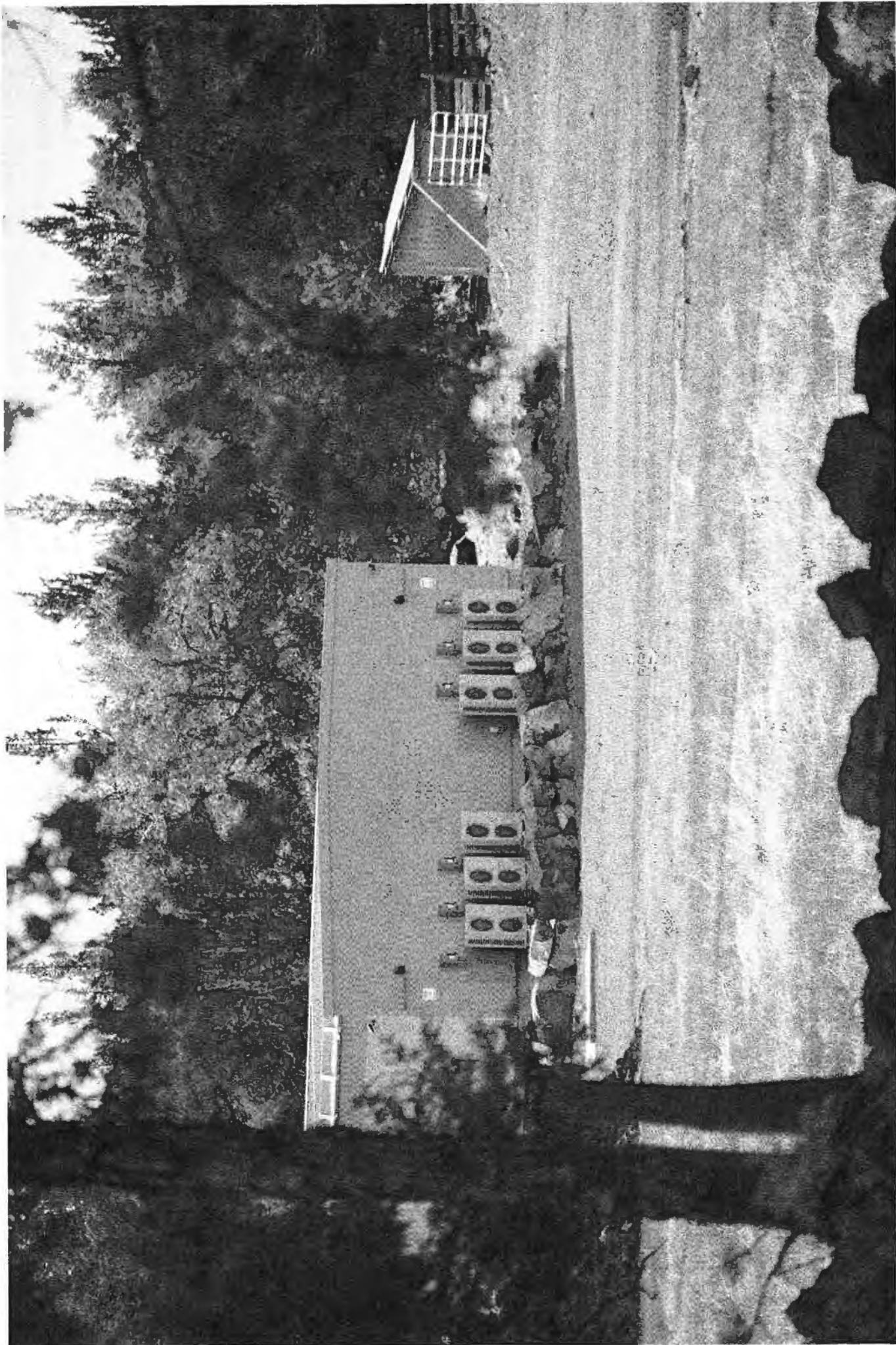
Nunzie Gould

p.s. please keep me a party to this record, my address is on file.



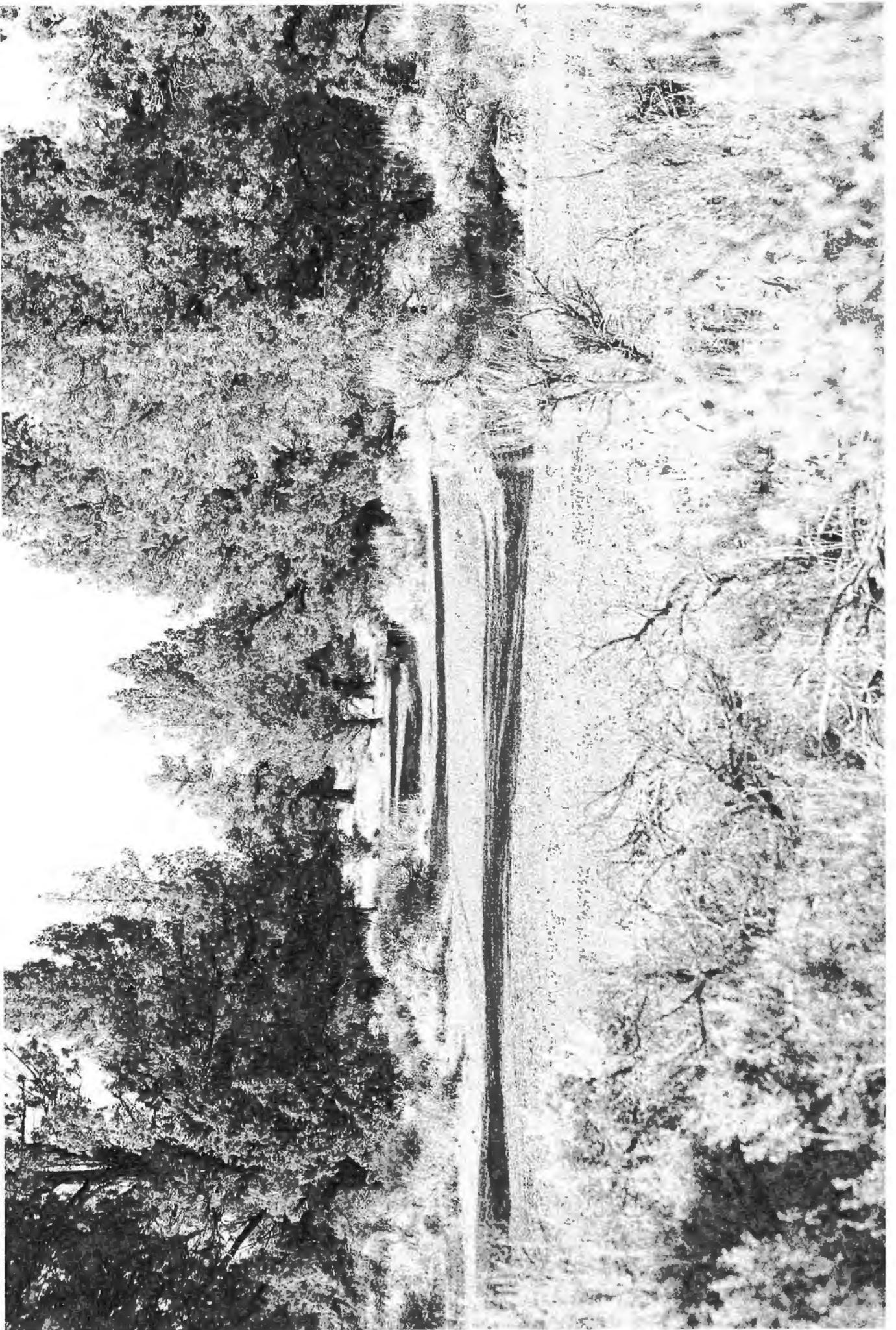




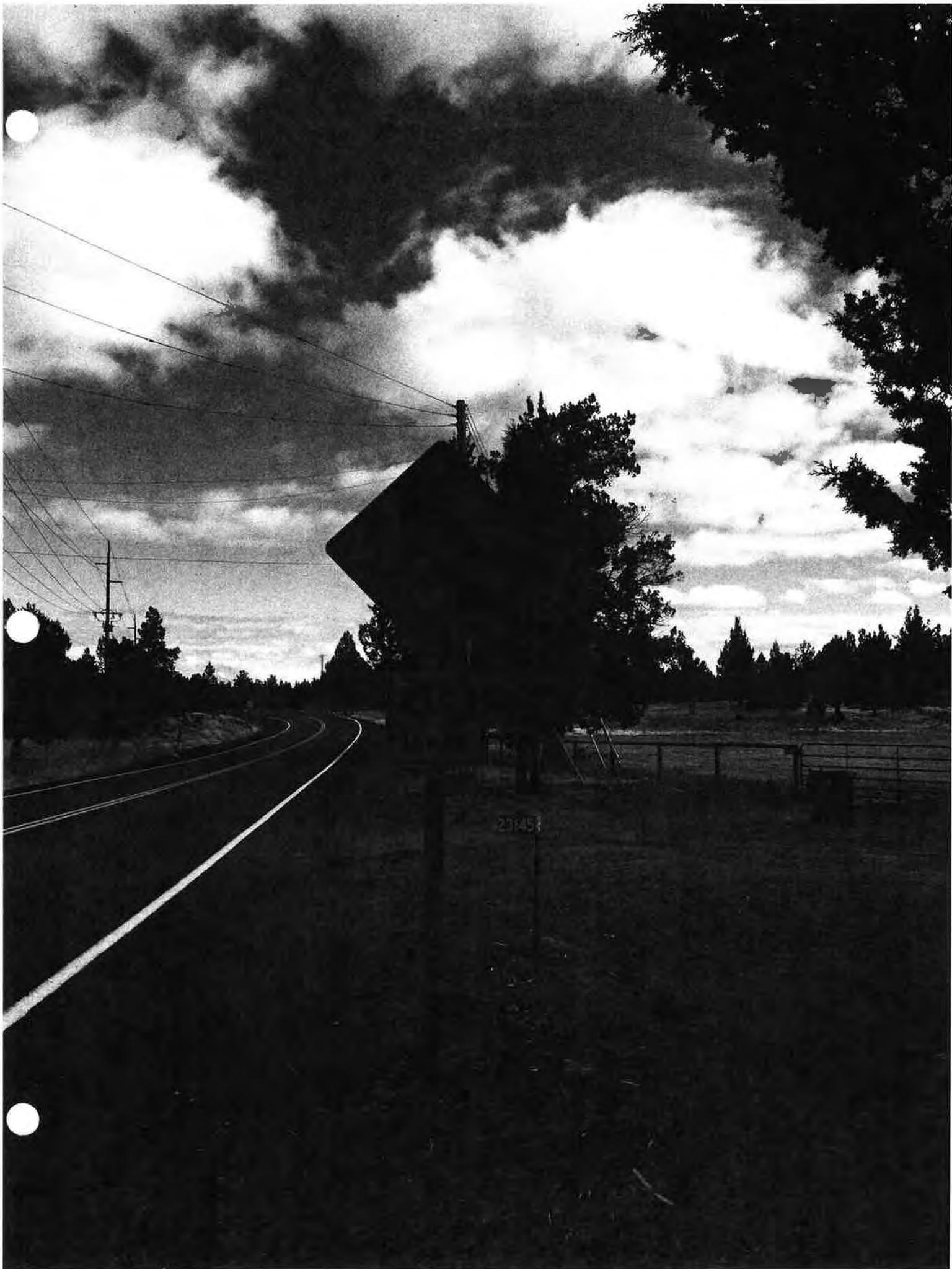


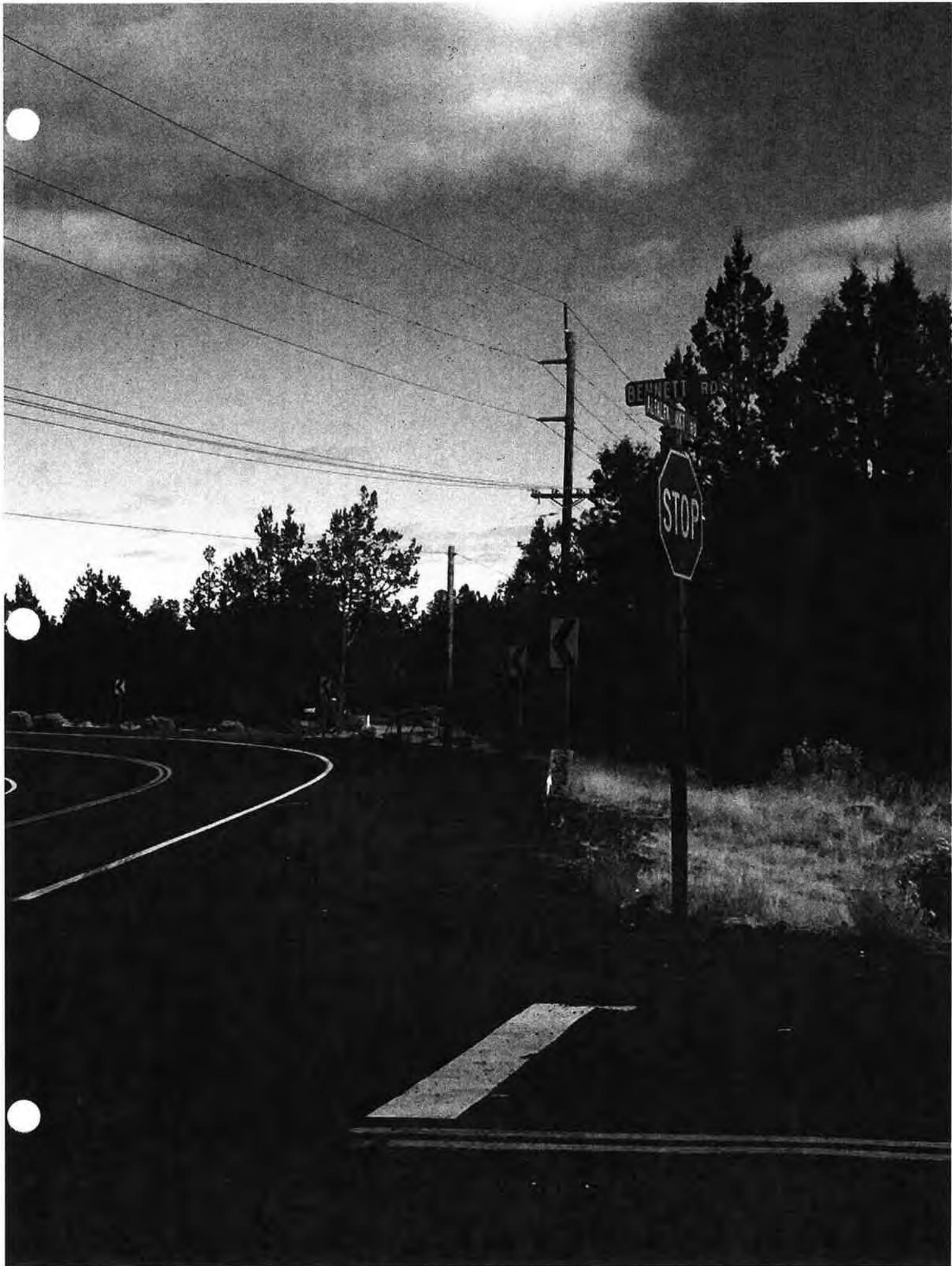


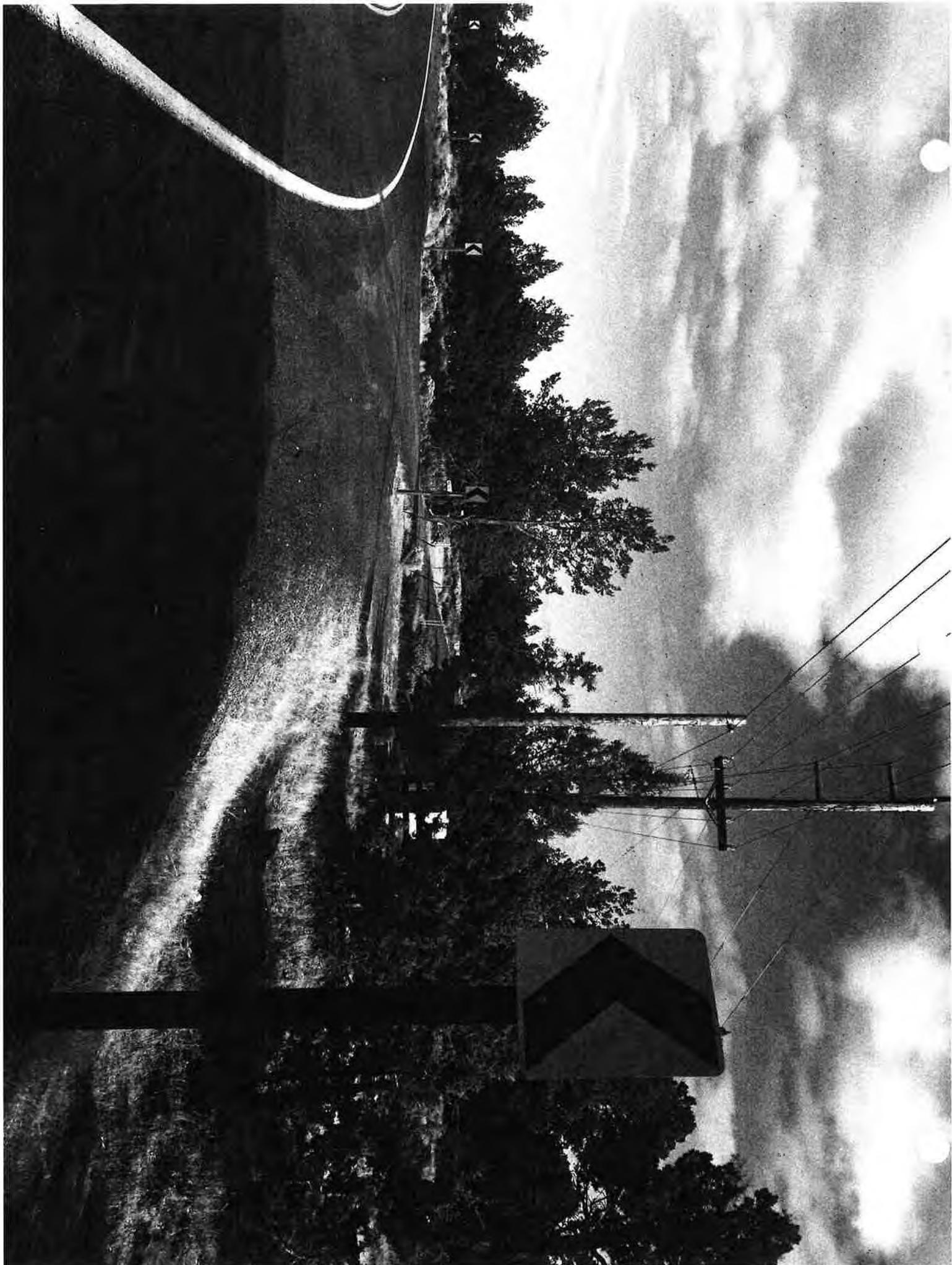
















Tracy Griffin

From: Anthony Raguine
Sent: Thursday, July 26, 2018 4:52 PM
To: 'Nunzie'
Subject: RE: rebuttal #2 247-18-000424-A

Hi Nunzie. Your email was received by the County's server at 5:02 pm. Because the deadline for submittal of rebuttal testimony was 5:00 pm, your email will not be considered by the Board. Let me know if you have any questions.



Anthony Raguine | Senior Planner
Deschutes County Community Development
117 NW Lafayette Ave | Bend, Oregon 97703
Tel: (541) 617-4739



Let us know how we're doing: [Customer Feedback Survey](#)

From: Nunzie
Sent: Wednesday, July 25, 2018 5:02 PM
To: Anthony Raguine
Subject: rebuttal #2 247-18-000424-A

Please enter this into the record as rebuttal #2 re 247-18-000424-A.

I would like to reiterate that as of today 7-25-2018 after checking with Deschutes County survey department, there is no boundary survey recorded with Deschutes County for taxlot 3400. Also today there is no survey recorded with Deschutes County that legitimizes the field survey done in 2017 for the boundary line adjustment between taxlot 1400 and taxlot 1500. The Hickman Williams submittal showing 105' is based on an un-filed property line adjustment by Armstrong.

Applicant has not shown that their 'private walker road' is on their property; to the contrary what is driven on today is shown on their maps as deviating onto abutting BLM public land.

The site plan Applicant New Information dated 7-15-2018 submitted 7-18-2018 does not show how the 2 dwellings will be served by road or how an irrigator will access the 2 ponds on taxlot 3400 to maintain the COID water rights used for irrigating the agricultural fields of the farm. A complete site plan is needed not this piecemeal site plan.

One page where the proposed septic, road, setbacks, 2 dwellings, pond and all entrances onto taxlot 3400 are drawn i.e. including how a vehicle will travel between the 40' easement across taxlot 1500 and the 2 dwellings on taxlot 3400 (applicant at the hearing already identified that Brideside has leased the dwelling to an employee in the past even without the grow, so it is not unreasonable to expect people to live in the dwellings onsite.. The question is how will they get to these dwellings?

It is also unclear whether fencing and/or the acoustic wall will provide access to the other activities: dwellings, farming, irrigating that occur on the taxlot 3400.

It is unreasonable for the County to assume that trees along the south border of taxlot 3400 where it abuts BLM land (to the south) will be preserved when legal access from Alfalfa market Road is created thru the Lot Line adjustment between taxlot 1400 and taxlot 1500 since taxlot 3400 is land

locked and does not abut Alfalfa Market Road. The record is correct that Walker Road all along taxlot 1400 and taxlot 1500 and taxlot 3400 was vacated by Deschutes County.

Applicant purchased a land locked parcel 3400 and then began and today still continues it's lot line adjustments for taxlot 1400 and taxlot 1500.

With Walker Road being vacated over 30 years ago, the County has not shown nor has applicant shown that there is a legal access from Alfalfa Market Road to taxlot 1400 and such access is not shown on any site plan either in the lot line adjustment file or in the proposed marijuana easement which as previously discussed is contrary to the Doctrine of Merger. (you cannot create an easement to benefit your property thru another property which you own.)

It is especially relevant today with marijuana being the product grown on taxlot 3400 that the county fully understand who has use and access to taxlot 3400.

According to applicant's July 18, 2018 game plan... if Walker Road is a private road, where is the road permit and/or driveway permit?

This newly recorded easement is still self imposed and invalid.

Applicant would have you believe the because it owns all 3 properties there is no problem. Our code does not read such. It is applicant's BURDEN OF PROOF to show that today they meet the marijuana development code. It is preposterous to believe now after all of applicant's gyrations that the County should trust applicant.

Just by having a toe in the door does not legitimize that applicant has not been forthright in applying for the marijuana land use before obtaining the agricultural exempt building permit.

Since before applicant purchased this property it has intended it's operation to be a commercial marijuana grow.

Deschutes County must deny this application because today there is no recorded survey on file with Deschutes County of taxlot 3400. And today there is no driveway permit from Alfalfa Market Road to either of the 3 properties owned by Brideside Oregon LLC. As such even with Deschutes' Marijuana Code Enforcement Staff, Deschutes County cannot verify today what the building setback is, or where the future access road will be placed, or what trees might be standing along the south side of taxlot 3400 that would buffer noise from the operation from abutting BLM or where access gates might be located or where fencing with barbed wire will be located on taxlot 3400 in order to know where gates or accesses would be located for simple circulation of all the activities on taxlot 3400: 2 dwellings, 2 ponds, agricultural irrigation, existing ag exempt manufactured prefabricated building, future proposed grow building.

The Burden of Proof has not been met by applicant. Applicant has further not identified whether their proposed new building will be one building or a multiple of prefabricated modular buildings. This matters to the total canopy: is it 20'000 + the 4'160 square foot building already on site? or is it a total of 20'000 square feet?

It is an insult to clutter this record with irrelevant information from Kalamazoo, Spokane or others, what is needed is to prove that odor will be managed according to Deschutes County's code not some other place or state. What is relevant is that marijuana growers in Deschutes County have publically testified as recently as April 2018 (4 months after applicant's Appendix F which dates to December 2017 - beginning page 72 of applicant's July 18, 2018 submittal) that carbon filters do not work in our Deschutes County climate. Carbon Filters are old technology. Applicant inserts odor control information about tall pipe vented emissions from greenhouses... is this now what is planned? Applicant submits information from Year 2012, which is not current odor knowledge for our community.

It is applicant's burden of proof to identify the system that will control odor in our climate for this specific marijuana grow site.

How absurd for applicant in page 58 of their July 18, 2018 submittal (together with Colebreit Engineering) to include information from Spokane "Marijuana is not considered an agricultural product "

This application fails the County's marijuana land use test. It should be denied.

Thank you

Nunzie Gould

Anthony Raguine

From: Anthony Raguine
Sent: Wednesday, November 1, 2017 3:23 PM
To: 'James James'
Subject: RE: 247-17-000833-AD - comments

I will add this email string and your attachment to the record. Per my comment below, I will print the attachment in black and white.

If you would like to receive notice of any decision related to this project, please provide a mailing address. Thanks.

Anthony Raguine
Senior Planner
Deschutes County Community Development Department
117 NW Lafayette Avenue
Bend, OR 97701
(541) 617-4739

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: James James [mailto:hikebikeskifish@gmail.com]
Sent: Wednesday, November 1, 2017 3:12 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Re: 247-17-000833-AD - comments

Anthony:

Thank you for your reply and comments. I have minimized my file per your instructions; please find it attached.

Thanks,

JJ

On Wed, Nov 1, 2017 at 1:55 PM, Anthony Raguine <Anthony.Raguine@deschutes.org> wrote:

Thank you for your comments James. However, you will need to submit a hard copy of your pdf for the record. It is the policy of the Planning Division to print submittals as long as the submittal is not over 20 pages in length, does not contain any color pages, and does not contain any documents larger than 8.5" x 11" in size. Your submittal is over the length limit, contains color documents, and contains oversized documents. Therefore, please submit a hard copy of the submittal for inclusion in the record. Alternatively, you can limit the size of your submittal by only including those pages in the pdf which include your comments, agreeing to have the color document printed in black & white, and re-sizing the 2 oversized documents to 8.5" x 11".

Let me know if you have any questions.

Anthony Raguine

Senior Planner

Deschutes County Community Development Department

117 NW Lafayette Avenue

Bend, OR 97701

(541) 617-4739

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: James James [mailto:hikebikeskifish@gmail.com]
Sent: Tuesday, October 31, 2017 3:45 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Fwd: 247-17-000833-AD - comments

Oh, and to be clear - I object to this growing application and ask you to deny it outright based on the commentary provided in my file that I sent.

Please confirm receipt.

Thank you.

JJ

----- Forwarded message -----
From: James James <hikebikeskifish@gmail.com>
Date: Tue, Oct 31, 2017 at 2:21 PM

Subject: 247-17-000833-AD - comments
To: Anthony.Raguine@deschutes.org

Anthony:

Please add my commentary to the file for the marijuana application at 23450 Walker Road / File No. 247-17-000833-AD.

Commentary is noted in red in the attached copy of the application (zip file).

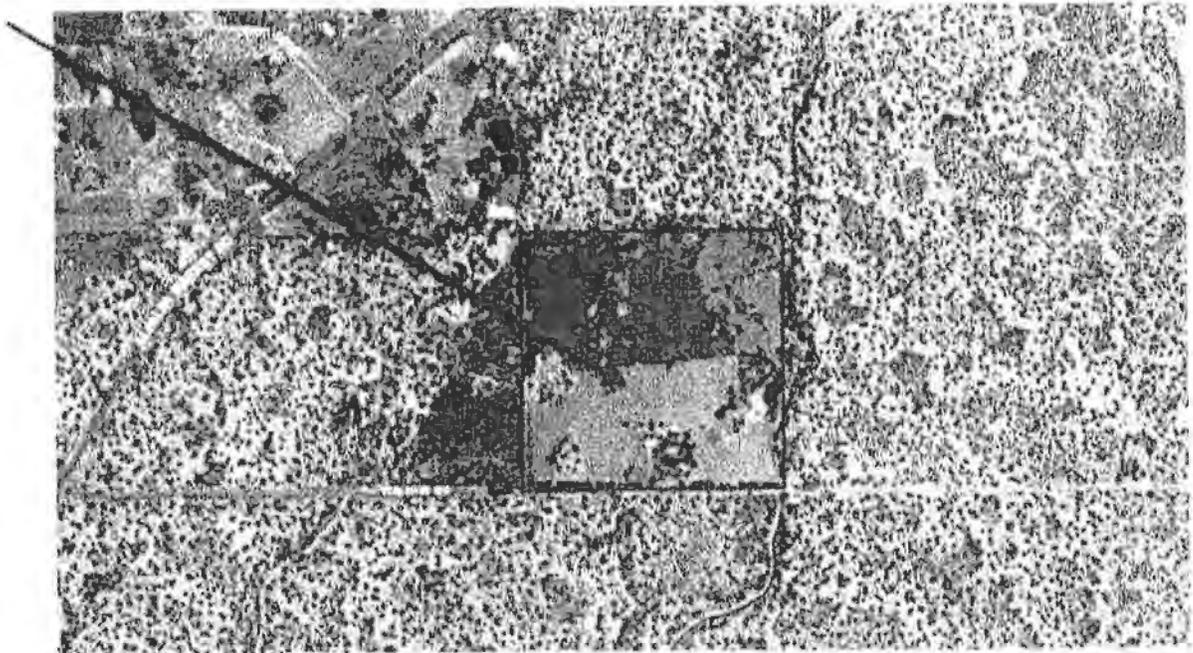
Please confirm receipt and also the last day to submit comments. Some people think it is November 9 and I want to make sure it is 10 business days, not including weekends.

Thank you.

of mature canopy area, in an identified "Building Envelope" area, within modular structures ranging in size from 4,000 – 18,000 square feet.

- E. SITE DESCRIPTION:** The subject property is 40 acres in size. Upon the property are an approximately 2,300 square foot residence, a 1,138 square foot farm building, and a recently placed 4,116 square foot manufactured agricultural building. Pursuant to Deschutes County DIAL records, the property has 1 acre of dry ground Class 8 soil, a 1 acre farm site, 7.5 acres of irrigated Class 4 soil, 13.5 acres of dry ground Class 7 soil, and 17 acres of irrigated Class 7 soil.

Subject Property



F. Commentary: This BLM area is called the "Juniper Woodlands Recreation Area" See attached at end of application

F. SURROUNDING LAND USES: To the north, east and south, the property is bordered by EFU zoned land that is owned by the Bureau of Land Management (BLM), totaling over 5,000 acres. To the west is approximately 80 acres of EFU zoned land that is owned by the Applicant/Owner of this submittal. The area to the northwest is zoned Mixed Use Agriculture-10 (MUA-10) and developed with a mix of residences, agricultural uses, irrigated pastures, home occupations and a guest house.

G. SOILS: According to NRCS soil mapping for this area, there are 4 soil units mapped on the subject property:

36A Deskamp sandy loam, 0 to 3 percent slopes. This complex is composed of 85% Deskamp soils and similar inclusions, and 15% contrasting inclusions. The Deskamp soil is somewhat excessively drained with rapid permeability and an

- H. **WATER RIGHTS:** The property is within the Central Oregon Irrigation District and has water rights to serve the property and use.

Commentary: COID receives federal grant money and should not be used to irrigate agricultural

I. **PUBLIC FACILITIES AND SERVICES**

Electricity – The property is served by Central Electric Cooperative.

Road Access – The property will take access via a private road easement to the west.

Telephone – CenturyLink and cell phone service is available to serve the property.

Domestic Water – Domestic water is provided to the by a well. The proposal will not necessitate modifications to domestic water demands.

Wastewater – Wastewater is accommodated via an on-site septic system. The proposal will not necessitate modifications to the existing septic system.

Fire Protection – The subject property is within the Rural Fire District #2 Tax District. A Map of Fire Protection District is included as an Exhibit.

Ambulance Service – The subject property is within the Bend Ambulance Service Area. A Map of Ambulance Service Area is included as an Exhibit.

Law Enforcement – The property is located within the service area of the Deschutes County Sherriff. A Map of the Law Enforcement Service Area is included as an Exhibit.

J. **EXHIBITS**

- Application Form & Fees
- Ownership Deed
- Lot of Record Decision 247-17-000210-LR
- Walker Road Vacation Documentation
- Site (Plot) Plan with Buffers
- Building / Structure Concept Elevations / Floor Plans
- Building Design Photo
- Odor Control and Noise Documentation
- Proof of Water Rights
- Bend Water Hauling Letter
- Legacy Ranches Mitigation Credits Letter
- CEC Will Serve Letter
- Shared Access Consent Agreement
- County Fire Map
- Ambulance Service Area Map
- County Emergency Services Map

5

Section 18.16.080, Stream Setbacks

To permit better light, air, vision, stream pollution control, protection of fish and wildlife areas and preservation of natural scenic amenities and vistas along streams and lakes, the following setbacks shall apply:

A. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the County Sanitarian finds that a closer location will not endanger health, the Planning Director or Hearings Body may permit the location of these facilities closer to the stream or lake, but in no case closer than 25 feet.

B. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.

Applicant Response: These criteria are not applicable because there are no streams or lakes on or near the property. Concomitantly, there are two tanks of COVID irrigation water that are on either side of the property.

6. Section 18.16.090, Rimrock Setback

Notwithstanding the provisions of DCC 18.16.070, setbacks from rimrock shall be as provided in DCC 18.116.160 or 18.84.090, whichever is applicable.

Applicant Response: This criterion is not applicable because there is no rimrock on the property or surrounding area.

B. Chapter 18.116 Supplementary Provisions

1. Section 18.116.330, Marijuana Production, Processing, and Retailing

A. Applicability. Section 18.116.330 applies to:
1. Marijuana Production in the EFU, MUA-10, and RI zones.

Applicant Response: The applicant is proposing a Marijuana Production use in the EFU zone; therefore this section applies to the proposal.

applicant/property owner with screening vegetation. The vegetation on the subject property and neighboring property (which is owned by the Applicant/Owner) provide significant buffers to surrounding rights of way and/or adjacent properties. The applicant intends to limit tree removal to the minimum amount necessary to accommodate the building placement.

- 13. Water. The applicant shall provide:**
 - a. A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resource Department; or**
 - b. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or**
 - c. Proof from the Oregon Water Resources Department that the water to be used is from a source that does not require a water right.**

Commentary: CGID receives federal grant money and therefore their water should not be used for production...
CGID?

Applicant Response: The applicant plans on year-round production and has the ability to provide water from multiple sources. Attached as Exhibits are:

- Letter from Central Oregon Irrigation District referencing water rights of the property
- Letter From Bend Water Hauling indicating their ability to serve the property
- Letter from Legacy Ranches indicating their intent to transfer 5 mitigation credits upon land use approval.

The use has a demand of approximately 135,000 gallons per month, and with the referenced methods the applicant has access to capacity that will provide well over that amount.

The most recent study of per-capita daily usage indicates that the average Oregon household uses 113 gallons of water per day; for a 30-day month that is 3,390 gallons of water for one household. A growing operation using 135,000 gallons per month is using as much water as approximately 40 households. CGID provides water not only for residential but for household and schools. As Bend is growing at a rapid rate, it is ridiculous to allocate this much water to marijuana growing, especially since CGID states there is no new water.

- 14. Fire protection for processing of cannabinoid extracts. Processing of cannabinoid extracts shall only be permitted on properties located within the boundaries of or under contract with a fire protection district.**

Applicant Response: The proposal is for marijuana production, it does not include the processing of cannabinoid extract; therefore this section does not apply.

- 15. Utility Verification. A statement from each utility company proposed to serve the operation, stating that each such company is able and willing to serve the operation, shall be provided.**

Applicant Response: Included as an Exhibit is a "Will Serve Letter" from Central Electric Cooperative (CEC), documenting conformance with this requirement.

- 16. Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public rights-of-way,**



23250 Walker Rd.-171327C001500 - 11.75 acres
23450 Walker Rd. – 1713000003400 – 31.25 acres

Central Oregon Irrigation District (“District”) serves this property with a total of 43.00 acres of Irrigation water (surface delivery) provided under State issued primary water right certificate #83571 (priority date 10/31/1900) and supplemental certificate #76714 (priority date February 28, 1913). These certificates allow delivery during the irrigation season of April 1st through October 31st and cannot be used for irrigation during the winter months. Water is currently delivered at a rate of up to 6 gallons per minute per acre.

If crop is proposed to be grown inside a structure, land-user must allow COID annual access to the structure to document beneficial use of the water right. A Plot Plan is required to assist COID in determining if a proposed structure will be located on the water right. Structures built on top of a mapped water right for any purpose other than starting/growing plants during the irrigation season is not allowed.

Water rights are subject to the laws and rules of the State of Oregon, the federal government, and the policies of the District.

Commentary: Central Oregon Irrigation District receives federal grant money. These water should therefore be subject to the laws and rules of the federal government and not be used for marijuana irrigation, as marijuana remains a federally illegal drug.



22166 Nelson Road
Bend, OR 97701-9790
Office (541) 382-0759

08/30/2017

Briteside Oregon, LLC
Maptaxlot 171327C001400
171327C001500, 1713000003400

RE: Will Serve Letter

Briteside Oregon, LLC have requested that Bend Water Hauling, LLC deliver potable water to the maptaxlots mentioned above. We have set up an account and will deliver to this location. If you have any questions or concerns please contact us at the office.

Commentary: What is the source of Bend Water Hauling's water?

Sincerely,

Kimberlee Nunez
Dispatcher/Member



LEGACY

R A N C H E S

P.O. Box 464
Prineville, OR
97754

To Whom It May Concern,

Legacy Ranches, LLC has reserved 5 mitigation credits, which total approximately 4,500 gallons a day, to sell to Brideside Oregon, LLC for their operation located at Maptaxlot 171327C001400, 171327C001500, and 1713000003400. Credits will be transferred immediately upon land use approval.

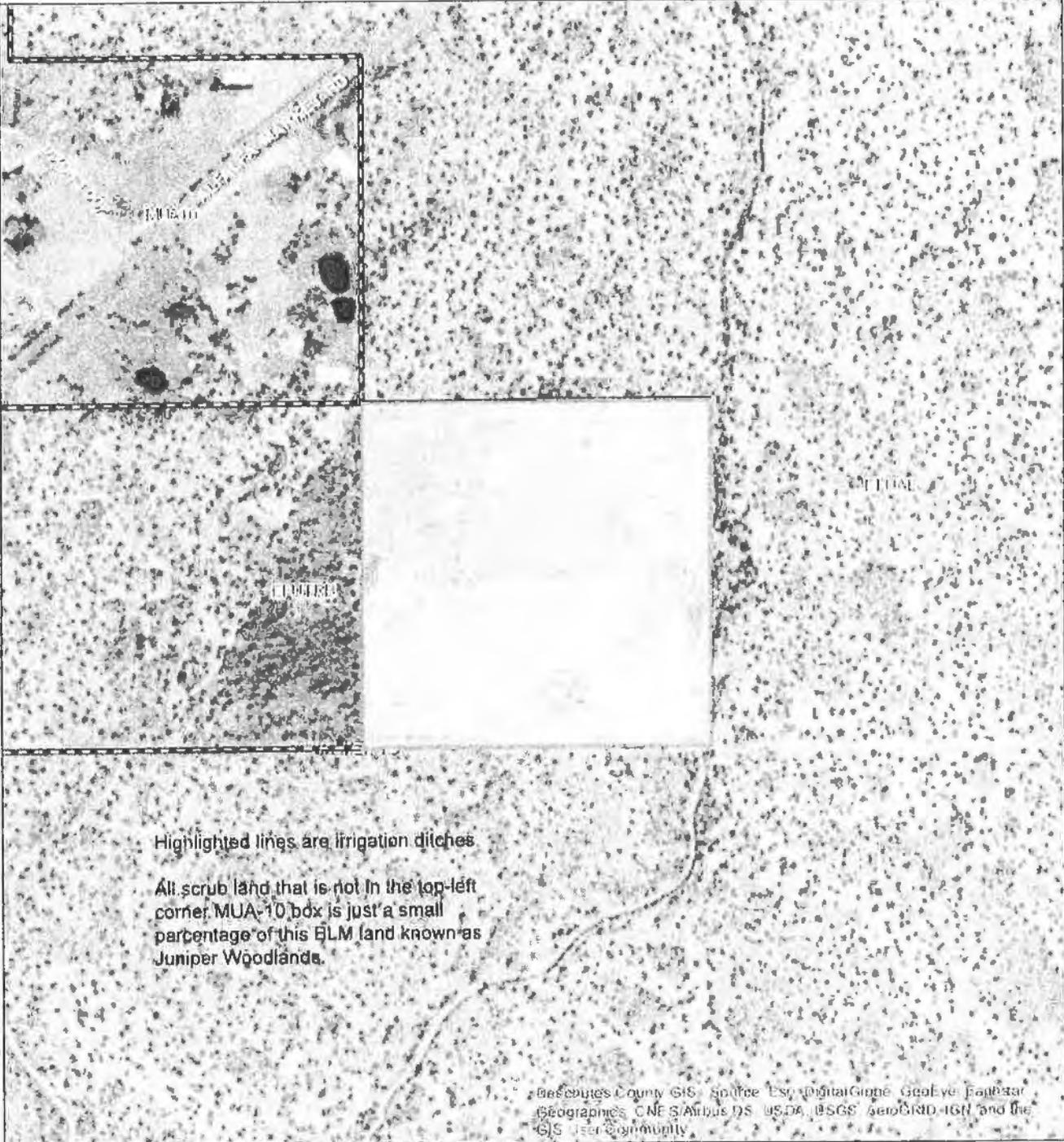
Regards,

Shawn Jones
Partner

Commentary: What is the value of the mitigation credits? Brideside Oregon, LLC is the only operation that is eligible to receive the mitigation credits.

Deschutes County Property Information - Dial

Zoning Map for account 106922



Highlighted lines are irrigation ditches

All scrub land that is not in the top-left corner MUA-10 box is just a small percentage of this ELM land known as Juniper Woodlands.

Deschutes County GIS Source Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNR/SARLabs DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Map and Taxlot: 1713000003400



**High Desert Special
Recreation Management Area
JUNIPER WOODLANDS
RECREATION AREA**

MANAGEMENT PLAN FOR THE JUNIPER WOODLANDS RECREATION AREA

The purpose of this Management Plan is to provide a framework for the management of the Juniper Woodlands Recreation Area. This plan is based on the findings of a study conducted in 1974. The study was conducted by the Bureau of Land Management, Prineville District. The study was conducted to determine the recreational potential of the area and to develop a management plan that would provide for the protection and enhancement of the area's natural resources. The study was conducted in accordance with the provisions of the National Forest Management Act (NFMA) and the National System of Public Lands Act (NSPLA). The study was conducted in accordance with the provisions of the NFMA and the NSPLA. The study was conducted in accordance with the provisions of the NFMA and the NSPLA.

The area of the Juniper Woodlands Recreation Area is located in the High Desert region of Oregon. The area is characterized by its unique natural resources, including its juniper woodlands, its high desert landscape, and its rich cultural heritage. The area is also characterized by its recreational potential, which includes hiking, hunting, and fishing. The area is also characterized by its scenic beauty, which includes its high desert landscape, its juniper woodlands, and its rich cultural heritage.

The area of the Juniper Woodlands Recreation Area is located in the High Desert region of Oregon. The area is characterized by its unique natural resources, including its juniper woodlands, its high desert landscape, and its rich cultural heritage. The area is also characterized by its recreational potential, which includes hiking, hunting, and fishing. The area is also characterized by its scenic beauty, which includes its high desert landscape, its juniper woodlands, and its rich cultural heritage.

Legend

- ▣ Trailheads
- Gates
- Trails with bridge between junctions
- Highways
- Roads
- Canals
- Juniper Woodlands Recreation Area
- Non-Motorized Use Area
- Administered Lands
 - Bureau of Land Management
 - State of Oregon
 - Private

Scale: 1 inch = 1 mile

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management

PRINEVILLE DISTRICT
3030 NE Third Street, Prineville, OR 97754
Phone: 541-435-0700



From: [Anthony Raguine](#)
To: [Tracy Griffin](#)
Subject: FW: 23450 Walker Road Marijuana Application
Date: Friday, December 15, 2017 9:20:21 AM

Hi Tracy. Please have the email scanned to 17-833-AD and labeled "J. James opposition comments."
Please print a hard copy for the file. Thanks.

Anthony Raguine
Senior Planner
Deschutes County Community Development Department
117 NW Lafayette Avenue
Bend, OR 97701
(541) 617-4739

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: Anthony Raguine
Sent: Friday, December 15, 2017 9:16 AM
To: 'James James' <hikebikeskifish@gmail.com>
Cc: Tammy Baney <Tammy.Baney@deschutes.org>; lrgood@blm.gov
Subject: RE: 23450 Walker Road Marijuana Application

Thank you for your comments James. I will add your email to the record. Also, I wanted to let you know that the Notice of Application (NOA) was mailed on October 23rd to the BLM – Prineville District. Additionally, the NOA was mailed to all properties within 750 feet of the subject property, in conformance with our Procedures Ordinance. Let me know if you have any questions.

Anthony Raguine
Senior Planner
Deschutes County Community Development Department
117 NW Lafayette Avenue
Bend, OR 97701
(541) 617-4739

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: James James [<mailto:hikebikeskifish@gmail.com>]
Sent: Tuesday, December 12, 2017 2:52 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>

Cc: Tammy Baney <Tammy.Baney@deschutes.org>; lrgood@blm.gov

Subject: 23450 Walker Road Marijuana Application

To: Anthony Raguine, Senior Planner

cc: Tammy Baney, Commission Chair
SAC Loren Good, BLM

Re: Marijuana Growing Application for 23450 Walker Road, Bend

Anthony:

I see that on Dial Deschutes the application by Briteside Oregon, LLC was deemed incomplete and a request was made for more information.

I am assuming that you or someone in the county offices did not notify either the Department of the Interior or the Bureau of Land Management regarding this application that is surrounded by BLM land. I know you did not notify the general public about this application but you should have, since the BLM manages this land *on behalf of the American people*.

The mission of the BLM is "to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations."

Here is information from the BLM website:

The Bureau of Land Management administers a variety of landscapes for multiple use over more than 16 million acres of public land in Oregon and Washington.

These lands host complex natural systems that provide habitat to thousands of plant and animal species and are managed to overall promote landscape health.

The landscape managed by the Oregon and Washington BLM is diverse. These lands are a mix of the heavily forested lands west of the Cascades and the dry, sage-brush ecosystems of the Great Basin

These public lands support many uses, including recreation, wildlife and wilderness protection, timber harvesting, livestock foraging and mineral extraction.

By way of notifying the BLM, copied on this email is Special Agent in Charge, Loren Good. Hopefully SAC Good will comment on this application and the risk it poses to public safety. The land surrounding this proposed application is public land and a recreation area that is actively used by the public. A growing operation directly adjacent to public land presents a risk to those who use this land.

From: [Anthony Raguine](#)
To: [Tracy Griffin](#)
Subject: Pls scan to 17-833-AD & print a copy for the record. Thx.
Date: Tuesday, February 13, 2018 8:15:20 AM
Attachments: [Briteside Opposition letter.docx](#)

From: Susanne Ritter [mailto:susanneritter@outlook.com]
Sent: Monday, February 12, 2018 5:54 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Case ID: 247-17-000833-AD: 23450 Walker Road, Bend, OR 97701 aka Briteside Oregon LLC, letter of opposition

Mr. Raguine,

Attached, please find my letter of opposition for the Marijuana Grow Application by Briteside LLC.

Please feel free to contact me if you have questions.
My mobile phone is 831-431-3255 and has voicemail and text messaging.

For your consideration, thank you very much in advance.

Sincerely, Susanne Ritter, RN, CRRN, RCM, MBA
neighbor

Nick Lelack, AICP, Director, 541-385-1708, mobile 541-639-5585
Anthony Raguine, Senior Planner, 541-617-4738, anthony.raguine@deschutes.org
Deschutes County Community Development Department
117 NW Lafayette Avenue, Bend, OR 97708-6005

Re: Letter of Opposition to Marijuana Grow Application
Case ID: 247-17-000833-AD: 23450 Walker Road, Bend, OR 97701 aka Briteside Oregon LLC

To whom it may concern:

February 12, 2018

We purchased our 5 acres of land about 3 years ago. We have 2 cows, 10 chickens, 4 acres of pasture with irrigation, a large organic garden and some fruit trees for our own use. We are quiet folk, we work hard, pay our taxes, and then go home to enjoy the land that we have worked for all of our life and dreamed of for a long time before that. My daughter still lives with us and goes to school and works. We call our property farm Eden, because it is our little piece of heaven. But, if the proposed grow operation directly across the street from us starts production, it will be our daily nightmare. Here are the reason:

Noise

Right now when I listen to the sounds surrounding us at night I hear – nothing. Our bedroom window is located towards the proposed grow operation and we keep it open a little at night for air flow. If this grow operation starts it will be as if a 747 takes off constantly, day and night, 7 days a week, 12 month a year. This is not “intermittent farm noise” (as maybe a tractor would produce), this is constant bombardment. 44 HVAC units on one building producing 73dB each is a total of 3,212 dB. If you get any louder than 194 decibels, sound becomes a shock wave instead of a sound. Note also that this is only for the first building as they will most likely build two more in the future. No distance or sound wall will blend this out. In the winter there is barely any vegetation to block the sound either. What are we supposed to do? Wear earplugs to bed? How are we supposed to hear our alarm clock then? Also, many animals in our neighborhood have better hearing than humans, e. g. the horses and dogs that many of the families living her have. Do they have to suffer, too?

Stench

Right now when I smell the air on our property I smell – nothing. Pristine clear fresh air surrounds us, except for the occasional fire in the summer. Despite all the best air filters in the world, pot stinks. Just drive out on Alfalfa Market Road where the current grow operations are and you can smell it just driving by. Imagine living in skunk stench all the time. We have a lot of wind around here and it will blow the stench all over. Further, I hold a medical license. What if I inhale it and test positive for THC at a random drug test at work? Then the constant air pollution will not only cost me my peace of mind, it will cost me my job and livelihood as well.

Drinking Water

Right now when I drink my water I taste – nothing. The water is clean and pure, from a community well that supports approximately 30 families. We use no chlorine, test monthly, use UV filters, and our water is “live” water, simply the best this planet has to offer. Ecologist Mourad Gabriel states that some of the pesticides that are used on pot farms are so toxic that half a teaspoon can kill a bear, and these chemicals do leach into the ground water, see:

<http://www.newsweek.com/illegal-marijuana-farms-dump-shocking-amount-toxic-waste-647568>

So, do I need to buy my drinking water now because I do not know how many of these chemicals leach into our groundwater? What about our animals? What about our children? Who will we sue when we get sick? And who will pay for that?

Waste Water

At 135,000 gallons a month, from only one greenhouse, how much will flow through the lava tubes into our groundwater? The proposed grow operation uses lava tubes to dispose of its wastewater, that is their leach field. It is extremely likely that it ends up under our property and in our well as our property (and those of our neighbors) are slightly lower in elevation than the proposed grow site.

Irrigation Water

And what about the irrigation water? Will they pollute the canal? It runs open to the air right over their property, next to the greenhouse. No one can see it from the road, so what prevents them from dumping who knows what chemicals and debris in the irrigation canal? So, now we have water issues above and below ground, for humans, animals, and plants.

Home values / Retirement

Our property is by far our greatest retirement asset. We plan to sell it when we get older and working the land becomes too hard for us. 80% of the buyers for properties such as ours are working families that want to raise healthy children in a farm like environment. That entire pool of potential buyers will not even look at a property with a large marijuana grow operation next door. This is a huge blow for us. See: <http://www.bendbulletin.com/localstate/5115120-151/county-commissioners-to-hear-first-marijuana-related-appeal> and many more articles like it. We work 50/60 hour weeks, pay our taxes, and pay down our mortgage to fund our retirement plan. What will we do when the grow op next door become reality? One thing is for sure: It will destroy our way of life, no matter what we decide.

Peace of mind / stress / anxiety / headaches / illness

The situation is already costing me many sleepless nights and bouts of anxiety and fear. The same is true for many of our neighbors. Talk is of selling, hiring attorneys, fighting, just like I am doing with this letter. I am not an attorney, I work in healthcare. I was taught in nursing school that 70% of diseases are stress related. This proposed pot farm is causing all of us already immense continuous stress. What if someone has a heart attack over this? We have had to form support groups, spend precious family time on writing letters and going to meetings and talking on TV.

We were here first

This is not right. Families have created this community and all of its wonderful properties and values over the last 40 years with lots of hard work and precious investment. We live here because we value health, serenity, an organic lifestyle, raising healthy children that still know how to ride a tractor, herd a cow, sow a corn field, or ride a horse. And we do not grow pot or condone the associated lifestyle.

Ask for permission, not forgiveness

We need to ask our neighbors for permission to build a barn. And these people do not even have to ask us? That is not right. They should have to ask their neighbors just like we have to ask even for a 6 foot fence instead of a 4 foot fence. They should have to apply for their permit before they buy a property and spend investor money on it. Now, they should sell and get a piece of land somewhere away from children, animals, and families, where they can stink and blast and pollute as much as they want. Oregon has many such places, a grow op does not need to be 10 minutes from town.

Felons, liars, and who knows what else

Felons, especially violent felons, should not own and operate drug companies. One of the founders of Briteside LLC, Justin Junda, was charged with assault in Chattanooga, TN in 2016 and fired from his job.

https://www.rapsheets.org/tennessee/chattanooga-jail/Junda_Justin/107590 Now he has several websites up and running and sells marijuana online (is that even legal – what if a minors buy it?). He states: ... Briteside is currently up and running in the city of Bend, Oregon, and will expand to two other Oregon cities -- including Portland -- within the coming weeks. After that, the delivery service will expand to Nevada, and has plans also to move into California when delivery is legal there. See: <https://www.circa.com/story/2017/11/08/nation/briteside-oregon-pot-delivery-service-releases-funny-ad> What does he mean by up and running? Is he declaring the taxes from his online sales? And if he is already so successful selling drugs, let him buy them from others. He does not have to grow it here. Also, his attorney, James A Hurst Jr, has received legal censure from the Tennessee Supreme Court in 2009: <http://www.chattanooga.com/2009/1/23/143211/Attorney-Hurst-Receives-Public-Censure.aspx>

Safety concerns, expenses of security, law enforcement

It is already costing us money to ensure that no harm will come to us financially. With such a huge operation, there will be constant “travelers” in the area. There will be many unskilled labor, making minimum wage or not much more, many of whom can be assumed will “consume the product” as well. We do not want these people in our neighborhood. We are afraid of theft, vandalism, threats, violence, or worse. Right now we can park our RVs and tractors on our properties and worry very little about them, some of us even leave our doors unlocked. The only people coming into our neighborhood are residents and their visitors, and the mail, almost no one else. With this “grow op” here, there will be 50 new vagabonds per month, drifters of all kinds, drug addicts, young partiers, who knows what. So, we have to buy guns, put insurance year round on all vehicles on the property against theft and vandalism, train up guard dogs, put up more fencing. Even Compton, CA voted not to have any marijuana businesses in their city. We should take their 30 years of experience with the “issue” to heart. See: <http://www.latimes.com/local/lanow/la-me-compton-marijuana-20180202-story.html>

Collateral Damage

We do not want to be collateral damage from this proposed grow operation. See <http://registerguard.com/rg/opinion/36109717-78/living-near-marijuana-grow-can-be-unhealthy-experience.html.csp> There are more reasons for this operation not to get approved, besides all that I have already mentioned, I could go on.

No need to grow more Marijuana in Oregon

And the market is saturated. More production in Oregon will likely just go into the black market and cost tax payers dollars in law enforcement. Here is proof that we need no more “product” <https://oregoneconomicanalysis.com/2018/02/08/marijuana-falling-prices-and-retailer-saturation/>

Hyperemesis

Another new cost / disease that marijuana production is hyperemesis. Patients come into the ER and cannot stop vomiting. No medication can stop the throwing up. Patients then get IV fluids and are often admitted to Medical floor for dehydration. The only cure is not to ingest any more cannabis. Often these patients come back and become “frequent fliers” at the hospital. This is already a constant occurrence on Medical floor in Bend where we need the beds for flu patients and the like. Often these patients have no insurance, and then the hospital does charity work and the taxpayers pay for it in the end. We need no more of this. https://www.huffingtonpost.com/entry/mysterious-marijuana-flu-emergency-rooms_us_5869d6bee4b0eb586489f7e6

Please include this letter in the public record for this case.
For your consideration, thank you very much in advance.
Sincerely, Susanne Ritter, RN, CRRN, RCM, MBA, and family

From: [Anthony Raguine](#)
To: [Tracy Griffin](#)
Subject: Pls scan to 17-833-AD & print a copy for the file. Thx.
Date: Monday, February 12, 2018 9:07:29 AM

From: Lance Piatt [mailto:lancepiatt@icloud.com]
Sent: Monday, February 12, 2018 8:59 AM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>; Tammy Baney <Tammy.Baney@deschutes.org>; Phil Henderson <Phil.Henderson@deschutes.org>; Tony DeBone <Tony.DeBone@deschutes.org>
Subject: RE: Brideside Marijuana Grow application, File No. 247-17-000833-AD Paulson additional comments

Phil, Tammy, Tony and Anthony
Rural County Deschutes residents are simply dumbfounded that this lunacy continues with your constant approval process of pot grows. We all know this is demand from Brown and the state level because anything other than this smacks of something very illegal, immoral and unethical.

In light of Billy Williams' decision to continue the road for Federal prosecution efforts... why in the world are you continually putting residents under the bus?

Stop it!!!!

Lance Piatt
lancepiatt@me.com
541 815 0332 Cell
Red Ibex Solutions

Rescue Respons Gear Inc.
Rigging Lab Academy Inc.
Raven Collective Media
Trails 2 The Sea

From: [Anthony Raguine](mailto:Anthony.Raguine)
To: [Tracy Griffin](mailto:Tracy.Griffin)
Subject: Pls scan to 833-AD & print a copy for the file. Thx.
Date: Monday, February 12, 2018 8:17:58 AM

From: td tammy [mailto:shortshuffle@gmail.com]
Sent: Monday, February 12, 2018 8:00 AM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: RE: 23450 Walker Rd / 833-AD / Brideside Oregon LLC

Anthony,

While reviewing response to incomplete application letter, I still find many unanswered issues.

1. I am requesting applicant receives the requested survey's by BLM. applicant is instructing the county what survey they will submit to comply with.

2. It is unclear if applicant is stating water will be from four sources: COID irrigation rights, 3 mitigated rights from Legacy Ranch, Bend water hauling & they state 3 inches of ground water ?. COID irrigation rights may need a conversion letter if changing from designated irrigation areas to watering Marijuana inside buildings ?. As for the 3 mitigated rights, as of right now, I find no permit issued to Brideside, a chain of custody us not a permit, I was informed that was a requirement, even with mitigated rights. The permit must be stamped with the oregon seal to be legal. The Bend water hauling, applicant claims will be delivered to all three 40 acre lots owned by Brideside to accomodate the water need for 23450 if necessary, so that means storage ? also water hauling back and forth Alfalfa market Rd on a blind corner ? in reference to the 3 in. of groundwater, I am under the understanding ground water cannot be used for growing Marijuana plants unless it qualifies under the exempt status. Recreational Marijuana for profit does not qualify for exempt.

3. The noise is a high concern, applicant has not been clear enough on what the noise levels will actually be when combining total of engineered series (not "transparent" on the number) of the 4 Ton Split DX systems, How many ?. same issue on clarity with the 44 HVAC units that are rated 73 dB at each unit. By calculation table of dB the dBs run very loud, of course it depends on : are they all going to run simulatiously or staggered or random ? That is just the new (PROTO-TYPE) building made from products by Brideside Holdings LLC from Chattanooga, TN. Then add the existing building of 8 condensing unit and 1 Bard unit = unknown total of sound. Plus the 28 module rooms that will each contain 3 12" Can-Fans = 84 12" Can Fans. This is a problem issue since on "the Deschutes county Marijuana land use existing condions report dtd October 23, 2017" paragraph 4 states "Violations involving public health or safety hazards will be high priority - the same as all other health and/or safety violations, but others (i.e, lighting, odor) will not. Which means no priority for this issue from Code Enforcement, so this needs to be addressed now prior to approval.

4. Odor, It has been recognized the problem with Odor of the Marijuana grows within Deschutes county & the State of Oregon. 20,000 sq ft. Marijuana does produce a very unacceptable amount of skunk odor. This issue as issue #3 due to Code Enforcement policies and procedures need to be addressed prior to approval.

5. Applicant states on "Burden of Proof Narrative Marijuana production" page REQUEST: paragraph " The proposal includes providing up to 20,000 square feet of mature canopy area, in an identified " Building Envelope " area, within modular STRUCTURES ranging in size from 4,000 - 18,000 square feet.

So what is the actual size of this grow and does it conform to county requirements ?.

6. Ken & I are concerned with the COID irrigation ditch in close proximity to Applicants proposed Marijuana facility and contamination. Walker rd has been gated shut since BRITSIDE LLC purchased property which blocks access for any irrigation right holder to be able to remedy issues from the shared weir & open irrigation ditch. The current gate was not there previously, access was not blocked. Gates further up on Walker rd closer to 23450 was closed.

I have gone to most of the meetings the BOCC requested from: Water Dept, OLCC, Agriculture, Law Enforcement. Each of these Departments only check for the requirements on their list, the OLCC stated "once the county has approved the application we will check for the requirements on our list," this is due to your Departmental Approval, so Please DOT you I'S & Cross your T'S before approving any of these Marijuana grows, because the next department is NOT going to check what you told the applicant they need to do. All of the above mentioned DEPTS. OLCC etc... stated they would like to see "TRANSPARENCY" From the industry of the Marijuana growers, as proof of NON - TRANSPARENCY, on original incomplete application by BRITSIDE OREGON LLC, it was not mentioned or told about these "PROTO-TYPE" BUILDINGS, except on the building design sheet. No mention of the financial interest they have in these buildings until this response of incomplete application. Why were these buildings not revealed in the first application ? I know the buildings were here before original application was submitted ? They state these buildings are state of oregon approved, but I see no state certification ? . As they mention these buildings are proto-type prefab buildings, metal on outside, came with built in electrical, fans, misters etc..... they should be required to be " state certified & issued permit as these do not classify as a standard agricultural greenhouse or hoop house . That might be why they were not TRANSPARENT with information. I am requesting and recommending Denial of this Application based on circumstances brought to your attention of this Resubmittal of inconsistencies, inaccuracies, incomplete information & NON-TRANSPARENCY. We as Alfalfa market rd residents DO NOT WANT TO BE A TESTING NEIGHBORHOOD FOR MARIJUANA PROTO-TYPE BUILDINGS !!!.

Respectfully,

Tammy Threlkeld/Ken Clouse
23344 Alfalfa Market Rd
Bend, Oregon 97701

PS. Please review all written submitted material relating to this application

From: [Anthony Ragaine](#)
To: [Tracy Griffin](#)
Subject: Pls scan to 17-833-AD & print a copy for the file. Thx.
Date: Saturday, February 10, 2018 3:43:36 PM
Importance: High

From: Monika Piatt [mailto:monika@rescueresponse.com]
Sent: Thursday, December 7, 2017 7:13 AM
To: lrgood@blm.gov
Cc: Tammy Baney <Tammy.Baney@deschutes.org>; Phil Henderson <Phil.Henderson@deschutes.org>; Tony DeBone <Tony.DeBone@deschutes.org>; Anthony Ragaine <Anthony.Ragaine@deschutes.org>
Subject: Marijuana Application adjacent Woodlands Recreation Area
Importance: High

Dear Loren Good:

Please consider these concerns in the application for a Commercial Marijuana at 23450 Walker Road in Bend File #247-17-000833-AD. Here are just a few concerns:

1. Water-Wise Gardening in Central Oregon: "We need to balance home and commercial use with a focus on water conservation, which is a critical part of being a good steward in our region. With only 3-6 inches of natural precipitation during growing season (April-October), water use is a very important consideration. A typical resident uses over 50% of their total water consumption for outdoor landscape. Because we all share water resources, we each have a responsibility to use it wisely" Quoted from "Water-wise Gardening in Central Oregon" by Amy Jo Detweiler, Extension horticulturist /associate professor, OSU. Note: Mike Buettner City of Bend Water Conservation Program Manager and Wendy Edde City of Bend Stormwater Program Manager also contributed and supported the publication. This new grow application #247-17-000833-AD in Bend will use 135,000 gallons per month year round on their first 40 acre grow (they have 120 acres total, so far...) Tumalo residents have wells running dry because of MJ grow neighbors. This new application is NOT stewardship of water in the high desert.
2. Traffic Study/Impact Category of "Warehouse" as opposed to "Nursery" please do not settle for these minimum standards. Alfalfa is an excellent example and resource to our county as to traffic impacts to residential neighborhoods, safety and increased traffic accidents or DUII. Please NOTE: There has already been one fatal accident at this address, marked by a memorial cross. The driveway is at a blind corner after the intersection of Stenkamp/Bennett where high speeds exceed the unmarked 55 mph. This is an UNSAFE location for a commercial grow operation in a residential area. (I will send you photos in another email)
3. Retail Sales: Where is all this MJ being sold to? There is more growing than needed by dispensaries in Deschutes County already, with additional large grow applications from

out of state. For example File #247-17-833-AD purchased 120 acres total by Brideside LLC in Tennessee.

Please consider these growers are shipping to a state(s) that opted out and this site is strategically located near the Bcnd airport and HWY 20. Do you want to be part of Black Market sales? Reports/News show 80% leaves the state illegally. Most residents voted for legalization trusting this would decrease, not increase illegal MJ grows and sales.

4. Waste: Female plants are exclusively grown as the “flowers” and oil are used for processing. The remainder of each plant, soil and containers they are each grown in are all waste. Where is this waste going? A “secure” waste receptacle in the possession of and under the control of the “person” responsible for the grow site, how can you be certain and then where do these receptacles go? This is TOXIC waste and greatly impacts the environment. Generally, this waste is simply dumped on grow sites. Check with Code and Law Enforcement records from our county to confirm from neighboring complaints/concerns.
5. Pesticides/Fertilizers: Are there county standards for these products? Each plant must be flushed for proper PH balance 15 times. These products are going into our soil and water system, creating environmental harm to humans, animals, livestock and crops, such as hay which are also ingested. This site borders Juniper Woodlands Recreational area on 3 sides!
6. Permit Follow-up/Final Approval: In all other land use regulations, permits are followed up by inspections and approvals, ending with a final approval/inspection for a house for example. How much more should grows containing a federally illegal crop that consumes countless amounts of water have regulations for a final approval. This application includes a building manufactured out of state and should be treated as a building, with all the necessary permits and inspections.
7. As the county only sends out notification within 750’ not the total affected 1000’ neighbors, 140 signatures were gathered for a petition that was turned in.
8. Residency: On site is required for MUA, but is it required for EFU sites as well? Owner? Agent? Workers? Is there any background check on these site residents growing a federally illegal crop? At least one of the owners has a “record” and neighbors are concerned, as one has already been threatened by someone associated with these “investors”.

You will be hearing from other neighbors too with additional concerns for your consideration and how this will impact the adjoining Juniper Woodlands Recreational Area.

Please NOTE a driver in a vehicle from Ohio was cited by Law Enforcement on 12/3/17 at the BLM property on Alfalfa Market Road between Waugh and Byram for possession of marijuana. Neighbors had observed this vehicle at this location previously...

Sincerely,
Monika and Lance Piatt
23095 Alfalfa Market Road

Bend, OR 97701

monika@rescueresponse.com

From: [Anthony Raguine](mailto:Anthony.Raguine)
To: [Tracy Griffin](mailto:Tracy.Griffin)
Subject: Pls scan to 17-833-AD & print a copy for the file (black & white for the photos). Thx.
Date: Saturday, February 10, 2018 11:32:33 AM

From: Bret Matteis [<mailto:matteisbret@gmail.com>]
Sent: Tuesday, February 6, 2018 5:30 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Walker Road - Marijuana Grow Concerned Neighbor

Dear Anthony;

I have lived off of Bear Creek Road for over 15 years now. I purchased 10 acres and constructed my dream house and raised my 5 children in the country on my property. Our property backs up to the Federal BLM land that separates our property from the Proposed, Walker Road Grow operation.

We have a great neighbors with folks who raise and ride horses, cattle and other farm animals. We share our garden vegetables and eggs and have BBQ's where we have gotten to know each other better. We also watch each others property and generally have a great life style. The life style we all moved to the Country to enjoy. I was at the recent hearing for the grow in Alfalfa, and heard the grower claim they were "good neighbors and cared about humanity". Really? I question how these grow operations can be good neighbors, especially with the multitude of problems and complaints that have occurred since allowing grow operations in our County, stemming from unenforceable smells, sounds, high security fencing, guards, dogs, not to mention the type of people that will be now frequenting our neighborhoods.

My family and our neighbors have always enjoyed the BLM land in our back yard that if you looked at an aerial map, is an extension of the Bad Lands, if you were to cross Dodds Road. The BLM is a peaceful area to take walks, ride horses and just enjoy the High Desert. Elk, Deer and many other may other animals frequent the area. I know that if this Grow is allowed, our peace and tranquility living in the Country will never be the same.

I must share my photo's that I took back in November, of the construction taking place at the proposed site, adjacent to the BLM. I was appalled to see how much excavation, rock crushing (mining), tree removal on the proposed property. The Brightwood team already delivered green house assemblies, were already placing electrical PRIOR to any approvals! My guess is by now, everything is constructed and ready to start the Grow operation! How can this be legal or be allowed?

It is time that the County stops this type of development, without permit, without traffic impact studies, without proper documentation to continue on. The traffic, odor control, noise control, water impacts, environmental impacts isn't something that the good people of Deschutes County should have to prove through calling enforcement, the planning commission and the Building Departments, to complain about these bad neighbors.

Please take these brash and bold moves into consideration when you are making final recommendation for this Grow operation. The long term consequences of this operation if allowed to continue will certainly come back and haunt the Good People of Rural Deschutes County as well as the County Officials for years to come. Please take this opportunity to put the brakes on, take pause and evaluate what the long term County and the Marijuana growing industry should look like in both the short and long term future.

Thank you for your time,

Bret Matteis - cell 541-610-2308









From: [Anthony Raguine](mailto:Anthony.Raguine)
To: [Tracy Griffin](mailto:Tracy.Griffin)
Subject: Pls scan to 17-833-AD & print a copy for the record. Thx.
Date: Saturday, February 10, 2018 8:53:18 AM

From: James James [mailto:hikebikeskifish@gmail.com]
Sent: Friday, February 9, 2018 4:37 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Application 247-17-000833-AD

Anthony:

Seems that the Briteside applicants at 23450 Walker Road (247-17-000833-AD) have replied to the request for more information on their application.

They have not satisfied the criteria requested by the BLM. BLM indicated there was concern about the property line and the applicant's road or driveway actually trespassing on BLM's property. The applicant says that they will fix it if approved.

Their application should not be approved unless they have a boundary line survey done FIRST to ensure that they are a legal lot of record. You cannot approve a land use permit application without first knowing that the entirety of the land is owned by the correct person.

Their water question still appears to be unanswered.

It should also be noted that they drilled a well in November 2017 and any approval should be conditional on them not being allowed to use domestic water for growing marijuana plants. It seems to be a common practice that this is what the growers do. If they do apply for a transfer to use ground water it still wouldn't be usable until they "proved up" the water.

-J

From: Darren
To: Anthony Raguine
Subject: Fwd: CASE ID: 247-17-00083-AD
Date: Friday, March 9, 2018 11:57:10 AM

Case ID: 247--17-000833-AD: 23450 Walker Road, Bend, Letter of Opposition

To: Anthony Raguine

From: Darren Gyford
62770 Stenkamp Road
Bend, OR 97701
775-223-3261

Sir,

It has been brought to my attention through my neighbors that a property owner is trying to build green houses for commercial production of marijuana. I am in opposition to this for the following reasons:

- 1) Manufacturing drugs in a residential area is not appropriate with consideration to property values, neighborhood safety and children being exposed. I for one would not purchase a property for my family to live in next to a commercial drug manufacturing facility. The product will draw criminals and other undesirable activity to our family neighborhood.
- 2) Water use: Our neighborhood relies on a well. I have been informed a facility the size being proposed will take an extremely large amount of water. The largest concern would be during winter months when no irrigation water is available. Without legal constraint the grower can simply determine that trucking in water is not viable and move to using the well.
- 3) Irrigation water: Over the past four years it has been a constant struggle to get enough water to my property. With more demand, will it make it even more difficult to get my irrigation water? I'm not familiar with the water acquisition process but since the water comes from federal lands and is taken by the irrigation company, how can they sell water to irrigate federally illegal drug manufacturing.
- 4) Contamination: The waste and chemicals being used have the ability to contaminate our water sources including wells and the irrigation water. We are not protected and having to test for these chemicals will financially be passed on to us and the surrounding neighbors.
- 5) Sensory pollution: The 50 or so fans will produce sound pollution that can be heard around the clock. Again, who would buy a property next to that for their family? Smell, it stinks even with the filters. I've have been near a green house with the supposed filters and it does not eliminate the odor.

The bottom line is that I don't want a drug manufacturing facility in our neighborhood. Wouldn't this sort of business be much better suited to more rural areas that don't have numerous families with children living next door? Thank you for your time.

Regards,

Darren Gyford

Action is the foundational key to all success.
~Pablo Picasso

From: Jerry and Amanda Wallace
To: Anthony Ragone
Subject: case id#247-17-000833-AD: 23450 Walker Rd
Date: Thursday, March 8, 2018 7:00:31 PM

To Whom It May Concern:

We would like to voice our opposition to a permit to be issued to allow a marijuana grow at 23450 Walker Rd.

We are concerned about the effect this will have on our children and our neighborhood's health. Many children (including both of ours) out here have 4H and FFA projects they do that require them to be outside working with their projects. The odor that emanates from these grows will keep them from being able to work outside. The odor pollution and concern of air pollution from unknown chemicals that may not be thoroughly scrubbed out by their air filters is a major concern.

We are concerned about our water supply. Currently our neighborhood is on a community well that supplies 27 households. We are all very careful with our well water consumption to conserve as much as possible. If this grow is approved, we are worried that it will deplete the water source at a much faster rate. Also, will the water supply become contaminated from chemicals that may leach into the ground? Is this a risk that anyone is willing to take? Will the grow be allowed to use Central Oregon Irrigation water during irrigation season or are there federal restrictions with irrigation water?

This will increase traffic activity in the area. This is already a busy road with accidents that have occurred somewhat frequently on the corner the driveway is located on. With more employees entering and exiting, it has the potential to create more hazardous driving conditions than the single family households that lived there before. I thought this was a public road bordering BLM land, but since they have bought the property it has been closed off with a locked gate.

I am also concerned about the type of people who will be hired to work there. Since marijuana grows are not federally recognized, are background checks performed on people who work there? We have children who get on and off the bus in the vicinity and this and the increase in traffic could compromise their safety. Will the crime rate in our area increase?

We moved out here planning to spend our retirements years here, which is 20+ years in the future. If our plans change and we need to move, this is going to effect our property values, let alone the quality of life we moved out here to raise our children in.

Please do not allow this permit to be issued.

Thank you for listening to our concerns,
Jerry & Amanda Wallace
62720 Stenkamp Rd

From: Allan Herauf
To: Anthony Reguine
Cc: Dianne Herauf; Jeremy Herauf; Crystal Herauf
Subject: Referencing case ID 247-17-000843 AD 23450 Walker Rd Letter of Opposition
Date: Tuesday, March 6, 2018 2:38:51 PM

Dear sir,

My wife and I reside at 62685 Stenkamp Rd. Bend 97701. The property in question is .6 miles to the south from our property.

I am taking this opportunity to voice our strong objection to a proposed Marijuana facility being permitted for the property listed above. My objections are many, so I have listed them below as bullet points.

The proposed facility would greatly affect the property values that we and our neighbors have achieved through great investment of money and time to each of our respective properties. We have a very well documented investment of over \$1.3 million dollars in our Home, outbuildings, landscape and infrastructure. Our next door neighbors are in the process of building a new home that will also require them to invest over \$1 million. Just to the north, a home is in escrow for a sale at over \$1million. To the south of us, our neighbors also have a home valued well over \$1million. None of us want to see these values negatively affected by a Marijuana growing facility. I can give you my word that, if approved, the marijuana facility will indeed have a negative affect on values and desirability. That said, in the event that this land use application is approved, I reserve the right to bring a law suit against the county and the property owners whereby I will be seeking compensation for any and all damages.

The use of well water by the proposed facility may have a catastrophic effect on the water table that all of us neighbors rely on. We spent a great deal of money on our well. We had to drill to 700 feet +/- in order to have adequate water for residential use. Our neighbors wells all were drilled to the same vicinity. Once again, we feel that any infringement to our well water will be cause for litigation naming both the county and marijuana facility owners as defendants.

There is great potential for poisoning or otherwise damaging our water quality in the aquifer we all share. An independent testing company will provide us and our current neighboring water users with accurate data on water quality if the marijuana facility is approved. Any reduction in water quality will be cause for litigation by our neighborhood group against the county and any entity thought to be liable.

Our neighborhood, children and elderly will not be safe from the low life type of individuals associated with drugs. Here is an issue that should bring alarm to all law abiding citizens. How would you feel having one of these Pot farms near Your house? Once again, I see this as cause for a potential law suit should harm ever come to any of our families, friends or neighbors.

The smell of marijuana buds is sickening to my wife and me and, possibly damaging to the health of anyone who inhales the fumes. We don't want our neighborhood stunk up with drugs. If they want to grow something, let them grow alfalfa.

The potential noise and added traffic is detrimental to our quiet way of life in the Bend countryside.

That is it for the moment, but I'm sure there is more to be said by myself, my wife and our neighbors. None of us are at all pleased with this land use application. We ask you folks at the county to do your job and do it well. Keep this kind of drug business out of our neighborhood that we all took so much effort to build.

Sincerely,

Allan Herauf

503-816-3207

allanh@bridgemastersinc.com

From: Laurie Craghead
To: Anthony Raquie
Subject: Brideside Marijuana production application, File No. 247-17-000833-AD - Additional comment
Date: Friday, March 9, 2018 4:21:01 PM

Good afternoon, Anthony.

I understand from my client that you are writing the decision in the above case. Thus, the following may be too late for your consideration, but I thought I'd send it anyway to make sure it's in the record. I will reiterate this on appeal.

The county code allows only one marijuana production license per property but does allow production within a building. Thus, the code should be interpreted that only one building is allowed for each production license. Thus, each separate container onsite is a separate production site. Since each one is a separate production site, each one needs to be licensed by the OLCC separately. The county code, however, allows only one licensed marijuana production site per parcel. Thus, no more than one container can be used for a licensed marijuana production. Nothing in the statutes or the OARs precludes such an interpretation of the county code.

LAURIE E. CRAGHEAD

Attorney at Law

PO Box 5833

Bend, OR 97708-5833

Ph 458.206.6884 / FAX 1.541.833.6426

THIS ELECTRONIC TRANSMISSION IS CONFIDENTIAL. IN PARTICULAR, IT MAY BE PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE, THE WORK PRODUCT PRIVILEGE, AND OTHER PRIVILEGES AND CONFIDENTIALITY PROVISIONS PROVIDED BY LAW. THE INFORMATION IS INTENDED ONLY FOR USE OF THE INDIVIDUAL OR ENTITY NAMED. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT THE SENDER HAS NOT WAIVED ANY PRIVILEGE AND THAT YOU MAY NOT READ, DISCLOSE, COPY, DISTRIBUTE, USE OR TAKE ACTION BASED UPON THIS TRANSMISSION OR ANY ACCOMPANYING DOCUMENTS. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER AND DELETE THE E-MAIL.

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From: Bart Bartholomew
To: Anthony Raquine
Subject: Case ID: 247-17-000833-AD: 23450 Walker Road, Bend Letter of Opposition
Date: Saturday, March 10, 2018 1:48:46 PM

I have resided at 62590 Stenkamp Road since 1991. I raise registered black Angus Show Cattle. I also grow hay on the 15 acres directly across the street from the Proposed Commercial Operation.

I am a 4-H leader, a founding charter member for the Bend FFA Alumni, a founding charter member of the Bend Chapter of Mothers Against Drunk Driving and a retiree of 25.5 years as a Senior Liquor Enforcement Inspector with the Oregon Liquor Control Commission.

I cherish my Agency and years of service. It is my opinion that the OLCC is under staffed, minimally trained at this time, with little or no Case Law and are faced with new and developing Oregon Administrative Rules and Oregon Revised Statutes. The State's emphasis is on issuing licenses. On the Liquor side the Licensees and Service Permit Holders were required to have minimal Criminal Histories. On the Marijuana side I believe the same should apply. Unfortunately this is not the case in my opinion. There may be some good Applicants but there are more criminal elements that have been involved and convicted with marijuana previously and are now working in the new industry. I believe the supply of marijuana is greater than the demand. That criminal element are violating the Legislative Intent of personal recreational use and are illegally shipping marijuana out of State. They are also growing more than recreational use permits. The State is ill equipped to deal with problem Licensees and recreational cultivators. The Liquor Industry had racketeering problems and the marijuana Industry will far exceed those problems.

There many other reasons for concern:

1) We just had to drill our ground water well deeper due to increased water usage by family units in the neighborhood. The new Commercial proposal is going to have to use vast amounts of water which will drop our water table. My father spent 30+ years as an Oregon Ground Water Geologist 4 with the State of Oregon. Pollution is a concern too with all the legal and illegal chemicals.

2) The majority of the workers have a history of drug use. They attract addicts, druggies, party folks and opportunists who want to buy or steal drugs. Not to mention looking for opportunities to finance their drug usage by breaking into the community neighbors. Guns and druggie vendettas are all too common and we are within their bullets striking distance.

3) My family and all our good neighbors will have to drive through marijuana and alcohol impaired workers and other transients to get to our homes and ranches.

4) My youngest Pee Wee Showman is only 7 years old and she shows cattle. There are other neighbors and we have 4-H and FFA Livestock meetings, community service projects and State and County Fair livestock clinics and preparations to show a number of different types of livestock. They lead and ride their livestock on our roadways. We do not need increased traffic or impaired driver's speeding down our streets.

5) We don't want our livestock eating the marijuana. I don't want cross contamination of my hay crop with marijuana due to wind and their transportation system.

6) The Commercial operation will increase traffic, noise and the offensive smell from the marijuana due the fan systems.

7) This is a community of families with livestock and our most precious commodity, our children.

8) Hopefully these emails are not going to be shared with the marijuana applicants and industry because you will put our families at major risk due to our opposition and my 37 years in Law Enforcement.

Do not approve this Commercial Operation in our populated community. There are many isolated areas for this Commercial operation in Deschutes County.

Respectfully,

William S. "Bart" Bartholomew Jr

From: [Allan Herauf](#)
To: [Anthony Raguine](#)
Cc: [Dianne Herauf](#); [Jeremy Herauf](#); [Crystal Herauf](#)
Subject: Re: Referencing case ID 247-17-000843 AD 23450 Walker Rd Letter of Opposition
Date: Friday, March 9, 2018 4:28:48 PM

Thank you for acknowledging my letter of objection. One more thing I might add. The business I started and our son now runs, Bridge Masters, Inc., employs many people here locally. It is growing exponentially, which will require even more employees. We are not looking for a reason to move. Please don't give us one.

Allan Herauf
Sent from my iPad

> On Mar 9, 2018, at 1:18 PM, Anthony Raguine <Anthony.Raguine@deschutes.org> wrote:
>
> Thank you for your comments Allan. I will add your email to the record. You will be notified of any decision and/or public hearing related to this matter.
>
> Anthony Raguine
> Senior Planner
> Deschutes County Community Development Department
> 117 NW Lafayette Avenue
> Bend, OR 97701
> (541) 617-4739
>
> Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.
>
> -----Original Message-----
> From: Allan Herauf [<mailto:allanh@bridgemastersinc.com>]
> Sent: Tuesday, March 6, 2018 11:39 AM
> To: Anthony Raguine <Anthony.Raguine@deschutes.org>
> Cc: Dianne Herauf <Dianne@bridgemastersinc.com>; Jeremy Herauf <jeremy@bridgemastersinc.com>; Crystal Herauf <crystal@bridgemastersinc.com>
> Subject: Referencing case ID 247-17-000843 AD 23450 Walker Rd Letter of Opposition
>
> Dear sir,
> My wife and I reside at 62685 Stenkamp Rd. Bend 97701. The property in question is .6 miles to the south from our property.
> I am taking this opportunity to voice our strong objection to a proposed Marijuana facility being permitted for the property listed above. My objections are many, so I have listed them below as bullet points.
>
> The proposed facility would greatly affect the property values that we and our neighbors have achieved through great investment of money and time to each of our respective properties. We have a very well documented investment of over \$1.3 million dollars in our Home, outbuildings, landscape and infrastructure. Our next door neighbors are in the process of building a new home that will also require them to invest over \$1 million. Just to the north, a home is in escrow for a sale at over \$1million. To the south of us, our neighbors also have a home valued well over \$1million. None of us want to see these values negatively affected by a Marijuana growing facility. I can give you my word that, if approved, the marijuana facility will indeed have a negative affect on values and desirability. That said, in the event that this land use application is approved, I reserve the right to bring a law suit against the county and the property owners whereby I will be seeking compensation for any and all damages.
>
> The use of well water by the proposed facility may have a catastrophic effect on the water table that all of us neighbors rely on. We spent a great deal of money on our well. We had to drill to 700 feet +/- in order to have

adequate water for residential use. Our neighbors wells all were drilled to the same vicinity. Once again, we feel that any infringement to our well water will be cause for litigation naming both the county and marijuana facility owners as defendants.

>

> There is great potential for poisoning or otherwise damaging our water quality in the aquifer we all share. An independent testing company will provide us and our current neighboring water users with accurate data on water quality if the marijuana facility is approved. Any reduction in water quality will be cause for litigation by our neighborhood group against the county and any entity thought to be liable.

>

> Our neighborhood, children and elderly will not be safe from the low life type of individuals associated with drugs. Here is an issue that should bring alarm to all law abiding citizens. How would you feel having one of these Pot farms near Your house? Once again, I see this as cause for a potential law suit should harm ever come to any of our families, friends or neighbors.

>

> The smell of marijuana buds is sickening to my wife and me and, possibly damaging to the health of anyone who inhales the fumes. We don't want our neighborhood stunk up with drngs. If they want to grow something, let them grow alfalfa.

>

> The potential noise and added traffic is detrimental to our quiet way of life in the Bend countryside.

>

> That is it for the moment, but I'm sure there is more to be said by myself, my wife and our neighbors. None of us are at all pleased with this land use application. We ask you folks at the county to do your job and do it well. Keep this kind of drug business out of our neighborhood that we all took so much effort to build.

>

> Sincerely,

> Allan Herauf

> 503-816-3207

> allanh@bridgemastersinc.com

Jacob Ripper

From: Anthony Raguine
Sent: Monday, November 20, 2017 9:25 AM
To: Jacob Ripper
Subject: FW: Comments for File #247-17-000833-AD
Attachments: Paulson-Complaint Letter.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

From: Jeff Paulson
Sent: Monday, November 20, 2017 9:25:06 AM (UTC-08:00) Pacific Time (US & Canada)
To: Anthony Raguine
Subject: Comments for File #247-17-000833-AD

Hi Anthony,

Please add this attached letter to the file. Also please notify us of any hearings or results about this file.

My mailing address:

Jeff Paulson
23290 Alfalfa Market Rd.
Bend OR, 97701

Jeff Paulson and Alissa Paulson

23290 Alfalfa Market Rd.

Bend, OR 97701

11/19/17

Dear Deschutes County Commissioners,

The forever home. That's what we called our house on 23290 Alfalfa Market Rd. The house where my wife and I would grow old together. The house we would raise our two (and maybe more) small children. A little closer to our jobs at the hospital. The house out of town, free from any pollution or other attributes that you would get in a city. A little slower pace, out of the busy and high traffic areas of Bend proper. So many moments, made this place magical for us. We often wake up to see the deer grazing out our window, and our sons enjoy watching them play and frolic as we sip our morning coffee. We enjoyed many a warm summer evening, sitting out on the porch listening as the frogs and crickets say good-bye to the day. It's a slice of heaven.

However, that dream is now being threatened by the grow operation that is ~~literally~~ being put in across the street. From where I sit now, typing this in my living room, I could throw a rock and hit the property which has been purchased for the use of growing and processing marijuana. It's that close.

First of all, I am also shocked that I was not notified about this. I discovered this proposed grow operation almost by accident last night when I was investigating a notice I received about property lines being re-drawn. I think the reason for this was because BRITESIDE OREGON LLC appears to be using the address at the far end of their 120-acre sections at the main address (23450 WALKER RD, BEND, OR 97701) and because I am technically not within 750' of that address, I don't "need" to be notified? It doesn't matter what part of the 120 acres is, as I mentioned, a stone throw's away from my living room. Maybe they have no plans to grow on this section of property...yet. Where does it stop? Every neighbor that I have spoken with immediately is equally as shocked as I am about both such a facility being built so close...and that we were not notified about it.

The house of our dreams did not include the smell of skunk-like pollution. I will admit that I have never lived next to a marijuana grow operation before, but I have yet to find someone who will testify that they never noticed the smell. It's an issue, and something that simply is not acceptable. I'm sure the application says they will take measures to mitigate the smell, but who will enforce this, and what will we do when the wind shifts and I have to keep the children inside because it smells too strongly outside? Not to mention the power draw it will take to maintain the quality of air at such a facility or the sound this will create.

Our water comes from Sunset Acres Water Co, a nonprofit corporation with a membership of 27 homesites. Sunset Acres Water has been in continuous operation since 1971, however with the significant amount of water that this facility will need, is there a chance of this going dry? Maybe not, if Briteside Oregon is paying to have water trucked in, which I noticed they have mentioned in their application. But, that also brings up waste disposal. Is the on-site septic system acceptable to process all of the chemicals and by-products created by such a facility? I find that hard to believe. Am I going to

have to eventually haul in water myself to fill our house water cistern because the aquifer has become contaminated?

One of the many appeals of living out in the rural area of alfalfa market is the lower traffic then our previous Bend proper home. We wanted to give our children a childhood where our children could play safely outside. This is being jeopardized; do I need to worry about shady people watching our kids play from next door?

There is also a public-school bus stop across the street from us on Alfalfa Market Rd. We had planned on our children using this bus-stop when they were old enough, but now...I don't know how I feel about them waiting out there with such a large potential drug production facility so close by.

We love Bend, truly we were blessed to be able to live here when we moved to the community ten years ago, and still consider ourselves blessed every day. We both work at St. Charles, a pillar of the community, and enjoy being Caregivers there. We have ridden out some of the economic hard times and still love the people here, however this...this isn't Bend. At least it isn't the Bend I thought it was.

Do you have a "forever home" that you live at now or are planning to live at? How would you feel if a marijuana grow was being proposed so close to your home? As commissioners for Deschutes County, you have a responsibility to the people to make a decision that is right for them. Please, I beg of you to take some time and consider this decision. I understand that marijuana is legal now. But, please don't let them grow it close to my house, close to my children.

I object to this growing application and ask that you deny it completely.

Thank you for hearing our concerns.

Respectfully,

Jeff and Alissa Paulson

From: [Anthony Raguine](#)
To: [Tracy Griffin](#)
Subject: FW: Alfalfa Market Marijuana Grow
Date: Friday, December 15, 2017 8:11:17 AM
Attachments: [Paulson-Complaint Letter.pdf](#)
[image001.png](#)

Hi Tracy. Please scan the email and attached letter to 17-833-AD, and label is as "J. and A. Paulson opposition letter." Please print a hard copy for the file. Thanks.

Anthony Raguine
Senior Planner
Deschutes County Community Development Department
117 NW Lafayette Avenue
Bend, OR 97701
(541) 617-4739

Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: Nick Lelack
Sent: Thursday, December 14, 2017 1:09 PM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: FW: Alfalfa Market Marijuana Grow

Nick Lelack, AICP, Director
Deschutes County Community Development Department
117 NW Lafayette, Ave. | P.O. Box 6005 | Bend, Oregon 97708-6005
Tel: (541) 385-1708 | Mobile: (541) 639-5585
www.deschutes.org/cd



From: Tony DeBone
Sent: Thursday, December 14, 2017 12:09 PM
To: Tom Anderson <Tom.Anderson@deschutes.org>; Nick Lelack <Nick.Lelack@deschutes.org>
Subject: FW: Alfalfa Market Marijuana Grow

FYI

--Tony DeBone

From: Jeff Paulson [mailto:jeffrp03@gmail.com]

Sent: Thursday, December 14, 2017 9:22 AM

To: Tammy Baney <Tammy.Baney@deschutes.org>; Phil Henderson <Phil.Henderson@deschutes.org>; Tony DeBone <Tony.DeBone@deschutes.org>

Subject: Alfalfa Market Marijuana Grow

Hi Everyone,

First of all, I hope that everyone is having a good holiday season and thank you for reading this email. I know with all of the growth in Deschutes county that you are all very busy. So, I'll get right to the point.

So we live out on Alfalfa Market Rd, east of town, and have recently found out that the 3 parcels (120 acres) that are directly adjacent to our property, bordered on the other side by BLM land, was bought by a company named BRITESIDE OREGON LLC, and they are planning on building a large indoor marijuana grow operation. BRITESIDE OREGON LLC which is based out of Tennessee. It seems that since they are using the furthest address away from us we did not need to be notified about this operation going in.

Anyway, I understand that the property is zoned EFU and as such they are legally able to build this here, but...It's going in so close to many small family farms and ranches. We have small children, a three year old and a 1 year old, and I guess this all makes me concerned.

Here is the link to DIAL, in case you were curious about everything that has been going on: <http://dial.deschutes.org/Real/DevelopmentDocs/106922>

Attached is my formal plea that you do not permit this application to go through.

Again, thank you for your time and I hope you all have a happy holiday season.

Anthony Raguine

From: Monika Piatt <monika@rescueresponse.com>
Sent: Thursday, November 2, 2017 9:25 AM
To: Anthony Raguine
Subject: File 247-17-000833-AD

Importance: High

Dear Anthony,

Please do not approve the application for a Commercial Marijuana at 23450 Walker Road in Bend. Here are just a few concerns:

1. Water-Wise Gardening in Central Oregon: "We need to balance home and commercial use with a focus on water conservation, which is a critical part of being a good steward in our region. With only 3-6 inches of natural precipitation during growing season (April-October), water use is a very important consideration. A typical resident uses over 50% of their total water consumption for outdoor landscape. Because we all share water resources, we each have a responsibility to use it wisely" Quoted from "Water-wise Gardening in Central Oregon" by Amy Jo Detweiler, Extension horticulturist /associate professor, OSU. Note: Mike Buettner City of Bend Water Conservation Program Manager and Wendy Edde City of Bend Stormwater Program Manager also contributed and supported the publication. This new grow application #247-17-000833-AD in Bend will use 135,000 gallons per month year round on their first 40 acre grow (they have 120 acres total, so far...) Tumalo residents have wells running dry because of MJ grow neighbors. This new application is NOT stewardship of water in the high desert.
2. Traffic Study/Impact Category of "Warehouse" as opposed to "Nursery" please do not settle for these minimum standards. Alfalfa is an excellent example and resource to our county as to traffic impacts to residential neighborhoods, safety and increased traffic accidents or DUII. Please NOTE: There has already been one fatal accident at this address, marked by a memorial cross. The driveway is at a blind corner after the intersection of Stenkamp/Bennett where high speeds exceed the unmarked 55 mph. This is an UNSAFE location for a commercial grow operation in a residential area.
3. Retail Sales: Where is all this MJ being sold to? There is more growing than needed by dispensaries in Deschutes County already, with additional large grow applications from out of state. For example File #247-17-833-AD purchased 120 acres total by Briteside LLC in Tennessee.
Please consider these growers are shipping to a state(s) that opted out and this site is strategically located near the Bend airport and HWY 20. Do you want to be part of Black Market sales? Reports/News show 80% leaves the state illegally. Most residents voted for legalization trusting this would decrease, not increase illegal MJ grows and sales.
4. Waste: Female plants are exclusively grown as the "flowers" and oil are used for processing. The remainder of each plant, soil and containers they are each grown in are all waste. Where is this waste going? A "secure" waste receptacle in the possession of and under the control of the "person" responsible for the grow site, how can you be certain and then where do these receptacles go? This is TOXIC waste and greatly impacts the environment. Generally, this waste is simply dumped on grow sites. Check with Code and Law Enforcement records from our county to confirm from neighboring complaints/concerns.

5. Pesticides/Fertilizers: Are there county standards for these products? Each plant must be flushed for proper PH balance 15 times. These products are going into our soil and water system, creating environmental harm to humans, animals, livestock and crops, such as hay which are also ingested. This site borders Juniper Woodlands Recreational area on 3 sides!
6. Permit Follow-up/Final Approval: In all other land use regulations, permits are followed up by inspections and approvals, ending with a final improval/inspection for a house for example. How much more should grows containing a federally illegal crop that consumes countless amounts of water have regulations for a final approval. This application includes a building manufactured out of state and should be treated as a building, with all the necessary permits and inspections.
7. As the county only sends out notification within 750' not the total affected 1000' neighbors, signatures are being gathered for a petition that will be turned in.
8. Residency: On site is required for MUA, but is it required for EFU sites as well? Owner? Agent? Workers? Is there any background check on these site residents growing a federally illegal crop? At least one of the owners has a "record" and neighbors are concerned, as one has already been threatened by someone associated with these "investors".

You will be hearing from other neighbors too with additional concerns for your consideration. Please NOTE you will be receiving a petition from neighbors within a mile and beyond of this proposed grow site.

Sincerely,
Monika and Lance Piatt
23095 Alfalfa Market Road
Bend, OR 97701
monika@rescueresponse.com

From: [Nick Lejack](#)
To: "lancepiatt@gmail.com"
Cc: [Anthony Raguine](#)
Subject: RE: Brideside Approval
Date: Thursday, May 17, 2018 9:19:42 AM
Attachments: [image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)

Mr. Piatt:

Bcc: Board of County Commissioners (Board), Sheriff Shane Nelson

Yesterday, the Board agreed to hear an appeal of this land use decision if the decision appealed. The appeal deadline is next **Monday, May 21 at 5:00 p.m.** Appeals are submitted to the Community Development Department with a fee of \$250 (an amount determined by state law).

Your email has been entered into the record for this case file. If this decision is appealed, we will notify you of the Board's public hearing date and time.

All land use applications and appeals are decided based on whether they comply or do not comply with Deschutes County Code.



Nick Lejack, AICP | Director
DESCHUTES COUNTY COMMUNITY DEVELOPMENT
117 NW Lafayette Avenue | Bend Oregon 97703
Tel: (541) 385-1708 | Cell: (541) 639-5585



Enhancing the lives of citizens by delivering quality services in a cost-effective manner.

From: Lance Piatt <lancepiatt@gmail.com> **On Behalf Of** Lance Piatt
Sent: Wednesday, May 16, 2018 10:16 PM
To: Tammy Baney <Tammy.Baney@deschutes.org>; Tony DeBone <Tony.DeBone@deschutes.org>; Phil Henderson <Phil.Henderson@deschutes.org>; Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Brideside Approval

Well Anthony

Nothing like telling Sheriff Nelson and the entire Deschutes County Sheriff's Department to Fuck Off!!! Nice job on approving Brideside. We know where you stand with all of this shit. Commissioners... you too. Really? Your law enforcement department is telling you they need help (no more grows) and you continue with this... How incredibly F'd Up your system is. You saddle the entire rural community with your stupidity and incessant ignorance and incompetence.

No PC here... you guys will answer for this. Anthony!... Bad form man. DOCC... This stuff will hunt you down. Tammy, you just a got an opt out for this. Tony... you should be gone as well.

Stand up on this... Land Use guys like Anthony... they are simply telling the DOCC to F-Off!
Admit it Anthony.

Lance Piatt
Red Ibex Solutions

Rescue Response Gear
Raven Collective Media
Rigging Lab Academy

lancepiatt@me.com
www.rescueresponse.com
www.rigginglabacademy.com
541 549 1485 W
888 600 9116
541 549 2155 F

From: [Susanne Ritter](#)
To: [Anthony Raguine](#)
Cc: [Tony DeBone](#); [Phil Henderson](#); [Tammy Baney](#)
Subject: CORRECTION - Re: Case ID: 247-17-000833-AD: 23450 Walker Road, Bend, OR 97701 aka Briteside Oregon LLC, letter of opposition IN RESPONSE TO APPEAL
Date: Monday, July 16, 2018 8:06:54 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[18.07.16 - Briteside Appeal S. Ritter - corrected.docx](#)

Mr Raguine,

I made an error in some of my calculations of water use. Therefore please use the attached version of my letter for the Boards' consideration, not the one I emailed you earlier today.

Thank you for your help.
Respectfully, Susanne Ritter, neighbor

From: Anthony Raguine <Anthony.Raguine@deschutes.org>
Sent: Monday, July 16, 2018 1:05 PM
To: 'Susanne Ritter'
Subject: RE: Case ID: 247-17-000833-AD: 23450 Walker Road, Bend, OR 97701 aka Briteside Oregon LLC, letter of opposition IN RESPONSE TO APPEAL

Thank you for your comments. I will add your email and letter to the record for the Board's consideration.

Bc: Board



Anthony Raguine | Senior Planner
DESCHUTES COUNTY COMMUNITY DEVELOPMENT
117 NW Lafayette Avenue | Bend, Oregon 97703
PO Box 6005 | Bend, Oregon 97708
Tel: (541) 617-4739 | www.deschutes.org/cd



Disclaimer: Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: Susanne Ritter <susanneritter@outlook.com>
Sent: Monday, July 16, 2018 11:50 AM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Cc: Tony DeBone <Tony.DeBone@deschutes.org>; Tammy Baney <Tammy.Baney@deschutes.org>; Phil Henderson <Phil.Henderson@deschutes.org>
Subject: Case ID: 247-17-000833-AD: 23450 Walker Road, Bend, OR 97701 aka Briteside Oregon LLC,

letter of opposition IN RESPONSE TO APPEAL

Mr Raguine,

Attached, please find my appeal arguments to deny the Marijuana Grow Application by Briteside LLC.

Please let me know that you received this email, thank you.

Respectfully, Susanne Ritter, neighbor

Nick Lelack, AICP, Director, 541-385-1708, mobile 541-639-5585
Anthony Raguine, Senior Planner, 541-617-4738, anthony.raguine@deschutes.org
Deschutes County Community Development Department
117 NW Lafayette Avenue, Bend, OR 97708-6005

Re: Appeal arguments to Marijuana Grow Application
Case ID: 247-17-000833-AD: 23450 Walker Road, Bend, OR 97701 aka Briteside Oregon LLC

Dear Commisioners and to whom it may concern:

July 16, 2018

Below, please find my arguments for denial of the above application, in order of the applicable approval criteria as listed at the appeal hearing last Wednesday:

1. Odor impacts

As discussed in the hearing, carbon filters do not work. A grower that sits on the farm bureau and has a 10+ greenhouse operation in Alfalfa and 4+ retail stores in the area, and has been a grower of (initially medical) marijuana since before 2014, stated in a neighborhood meeting in February 2018 that he sprays "something" onto his plants because carbon filters do not work. Even with his "new and improved" system, you can smell the skunk stench just driving down Alfalfa Market Road. One 20,000sf greenhouse, and potentially three of them next door to us, could be close to unbearable, year round. As was discussed in the hearing, please have Briteside DEMONSTRATE that their odor control system works, BEFORE this operation gets approved.

2. Noise impacts

The Briteside application calls for 44 HVAC units plus 20 or so other electricity units (fans, controls, etc) per 20,000sf structure, running 24/7, 12 month out of the year. That means a lot of noise. The electrician who designed the system is one of the two Briteside owners, an electrician from Chattanooga, Tennessee. Of course he will sign off on his own creation. Has anyone inspected this electrical system? I called Central Oregon Pole buildings, a Bend company in the business of construction large agricultural (and other) structures and asked them what they thought. I was told that at least the electrical system needs to be inspected and approved by the building department. That is the law. Besides, electricity and water do not mix, especially on this scale, so it is also a safety issue. In addition, the representative advised me strongly to have the rest of the structure inspected for structural integrity. So, can Briteside just draw a rectangle on a piece of paper and have it approved? Should there not at least be an electrical inspection, per Oregon law and building code? The noise impact from this electrical system will be tremendous, especially if two additional greenhouses get erected. There is also concern of fire, overload of the electrical system (we had the power go out twice in the last 2 weeks already). Also, please ask the building department if "opaque structures" that are modular (like a Manufactured home or Modular home) do not need to be inspected and approved like other modular homes, for noise ordinances, electrical OREGON code, and structural integrity - for everyone's safety.

Another related point to noise and electrical system is that the provider of electricity stated in their letter that they need to redesign their electrical system to meet the demand of the Briteside operation.

Have they done so yet? Is it safe for the neighborhood for this system to go online right now? Or will our electricity just go out once a week, especially in hot weather, as it already has done the last 2 weeks?

3. Improper use of well water for production operation

The well Briteside drilled is a DOMESTIC well. That is their permit. In other words, it will NEVER be allowed for irrigation. As their attorney stated, Briteside fully intends to use ground water for their grow, with their mitigation rights. Where will they get this groundwater, if not from their DOMESTIC well? PLEASE AT LEAST ORDER BRITESIDE TO PUT A METER ON THE WELL AND ORDER METER READINGS ONCE A MONTH, by neighbors, the water department, someone. Once they have their permit, it will be easy for them to just open the faucet on their well. Look at the plan. The well is located outside the small 5,000sf demo greenhouse. The water runs from the well into this small greenhouse, from there into and through the large 20,000sf greenhouse and then exits the large greenhouse by the septic tank and from there drains into the leach field. The house is on a completely different part of the property, far away from the well. Why would Briteside put a domestic well next to their greenhouse if not to use the water for the greenhouses?

There is no irrigation 5-6 months out of the year. Briteside says they need 4,500 gallons a day. That is nine 500 gallon water tanks a day. If you were a business owner, would you pay for that or just use your well if you could where the water costs you nothing? What would be cheaper and easier?

Across the street from Briteside and on a slightly lower elevation sits our community of 27 houses. We have one community well. It had to be redrilled deeper a few years ago because it was running dry. It is now about 700 feet deep (the Briteside well, I am told, is deeper, some say 800 feet, some say even deeper). My 6 month water bill for our house shows we use about 4,000 gallons per half year, so about 650 gallons a month. Briteside wants to use 4,500 gallons A DAY, so about 135,000 gallons a month (or more, I believe they have actually applied for 450,000 gallons a month). Taking these numbers, 27 houses use roughly 20,000 gallons a month. In other words, **BRITESIDE WANTS TO PUMP 7 TIMES AS MUCH WATER AS OUR ENTIRE COMMUNITY (or 22 times as much if 450,000 gallons per month are assumed)**, possibly all year round, but at least while irrigation is not running, so 5 to 6 month each year. How long do you think it will take for our well to run dry? It would be easiest and cheapest for Briteside to just use the well year round. Why pay for staff to manage an irrigation system, use irrigation water that is not as clean as well water, and keep an irrigation system maintained which is an ongoing headache and expense, ask any farmer?

WE NEED AT LEAST A METER ON THAT WELL AND MONTHLY METER READINGS.

Bend Water Hauling: Briteside claims they will haul water if they cannot use well water. However, there are no water storage tanks on their plans. Where will they store 4,500 gallons a day (or 15,000 gallons a day if the 450,000 gallon a month number is used)?

4. Legal sources of water

As discussed in the hearing, the mitigation credits cannot LEGALLY be used in their current form, an application has to be filed with the state of Oregon, and that will take a year or more. Bend Water hauling will be expensive for Briteside.

COID irrigation for 30.25 acres means that 30.25 acres need to be watered with the irrigation water, exactly where the irrigation map says those 30.25 acres are located, not anywhere else, and not just 20,000sf. As the attorney for Briteside stated, nobody is currently living on that land. Who will do this? Irrigating an acreage of this size is a full time job. This is not part of the Briteside business model. Their

business model is, and I quote: “Briteside produces a diverse range of products and services, from prefabricated modular cultivation units to home delivery and subscription based services. All Briteside products are predicated on proprietary algorithms designed to improve yields and efficiencies while reducing cost and time.”

Source: <https://www.prnewswire.com/news-releases/four-top-cannabis-companies-announce-merger-forming-one-of-the-most-comprehensive-industry-platforms-300648561.html>

PS.: This business statement was on the Briteside website just last week, now I cannot find it, I wonder why they erased this important news from their own website? <https://brtside.com/the-sugar-leaf/>

5. Improper waste disposal

The map Briteside delivered to the Commissioners appeal meeting shows a septic tank and leach field next to the big greenhouse. To build a septic system you need a permit, and it has to be inspected. I cannot find any application or permit. So, does this tank and leach field exist? Who approved it? The property owner before Briteside used no septic tank or leach field, just a natural lava tube through which everything went straight into the ground, unfiltered (from one small house).

If this old lava tube is the “septic system” Briteside will use, it will most likely contaminate the groundwater with pesticides, herbicides, fertilizers, chemicals, and marijuana plant residues etc. Plants grown in greenhouses are more prone to pests and diseases than outdoor grown plants because of the humid temperate environment that a greenhouse creates and bugs and diseases love (even if the greenhouse has no air flow as Briteside claims). The grower that sits of the farm bureau stated at a public meeting in Redmond this year that he buy \$20,000 worth of beneficial insects each month to run his greenhouses. Will Briteside be so “environmentally responsible”? The use pesticides, herbicides, and fertilizers is completely unregulated in the marijuana industry, so why should they spend the money?

Ecologist Mourad Gabriel states that some of the pesticides that are used on cannabis farms are so toxic that half a teaspoon can kill a bear, and these chemicals do leach into the ground water, see:

<http://www.newsweek.com/illegal-marijuana-farms-dump-shocking-amount-toxic-waste-647568>

So, do I need to buy my drinking water now because I do not know how many of these chemicals leach into our groundwater? What about our animals? What about our children? Who will we sue when we get sick? And who will pay for that?

Please, at least inspect this septic system and leach field.

Next is the question of the disposal of the marijuana plants themselves. Only a small part of these huge plants is used in retail and products. Most of the plant material will become toxic waste. Can you imagine the amount of dead plants from just one harvest of 20,000sf of over 8 foot tall plants? Then imagine it year round, possibly in 3 huge greenhouses. Where will the dead toxic plant material go?

Briteside only speaks of “secured waste receptacles” on their property. How big are they? Where are they? They are not marked on the map. Can someone inspect these please, their size, their appropriateness, understand the plan of emptying these “trash cans”? Please advise.

6. Country code should be interpreted to limit production to a single building for the single license allowed for the property.

Both attorneys have spoken to this item. In addition, I would like to note that two greenhouses are already on the map, one for 5,000sf and one for 20,000sf (approximately). So, even from the two rectangles on their own map, they are already over their applied for 20,000sf.

7. Light pollution

The "opaque" modular structure with many modules inside that is supposed to be the greenhouse is nowhere to be seen, not in a photo, not on their website, nowhere. Can someone please show me a photo of the proposed structure? Can someone inspect it and see how much light it emits?

8. Improper access to BLM land

The issue of the road has been addressed in the appeal. It sounds as if at least part of it is located on BLM land. BLM has asked for a survey and received none. Should this access issue not be resolved BEFORE any permit is granted? If not, the Commissioners create a precedent that it is "OK" to just drive over BLM to get to anywhere.

9. Potential impacts on wetlands

If the property 30.25 acres are not irrigated, the wetland will dry up. It does not matter how far away from the greenhouse the wetland is, it will dry up because the land around it receives no water.

The above are the issues the appeals paperwork stated are under review by the Commissioners, therefore I will not address the rest. However, I would like to make some general statements:

A recent Bend newspaper article stated: "In the years since marijuana became legal, the county has approved 30 unique grow sites, with 22 more applications pending. Only nine of the approved applicants have also received a required license from the Oregon Liquor Control Commission, which oversees the state marijuana issue, and can therefore legally operate.

<https://www.bendsource.com/bend/grow-woes/Content?oid=5330998>

In other words, over two thirds of recreational marijuana sales are already black market. A calculation of the monetary benefit for Oregon from recreational marijuana tax income therefore needs to deduct the cost of law enforcement, of new diseases such as hyperemesis (when people cannot stop vomiting from using marijuana) and psychosis, the loss of productivity from high schoolers and others who lose drive (according to local school officials). It sounds like Oregon is losing more than it is gaining.

Then let us not forget that the wholesale price of this drug is dropping and further pushing illegal sales. Also, many consumers buy black market because it is much cheaper than product in the stores. Next we have the headaches of the Commissioners and home owners who have to deal with all of this.

Do we really need more of this?

Respectfully,
Susanne Ritter, a neighbor



DESCHUTES COUNTY SHERIFF'S OFFICE

L. Shane Nelson, Sheriff

Proudly Serving Our Community

RECEIVED

SEP 15 2017

Deschutes County CDD

Comment from Sheriff L. Shane Nelson:

Our concern lies in the odor, sights, sounds and set backs of the property in this type of request and how it affects the livability of our community members; in conjunction with the issue that marijuana is illegal on a federal level.

In addition, we are finding the calls for service related to marijuana grow operations are increasing.

Attached to NOA for 17-833-AD.

AJR

Anthony Raguine

From: Peter Russell
Sent: Friday, October 27, 2017 10:02 AM
To: Anthony Raguine; Chris Doty; Cody Smith
Cc: Peter Russell
Subject: MJ grow off Walker Rd (17-833-AD)

Anthony,

I have reviewed the transmittal materials for 247-17-000833-AD for a marijuana production (growing) operation in the Exclusive Farm Use (EFU) zone at 23450 Walker Road, aka 17-13-00, Tax Lot 3400.

Deschutes County Code (DCC) at 18.116.330(B)(8) only requires proof of legal direct access to the property or access from a private easement for a grow of more than 5,000 square feet of mature canopy. The proposal is for 20,000 square feet of mature canopy, so the access requirement does apply. The applicant should provide a copy of an approved driveway permit from the Road Department. If the applicant does not have one, then acquiring one should be made a condition of approval. The traffic study requirements of DCC 18.116.310 are not applicable for a marijuana production application, unless the application is also under going site plan review and must show compliance with DCC 18.124.080(J). As this land use not being reviewed against the criteria of DCC 18.124, no traffic study can be required.

Board Resolution 2013-020 sets an SDC rate of \$3,937 per p.m. peak hour trip. The County uses the most recent edition of the Institute of Traffic Engineers (ITE) trip generation manual to assess SDCs. The ITE manual does not contain a category for marijuana production. In consultation with the Road Department Director and Planning staff, the County has determined the best analog use is Warehouse (Land Use 150) based on the storage requirements and employees of this activity. The ITE indicates Warehouse generates 0.32 p.m. peak hour trips per 1,000 square feet. The applicant proposes 20,000 square feet of mature canopy spread across several buildings, but does not provide the total square footage of those buildings. The County's SDC is based on the buildings' total square footage related to cannabis production and support and not the square footage of the mature canopy. For discussion purposes only, 20,000 square feet of mature canopy would produce 6.4 p.m. peak hour trips (20 X 0.32). The resulting SDC is \$25,197 (6.4 X \$3,937). The actual SDC will be higher as it will be based on building square footage and not mature canopy size. Regardless of the final amount, the SDC is due prior to issuance of certificate of occupancy; if a certificate of occupancy is not applicable, then the SDC is due within 60 days of the land use decision becoming final.

Please let me know if you have any further questions. Thanks.

Peter Russell
Senior Transportation Planner
Deschutes County
peter.russell@deschutes.org
(541) 383-6718

Anthony Ragaine

From: Cody Smith
Sent: Friday, October 27, 2017 2:59 PM
To: Anthony Ragaine
Cc: Peter Russell
Subject: 247-17-000833-AD

Anthony,

I have reviewed the application materials for the above-referenced file number, proposing marijuana production with mature canopy up to 20,000 square feet at 23450 Walker Road, Bend (Tax Lot 1713000003400). The subject property is accessed by a private access road which serves and crosses TL 1500 and which connects to Alfalfa Market Rd approximately 2,360 feet west of the subject property. While applicant has provided written consent and a legal description for use of a 40' easement across the southern portion of TL 1500 from the owner of that property (who is also owner of subject property), it is unclear to Road Department staff whether or not the existing road is solely contained within that described easement. Review of the vicinity of the subject property on Deschutes County's Dial website indicates that portions of the existing road may cross south of the southern section line of 17-13-27, which is the southern boundary of Tls 1500 and 3400. If this road does cross south of the section line, then the access requirements of DCC 18.116.330(B)(8)(c) have not been met, as portions of the road would exist on land under the jurisdiction of the Bureau of Land Management rather than inside of the described easement on TL 1500 or on TL 3400.

Deschutes County Road Department requests that this application be considered incomplete until the applicant submits information prepared by a licensed surveyor demonstrating that the existing road is located completely within the described easement on TL 1500 or on TL 3400.

Please let me know if there are any questions regarding these comments.

Cody Smith, P.E., County Engineer

Deschutes County Road Department
61150 SE 27th St, Bend, OR 97702
Phone: (541) 322-7113
Email: Cody.Smith@deschutes.org

From: [redarrow55](#)
To: [Anthony Raguine](#)
Subject: RE: Grow operation case # 247-18-000242-A Walker Rd.
Date: Wednesday, July 18, 2018 9:24:02 AM

Debbie Simpson. 23095 Alfalfa Market Rd Bend thanks

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Anthony Raguine <Anthony.Raguine@deschutes.org>
Date: 7/17/18 9:44 AM (GMT-08:00)
To: 'redarrow55' <redarrow55@aol.com>
Subject: RE: Grow operation case # 247-18-000242-A Walker Rd.

Thank you for your comments. If you would like to receive notice of any decision related to this project, please submit your name and mailing address.



Disclaimer: Please note that the information in this email is an informal statement made in accordance with DCC 22.20.005 and shall not be deemed to constitute final County action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.

From: redarrow55 <redarrow55@aol.com>
Sent: Tuesday, July 17, 2018 7:46 AM
To: Anthony Raguine <Anthony.Raguine@deschutes.org>
Subject: Grow operation case # 247-18-000242-A Walker Rd.

Please no more traffic on Alfalfa Market Rd. It's a race track now. That is my first concern, 2nd is smell and 3rd is water ..vote no!

Sent from my Verizon Samsung Galaxy smartphone

Anthony Raguine

From: td tammy <shortshuffle@gmail.com>
Sent: Sunday, November 5, 2017 5:34 PM
To: Anthony Raguine
Subject: RE: Marijuana Grow application address: 23450 Walker rd. Bend, OR

Letter of Concerns

Re: 23450 Walker Rd, Bend, OR

Applicant # 247-17-000833-AD

Owner : Brideside Oregon LLC

Anthony,

We have numerous unaddressed issues with application listed above.

1. Realtor that sold mentioned property lied on phone. claimed he did not know what was going on on property. He is a registered agent of Brideside Oregon LLC.
2. Two days after speaking with mentioned Realtor an employee of Brideside LLC came onto our " POSTED PRIVATE PROPERTY" UN-INVITED, We assume it was to try to intimidate us. Not a Tactic of neighbors. Crime Factor.
3. Application states domestic water source: Well. There has never been any Wells on any of the 120 acres Brideside bought, cisterns only for bathing and cooking at the houses since 1973.
4. Section 5 of application states no streams or lakes on or near the property, However the main community open irrigation ditch runs the whole way thru that property and the weir is on that property. That is a big concern. That irrigation ditch is maintained and cleaned by Ken Clouse and myself through-out the entire irrigation season and we will continue to assume those responsibilities as we have a legal right to do so according to COID.
5. NOISE : Application clearly state the air conditioners Bard 3-ton do not meet the required 30 dB, it states it is rated 66.9 dB at the unit and they will have 4 of these Bard 3-ton on the facility. Also they state they will have 8 each, outdoor HVAC condensing units that rate 56 dB at each unit and that they will have a total of 32- HVAC UNITS FOR THIS FACILITY, Have you ever heard what an HVAC unit sounds like ? I have. but 32 is unacceptable even if dB was 30 at each unit. They will run these 24hrs a day ?. engineer Rob James claims the noise will be at the 30 dB between 10 pm until 7 am. What about the rest of the time ?.
6. ODOR : Application states their procedure of odor control but engineer Rob James states " the referenced report provides details of the odor control systems for structures, accommodating UP TO 20,000 square ft of mature canopy. Who is going to check or monitor that ?
7. CHEMICALS : Your application does not address chemicals or fertilizer to be used and I know these are used ? Health Hazard with this as animals even family pets drink irrigation and or cistern water.
8. Our property value ?
9. Excessive water usage 135,000. gallons per month. Who is going to monitor that in irrigation season that they are not using more than their allowed amount ?. What about the surface water that fills cisterns ?
10. Excessive electrical use, electric company had to completely upgrade to accommodate that amount of electricity. We have not lost power out here for a length of time for over 4 yrs. Are we going to get power surges now ?.
11. Crime and Traffic increases ?
12. Safety : We have bus stops near this facility ?

I feel with all circumstances already evolved by Brideside Oregon Limited Liability Corporation, that this application should be denied based on above mentioned incorrect Criteria & Data findings.

Respectfully,

Tammy Threlkeld & Kenneth Clouse

23344 & 23370 Alfalfa mkt rd

Bend, OR 97701

cc: BOCC members, CDC John Griley, CDC Randy Scheid, CDC Nick Lelack, CDC Peter Gutowsky

From: [td.tammy](#)
To: [Anthony Raquine](#)
Subject: Re: 833-AD / BRITESIDE OREGON
Date: Monday, April 23, 2018 9:20:06 AM

Anthony,

I would like this added to record on file:

About response from Briteside Oregon /where water to grow marijuana plants will come from: COID irrigation rights, Legacy ranch mitigated rights and bend water hauling. Per speaking with ODWR there is NO PERMIT or even an APPLICATION for property address 23450 Walker rd. as of 4/17/2018 to use mitigated rights of water from legacy ranch. An application and then a permit MUST be obtained from ODWR in order to use these rights even as ground water. ODWR said it takes approx. a year to obtain this permit. Per ODWR "legally not allowed to use just the water from a well for anything "Profitable" that includes Recreational marijuana".

At point the mitigated rights dont apply to this application.

They do have 31.25 COID irrigation rights, however it has been brought to my attention the irrigation water is not sufficient to grow marijuana as it turns the leaves brown and therefore is not feasible to use. I am requesting the well that was drilled after Briteside Oregon purchased mentioned property, that a meter be put on the well to be able to monitor the use of mentioned well. Also the current land use application is definitely "horse before the cart". There has NEVER been a land use sign up previously. If there had been a sign visible to the public, I would have taken a picture of it. As you are aware of the circumstances with what has transpired about this situation from beginning. The response to incomplete application, is Not complete and also appears to be a very different application specifics. It is apparent some truth has now been brought to the counties attention about The buildings, and financial interest in the buildings that the owners have in reference to LECTRUS and some the mechanical equipment in these buildings that were brought in from CHATTANOOGA, TN. in containers. I disagree that these are greenhouses, as originally applied for on application. I have never known a greenhouse to be a PROTO TYPE BUILDING WITH ITS OWN PRE CONSTRUCTED ELECTRICAL. It clearly states these are PROTO TYPE BUILDINGS for BRITESIDE PROTO TYPE PROJECT.

Our neighborhood should not have to be "test rats" for an UNTESTED PROTO TYPE PROJECT.

It also was not addressed about the BLM request of the two survey's they would like Briteside to have done due to our juniper woodlands BLM public land and road access.

I was told by COID and have done so already, utilized the COID water irrigation ditch easement that irrigation right holders legally have a right to walk along as to clean blockage debri. The open irrigation ditch has already had to be cleared of debri two times from the wind we recently had.

I am viewing this application and find it still NOT COMPLETE even with response from Owners.

RESPECTFULLY,
Tamara D. Threlkeld
23344 Alfalfa mkt rd.
Bend, OR 97701

From: td tammy
To: Anthony Raguine
Cc: Tammy Banev; Tony DeBone; PhilHenderson@bendbroadband.com; Nick Lelack
Subject: Re: Appeal of Brideside Oregon LLC File # 247-17-000833-AD, Appeal #247-18-000424-A
Date: Monday, July 16, 2018 10:58:46 PM

On Mon, Jul 16, 2018, 6:41 PM td tammy <shortshuffle@gmail.com> wrote:

County Commissioners and Senior planner,

In regards to above mentioned Applicant and Property, I would like to put this correspondence on and in the record. I would like to request all file documentation be opened and available to the Commissioners for review to allow them to see the non-compliant procedure of the Deschutes County Policy and procedures by the applicant, not just once, but numerous times of Non-Transparency and Dis-Regard to our county rules and regulations.

I am a neighbor to this property and frequented the property many times to visit with the previous Resident/Owner William C. Kaesche.

The dwellings on the property 23450 Walker rd. previously (Richardson rd.) westwardly from there.

1. Mr. Kaesche's house
2. A detached 3 car garage
3. A storage/ utility room next to the detached garage.
4. A Mother-in Laws small living quarters with a tool storage building adjacent.
5. Further towards the west. An old hay barn with a tool room and storage room.
6. Beyond barn towards west was a constructed mobile home as a primary resident for Mr. Kaesche's farm helper.

A cistern of irrigation water was used at the mobile home and beside the mobile home a three car garage. No other dwellings.

Mr. Kaesche's septic runs into a Lava tube not an actual septic.

Mr. Kaesche also used irrigation water and a cistern for his home as when his daughter-in-law stayed with him I occasionally provided her with bottled water.

There was no well any property.

I am unaware if there was a septic put in for the mobile home.

Existing building, (did not exist) for the setback distance exception. Applicant disregarded regulations that were in effect before the construction of new building.

I would like to suggest that the BOCC members review these specific items from file before making their decision of this land use appeal.

Letter From Cody Smith, P.E. County Engineer Deschutes County Road Dept. (about survey of road) to: Anthony Raguine, cc: Peter Russell - Dated Friday October 27, 2017 2:59 PM.

Letter from Peter Russell, Senior Transportation Planner to: Anthony Raguine, Chris Doty, Cody Smith cc: Peter Russell - Dated October 27, 2017 10:02 AM

COID COMMENTS FOR DEVELOPMENT Dated 10/25/2017 From Daniel Downing, GIS/Operations Technician.

Will Serve Water Letters from : Bend water Hauling and also Avion
Both letters signed by Kimberlee Nunez. ?

It is very obvious that these applicants for this agricultural land use are not concerned with our County Rules and Regulations, Our Good Neighbor Conduct, Transparency or Taking Care of Unresolved and Incomplete Issues that will directly effect all and set an example.

On 10/16/2017 at 9:29 AM Tracy griffin E-mailed Jenkinsc@briteside.com
A notice of procedure of proposed land use sign and proposed sign would be ready for pick up ready for pick-up on 10/18/2017. cc: to Anthony Raguine proposed land use sign was just recently posted.

Please look at signature petition turned in with wildlife overview on 12-01-2017. Signatures of approx. 140 county residents.

This is a very clear case of non compliance to any rules and regulations throughout this entire EFU land use application process by an irresponsible applicant to divert from required responsibilities of farm use land.

Huge gravel mounds were not brought in, they were made by a rock crusher from blasting and digging of the property, neighbors heard it round the clock, windows shook two blocks behind our house at a neighbors. This type of land destruction with no oversight or permits can not be permitted to continue to happen. With this type of behavior who is going to monitor this property to make sure your requirements of exceptions: (before start of Production) has all been done and correctly ??

The smell issue has not been specific in demonstration. As you are aware the carbon filters are not working to alleviate the odor of the marijuana. The noise, Mr. Rob James clearly states in his Odor and noise Nuisance letter dated 10/02/2017 that in order to meet the noise level required something will have to be done on the north and south sides. Thats on #4 of his letter

Water is a big issue. It is very clear they are not able to use the well or the mitigated rights from Legacy at this time. If the well is used I request as an exception condition, for it be metered due to all these non transparency items of issues not being adheared to by applicant.

BLM had requested 2 different survey be done as to prove against encroachment of BLM land. This was in letter in file.

It was very disappointing that at the appeal no one was there from the Briteside Company to answer or respond to questions concerned neighbors or community members had.

I hope you will look over this application documentation carefully of dates, timeframes, clarity, specificity and for our new wish for

Transparency.

Respectfully,
Tamara D. Threlkeld/ Ken Clouse
23344 Alfalfa Mkt Rd.
Bend, OR 97701

PS. please rsvp me that you have received this as my computer is not working correctly.

Tracy Griffin

From: td tammy <shortshuffle@gmail.com>
Sent: Wednesday, July 25, 2018 4:34 PM
To: Anthony Raguine; Tammy Baney; Tony DeBone; Phil
Subject: 247-18-000424-A / Brideside Oregon LLC Appeal/ 23450 Walker RD.

To: Deschutes County BOCC Members and all Deschutes County Departments,

Deschutes County has Rules and Regulations in place for the implementation of Recreational, Medical and personal growing of Marijuana.

All employed by Deschutes County has the responsibility to the Deschutes County Residents to implement the rules and regulations of this new industry. To ensure the rules are adhered to also. Your county residents should not have to be appealing approved applications that are NOT COMPLETE. It is the responsibility of the Applicant to review their application before submittal to county for approval.

The rules and regulations were in place for our county long before Brideside ever purchased the property, Lots 3400,1500 and 1400.

Brideside is in the pot business and I am sure they know what rules and regulations are. It is Ridiculous to approve an application contingent upon conditions needing to be met for APPROVAL. It then falls upon CODE ENFORCEMENT to attempt to rectify rules and regulations that arent completed or met. This should not be left to code enforcement to " CLEAN UP".

Brideside application was submitted on 10/17/2017, was then on 11/17/2017 deemed an incomplete application. Then even though incomplete requests and incorrect information is still taking place by applicant and being accepted, in the meantime the application was approved by county planner. Whats wrong with this picture ?. The Brideside applicants did not adhere to county rules and regulations:

Setbacks : I have read 3 to 4 different ones, 97 ft, 90 ft ,105 ft

Has the county actually measured to see what it is ?. As of today no survey documents have been recorded.

Building codes: Brideside knew these buildings were not standard greenhouses. Look at the original application (BRITESIDE PROTOTYPE PROJECT) on building plan structure submitted. Now it is called " BRITESIDE LAB PROTOTYPE". Prototype in any dictionary means the same thing: something that HAS NOT BEEN TESTED, and needs to be tested and refined before selling. BRITESIDE has advertised, I BELIEVE FALSE ADVERTISEMENT OF THIS BUILDING AND OTHER "PRODUCTS" by using EFU PROPERTY ADDRESS 23450 WALKER RD. BEND, OR 97701 since last year. Now correct me if I am wrong but I believe when growing agricultural recreational Marijuana on EXCLUSIVE FARM USE PROPERTY , it is not allowed to sell these commercial products from this EFU property.

Further more I have yet to see this applicant abide by any single rule or regulation set forth towards their application.

water, survey(2 requested by BLM),noise, odor etc..... somehow it seems to difficult for them to just answer a simple question ?.

Employees, how many does brideside have ? unknown by applicant well here are quite a few of them:

Justin P. Junda - Founder

S. Christopher Jenkins- Co- founder

Amanda Cardenas- Legal and Compliance Officer

Jesse Banner

Scott mc coy

Nicholaus Jones

James A. Hurst Jr.

James A Hurst Sr.

obviously mr. Peterson, thats just a few, they advertise at least 50 employees.

They also have at least eight Different LLC'S:

BRITESIDE E-COMMERCE

BRITESIDE RISK PARTNERS

BRITESIDE HOLDINGS

Some LLC'S are foreign and some domestic for ownership.

I have documented at least 6 states of business doings.

I can provide this information.

I am requesting this APPROVED EFU LAND USE APPLICATION BE DENIED . Based on all documented facts of applicants applications of not being in code rule and regulation.

If more infirmation is desired, please dont hesitate to contact me:

Respectfully,

Tamara Threlkeld

23344 Alfalfa mkt. rd.

Bend, OR 97701

From: [Bill & Alice Tye](#)
To: [Anthony Raguine](#)
Subject: Fw: Appeal comments for Briteside Marijuana Grow Operation
Date: Tuesday, July 17, 2018 4:23:39 PM
Attachments: [Tye Appeal Comments- Briteside Marijuana Grow Case No. 247-18-000424-A 247-17-000833-AD.pdf](#)

Mr. Raguine,

I'm sorry that I misspelled your name on my previous attempt to email this to you so it did not go through. I do hope it reaches you this time.

Bill Tye

----- Forwarded Message -----

From: Bill & Alice Tye <tyecattleco@yahoo.com>
To: Anthony.Raguine@deschutes.org <Anthony.Raguine@deschutes.org>
Cc: tammy.baney@deschutes.org <tammy.baney@deschutes.org>; phil.henderson@deschutes.org <phil.henderson@deschutes.org>; tony.debone@deschutes.org <tony.debone@deschutes.org>
Sent: Tuesday, July 17, 2018, 3:36:56 PM PDT
Subject: Appeal comments for Briteside Marijuana Grow Operation

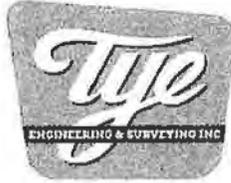
Mr. Raguine:

Please accept my attached comments to the appeal record for Case #247-18-000424-A (247-17-000833-AD)

These address water rights and water use issues.

Thank you,

Bill Tye



TYE ENGINEERING & SURVEYING, INC.

725 NW Hill Street, Bend, Oregon 97703 • www.tyeengineering.com
Phone: 541-389-6959 • Fax: 541-385-1341

Anthony Raguine, Associate Planner
Deschutes County Community Development
114 NW Lafayette Ave.
Bend, OR 97703
Anthony.Raguine@deschutes.org

July 17, 2018

RE: Appeal Comments, Case #247-18-000424-A (247-17-000833-AD), Briteside Oregon LLC,
23450 Walker Rd.

Dear Mr. Ranguine:

The following comments focus on the problems with Briteside Oregon LLC's proposed water sources and the legality of water use for their proposed marijuana grow operation. These written comments follow up on the comments I presented at the appeal hearing on July 11, 2018 before the Board of County Commissioners. I am addressing the three water sources proposed by the applicant: mitigation credits, Central Oregon Irrigation District, and Bend Water Hauling LLC.

MITIGATION CREDITS

The applicant has proposed to use three mitigation credits from Legacy Ranches LLC as the water right for their existing water well. They state that this water well is to be the water source for the marijuana grow operation. It is interesting to note that these three mitigation credits are derived from a transfer of water rights out of the Crooked River.

I want the Commissioners to understand that mitigation credits are not an actual ground water permit and cannot be used as an irrigation water right. In order to obtain a valid water right, the applicant must first submit an application to the Oregon Department of Water Resources for a permit to appropriate ground water. Among the items required in the application, the appellant is required to specify the type of use, the place of use, and the amount of water they request to be appropriated. As a condition of approval, OWRD will require some kind of mitigation to offset the demand on the region's existing ground water resource. In this case, the mitigation credits from Legacy Ranches LLC may be able to be applied.

As part of the approval process, OWRD will review the application for completeness and adequacy. The department's Ground Water Section will determine whether there is ground water available for use without causing harm to other users in the area. However, since it is known that the ground water table in the Alfalfa subzone is being depleted and existing wells are having to be deepened, there is doubt that OWRD would approve the application.

It can take up to one year for OWRD to complete the review process and issue a temporary permit, if the application is indeed approved. The applicant may not be aware that until the permit is actually issued, they are NOT allowed to use the existing well as a source of irrigation for their grow operation.

CENTRAL OREGON IRRIGATION DISTRICT

The applicant has indicated they have 31 acres of irrigation water provided by COID for their marijuana grow operation. The commissioners need to understand this is not a correct statement and the applicant is misinformed. Just because the applicant has a generic letter that says COID serves the property, it does not mean it all can be used for this project. It is my understanding that none of the COID irrigation water can legally be used for their marijuana grow operation.

The applicant proposes to utilize enclosed modular buildings to house their marijuana operation and not use an open-bottom greenhouse. Currently, a 4,000 square foot building exists on the property and is located on non-irrigated ground. Therefore, none of the 31 acres of water rights can be used for the existing building.

The applicant's second building is 18,000 square feet and proposed to be placed on irrigated ground. Because this will also be a completely enclosed modular building with a floor, it is doubtful that the underlying water right can be used and would have to be transferred out. If the structure is placed before that portion of the water is transferred, the water right for that site would have to just be abandoned, reducing the total amount of water rights for the property.

To help explain, if an open-bottom (no floor) greenhouse is located within the specific area served by the COID water right, then the COID water can legally be used to water plants in that greenhouse, just as it would for plants grown in a field as most agricultural crops are. However, you can only use the amount of water commensurate with the size of the greenhouse or the area where the crop is grown. For instance, if the greenhouse is one-half acre in size (which is the about the size of Briteside's proposed structure), then you can only use one-half acre's worth of the 31-acre water right at the greenhouse—NOT the full 31 acres of water rights. The amount of water allowed for one-half acre water right is about 3 gallons per minute, not the 10 million gallons which the applicant appears to believe they would have available.

BEND WATER HAULING LLC

Bend Water Hauling can use a municipal water source to deliver water to a marijuana grow operation for a portion of the year. Since marijuana is considered to be an "agricultural crop", it legally should only be watered using a municipal groundwater source during the irrigation season of April through October.

I am concerned that the applicant is not very well informed on water rights law, process, or when and how they can legally irrigate their proposed marijuana grow operation. I believe they are jumping to conclusions about what they can legally do.

In summary:

1. It is doubtful that the applicant can obtain a ground water irrigation water right from OWRD
2. COID surface irrigation water cannot be used at the existing building since there is no underlying water right. It is doubtful COID will allow them to use an irrigation water right inside an enclosed building
3. Agricultural crops are only allowed to be irrigated during the irrigation season (April – October)

Thank you for considering my comments. Please contact me if you would like further information.

Sincerely,

/ William R. Tye /

WILLIAM R. TYE PE, CWRE

cc: Deschutes County Commissioners

From: [Jim & Mary Whitaker](#)
To: [Anthony Raguine](#)
Subject: Fwd: Case ID: 247-17-00833-AD: Walker Rd, Bend Letter of Opposition
Date: Sunday, March 4, 2018 7:08:34 PM

Anthony-

We just wanted to make sure you received the final email sent perhaps without the draft version and mis-addressed version attached. Also could you please let us know how this progresses - when there is a hearing on the application? We were just made aware today of the application and want to be sure to participate as we can in the process.

Thank you-

Jim and Mary Whitaker

Begin forwarded message:

From: Jim & Mary Whitaker <jmwhitacres@gmail.com>
Subject: Case ID: 247-17-00833-AD: Walker Rd, Bend Letter of Opposition
Date: March 4, 2018 at 7:00:19 PM PST
To: Anthony.raguine@deschutes.org

Anthony,

We are long time residents in what we still try to consider as being rural Deschutes County. Although our home on Stenkamp Rd. is not directly adjacent to the Briteside LLC property we feel we will be directly impacted if their application for a marijuana grow facility is approved.

As we live in the High Desert we are very cognizant of water conservation. Our domestic water is supplied by our neighborhood water improvement company - a small non-profit co-op (Sunset Acres Water Improvement Company) where we share one well with 27 other neighbors. In 2012 the well had to be re-drilled an additional 100 ft. in depth. This was a very big expense shouldered by us and all of our neighbors and not one we hope to repeat. Additional wells in the area sharing the same aquifer and being used for other than domestic uses would certainly be a detriment to the aquifer. By what means will the well recently drilled on the Briteside LLC property "for domestic use" be verified to be solely "for domestic use"?

In reviewing the application materials submitted by Briteside LLC their "water sources" do not seem reasonable. We would begin by echoing some previous comments that have been made regarding the use of water from a federally funded district (COID) for a use that is not considered legal in the eyes of the Feds. Also, where the more traditional agricultural practices in Central Oregon have been of a more seasonal nature, water uses did not typically rely on ground water sources. The practice of hauling water for agricultural uses outside of the irrigation season (from an un-named source) seems mythical at best. Greenhouse grows do not provide for any water recharge into the ground as would be the case in other types of farming. So there is no recapture of any amount of water into the aquifer - only a draw out.

On another note, our night skies are becoming brighter all the time from light pollution. At night when we look west towards Bend from our home we see half the number of stars than when we look to the east. On cloudy nights there is a definite glow from the city lights as well. Having driven by existing grow operations at night in Alfalfa, the light emitted is still seen regardless of what type of screening efforts are attempted. We cannot figure how the County's existing Outdoor Lighting Ordinance (referred to by the County as "good Neighbor lighting") can be adhered to by a 24-7 grow operation.

Another item we would like to mention is the aroma from marijuana grow facilities. We notice near other grow operations that before seeing any structures housing a grow operation one can smell the product. It is not difficult to identify where a facility is located as long as your olfactory senses are working. Our neighborhood is located directly north of the proposed Briteside LLC facility - directly downwind. The prevailing wind comes from the south and in the past years we have had an increase in breezy/windy days. We spend a good amount of time outside on our property and enjoy the smell of fresh dirt, cut hay and even woodsmoke. Being reminded of a nearby grow operation on a daily basis is not something we would appreciate.

The traffic on Alfalfa Market has greatly increased especially since the development of Brasada Ranch. There are a good number of recreational bicyclists that use Alfalfa Market Rd., Bennett and Stenkamp Rd., and the surrounding roads for group rides, training and race events. Adding additional vehicles (for workers) using a driveway on a curve and very close to an intersection would make a road more dangerous for all users than it already is.

In closing we are submitting this email to you to state our strong opposition to the Marijuana Grow Application submitted by Brideside LLC, as referenced above. It will cause many negative impacts (financial, safety, and health to name a few) to us, our property and our neighborhood. Please consider the residents of this community and of Deschutes County when making a decision.

Jim and Mary Whitaker
62690 Stenkamp Rd.
Bend, OR 97701

From: crownefenn5@aol.com
To: [Anthony Raguine](#)
Subject: Case ID: 247-17-000833-AD: 23450 Walker Rd, Bend LETTER OF OPPOSITION
Date: Monday, March 5, 2018 10:01:11 AM

Dear Mr. Raguine,

Here are our objections, which reflect the objections of all of my neighbors:

We are residents of the *Ranch Acres* sub development, between Alfalfa Market Rd, Stenkamp and Dixon Loop, a neighborhood directly adjacent to the area under review. There are 24 homeowners in our subdivision alone, consisting of 5 acre parcels. North of our area is *Cimmaron City*, which consist of over a hundred homes on small acreages. This is not a remote and unpopulated region of the County. It is a community with young families and elderly homeowners, alike. Many raise chicken, goats and beef for private consumption or 4 H projects. It is very family oriented. We do not live in the middle of "no where"...there are many homes located next to this Brightside land.

Please! do not approve the above Marijuana "Grow" application referenced above. It is outrageous that a single, private enterprise... to essentially produce drugs... can rain down so much damage on a community.

The eastside of Bend is next to the largest contiguous juniper forest, on restricted BLM land, in the country. This part of Bend is the last refuge for residents to escape the sprawling commerce and endless expansion of track homes in Bend, proper, at least for the foreseeable future, given the urban growth boundary. Many of us have raised their families here for more than one generation. Most take pride in their properties, grow organic veggie gardens, raise chickens for eggs, and just enjoy the peace and quiet.

Ranch Acres has been in existence since the late 1960's and depends on a community well for domestic, potable water.

Cimmaron City depends on their private community wells for their domestic water.

Our non-profit community well, known as Sunset Acres Water, went "dry" not too long ago; the re-drill was a very costly, and tenuous operation. The County could not assure us that the water would hold out for any definite number of years.

We do not use our well water for ANY agricultural use, other than to water livestock... in order to protect the well from premature depletion. Despite silly claims that "grow operations" don't use much water, we know this to be a lie. A great deal of water is needed to grow pot. We have also been told that these growers will truck in water. That is a preposterous claim. There is no doubt that if these growers start to cheat the system-- and who will monitor them?-- the aquifer that we have been permitted to tapped into will be in jeopardy. In addition, our irrigation water, from COI, is challenged every summer because high usage "up the ditch" on big acreages, by those who already do not respect their allotment limits. If this "grow operation" is granted water rights by COI, there will be irrigation water shortages in this area. Our property values depends directly on having clean potable water for our homes, and irrigation water for our hobby farms. **Our land will become worthless if there is no water.**

In addition to the many water issues we have all over the high desert, we object to the amount of chemicals and fertilizers that will be introduced to the environment by this agri-business. We, personally, have not used Round Up in 10 years out of respect for my neighbor's need for their "organic certification" requirements.

The undesirable consequences of commercial pot growing are endless and **well known**. The County cannot police these "grow" operations. They have not monitored these businesses once they are up and running. It is becoming a scourge for those of us who have to live with the noise, the smell, the deleterious effects surrounding commercial pot farms.

Just ask any resident of the Alfalfa area. They are angry about what is happening to their community and their **water table**.

We ask that you DENY this application. This is not the logical, correct region for these businesses. Thank you!

Sincerely,
The Fenns
62735 Dixon Loop, Bend

crownefenn5@aol.com

Baker

247-17-000645-cu



Fitch Law Group, PC
"Committed to Excellence"

EDWARD P. FITCH
ed@fitchlawgroup.com

Patricia Jane Robert
Paralegal
parrtj@fitchlawgroup.com

January 10, 2018

Cynthia Smidt
Association Planner
Deschutes County Planning Dept.
117 NW Lafayette Avenue
PO Box 6055
Bend, OR 97708-6005

Re: File No. 247-17-000645-CU

Cynthia:

On January 3rd Michael Hughes submitted six items of information regarding the Baker Marijuana Application File No. 247-17-000645-CU. The materials submitted did not establish any basis for approval of this application. The application must be denied for the following reasons:

- 1) The applicant does not have an appropriate water right for the marijuana application. There is nothing in the record which would show that they have a right to use the ground water for marijuana processing. The existing permit only allows for orchard grass production on specified pasture areas on the Baker property.
- 2) Attached as Exhibit A is a circular from the Water Resources Department. It is clear from the Water Resources Department's perspective that municipal or quasi-municipal water cannot be used to promote plant growth for cultivation. It can only be used for processing marijuana. In fact, there is a notation on page 2 of the Hler that groundwater is not available for the growth of marijuana. This would be consistent with the definition for the quasi-municipal use of water as previously alluded to. In those definitions, irrigation would be limited to lawns and gardens. It could be used for commercial investor use but plant growth does not fall within that definition.
- 3) The applicant has failed to address the prohibition in the Deschutes County Code regarding the combination of uses on the same subject property. As noted before, commercial uses in a MUA-10 zone cannot be combined with a marijuana growth operation pursuant to the Deschutes County Code. The application must be denied because this proposal combines two incompatible uses under the Deschutes County Code.
- 4) The application has not established any reasonable basis for an exemption to the 100 feet

set back. As noted, this property is much less than 100 feet from the public lands to the north. Those public lands can be accessed by anyone including minors right up to the property line. The 100 feet setback is in there for a good reason; to provide a minimum buffer between a marijuana operation and adjacent properties including public lands. In fact, most public lands including national monuments and state parks have a 1,000 feet setback requirement. The 100 feet setback from similar public lands under the jurisdiction of the Bureau of Land Management should not be compromised.

Thank you.

Very truly yours,



EDWARD P. FITCH

EPF:pjr

cc: Client

G:\Clients\EPF\Gould, Annunziata\Gould, Annunziata LUS\midl ltr 010918.wpd

Understanding Water-Use Regulations: Medical and Recreational Marijuana



Marijuana-related water use is subject to the same water-use regulations as any other irrigated crop. Under the Oregon Water Code of 1909, all water belongs to the public. With a few exceptions, cities, irrigators, businesses, and other water users must obtain a water right from the Water Resources Department to use water from any source – whether it is underground, or from lakes or streams. Generally speaking, landowners with water flowing past, through, or under their property do not automatically have the right to use that water without authorization from the Department.

New water permits are not available in many areas of Oregon, so individuals are strongly encouraged to investigate their water-resources options before investing in a project that requires a water supply. Violations of Oregon Water laws can result in civil penalties or prosecution for a class B misdemeanor.

The best way to identify your legal water resources options is to speak with your local watermaster (see next page). For more information, you can contact the Department at 503-986-0900, or visit our website at <http://www.oregon.gov/OWR/>

What are the water-use authorization options?

1. A water right may already be associated with your property; however, you will need to confirm that the right is still valid, and that it can be used for your purposes. Similarly, water may be obtained from a water purveyor such as a city or a water district that delivers water under an existing water right.
2. If available, water may be acquired by obtaining a new water-right permit for surface water or groundwater.
3. Certain water uses are authorized through Oregon law as “exempt” from the need for a water right. More information about exempt uses is provided below. Check with your watermaster to make sure your use qualifies.
4. There can be other options to obtain water aside from obtaining a new right to surface water or groundwater. In some cases, with Department approval, a water right from another property can be transferred to a new parcel, or stored water that is captured during the winter and spring can help provide a supply. Talk to your watermaster about options.

What else should you know about the use of your water right?

Once you have a water right, make sure that you comply with the conditions on the right. It is always a good idea to check with your watermaster to understand the conditions. Water rights are issued for a particular place of use, type of use, and point of diversion. Water rights also have limits on the amount of water that can be used, and may include limitations on the season of use. Your watermaster can help you to understand the terms of use on your water right.

If you want to change how the water is being used (for example, from field irrigation to a greenhouse), check with your watermaster to make sure that the change fits within your existing water right. In some instances you may need to obtain approval from the Department through a process called a transfer. In addition, there may be limits on the months that the water can be used. Water rights may be subject to forfeiture if not used for five consecutive years.

In addition, there may be times where there is not enough water for every water user who holds a water right. In times of shortage, the senior user is entitled to receive all of his or her water, before a junior user. For example, a senior user with a priority date of 1910 can make a call for water, and users with a junior date (after 1910 for this example) may be regulated off in order to satisfy that senior right. You should talk with your local watermaster to understand how frequently regulation is likely to occur, so that you can plan your operations accordingly. *Note: Although exempt groundwater uses do not require a permit, the well may be subject to regulation like any other water right in times of water shortage.*

How do I obtain a water right permit in the State of Oregon?

Most water rights are obtained in a three-step process. The applicant first must apply to the Department for a permit to use water. Once a permit is granted, the applicant must construct a water system and begin using water. After water is applied, the permit holder must hire a certified water-right examiner to complete a survey of water use (a map and a report detailing how and where water has been applied). If water has been used according to the provisions of the permit, the Department will issue a water-right certificate.

What sources of water are exempt from the permitting process and how can the water be used?

- **Natural springs:** Use of a spring that, under natural conditions, does not form a natural channel and flow off the property where it originates at any time of the year is considered exempt from the need to obtain a water right. Check with your watermaster to determine if your spring qualifies for the exemption.
- **Rainwater:** Collection and use of rainwater from an artificial impervious surface, such as a roof, is considered exempt from needing a water-right. For more information, refer to ORS 537.141. Check with your watermaster to make sure that your rainwater system is properly set up to meet this exemption. You may also need to check on local regulations with your county and/or city.
- **Exempt use of groundwater for non-irrigation-related commercial/industrial purposes:** Under the exemption, up to 5,000 gallons per day could be used for commercial or industrial use without a water right. This would include processing marijuana; however, this exemption does not include water to promote plant growth/cultivation.
- **Exempt use of groundwater for one-half acre of non-commercial lawn and garden:** Water for cultivation/growth of marijuana, whether in a greenhouse or not, does not require a water right permit provided that the irrigation is no more than one-half acre in area *AND* the cultivation is *non-commercial*. Use of groundwater to grow marijuana plants where there is intent to profit does not qualify for a groundwater exemption. Non-commercial includes homegrown recreational marijuana and medical marijuana for personal use, or where there is no intent to profit. Medical growers that seek to make a profit from medical or recreational marijuana are not eligible for this exemption. For example, an individual that grows marijuana and donates it to patients and dispensaries could qualify for the exemption. Conversely, an individual that grows marijuana and is reimbursed for the costs of the production and labor – intending to make money – would not qualify.

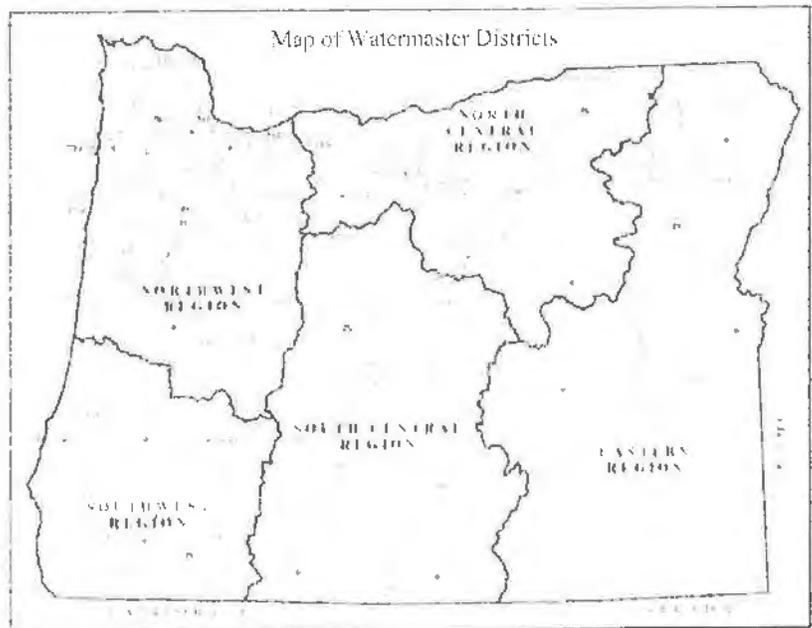
NOTE: This is not a complete list of exemptions, but rather lists those most pertinent to the growth and production of marijuana. Like any crop, the growth of marijuana for commercial purposes, whether medical or recreational, is not eligible for groundwater exemptions.

Can water be obtained from a federal water project?

The federal government is responsible for determining whether water from their projects can be used to grow marijuana. Previous statements by the federal government indicate that use of Bureau of Reclamation water for the purpose of growing marijuana is prohibited. Contact the Bureau of Reclamation or your irrigation district for more information.

Who is my watermaster?

District 1	Jack Heister	503-815-1967
District 2	Maxine Mather	541-682-3620
District 3	Robert Venter	541-506-2652
District 4	Erin Gaud	541-575-0119
District 5	Chris S. Williams	541-278-5456
District 6	Shelley D. W.	541-963-1931
District 7	Debra G. Gaud	541-426-4464
District 8	Rebecca J. Gaud	541-523-8224
District 9	Rebecca J. Gaud	541-473-5130
District 10	Robert Gaud	541-573-2591
District 11	Christina A. Gaud	541-306-6885
District 12	Christina A. Gaud	541-947-6038
District 13	Erin Gaud	541-774-6880
District 14	Rebecca J. Gaud	541-479-2401
District 15	Christina A. Gaud	541-440-4255
District 16	Christina A. Gaud	503-986-0889
District 17	Christina A. Gaud	541-883-4182
District 18	Christina A. Gaud	503-846-7780
District 19	Christina A. Gaud	541-396-1905
District 20	Christina A. Gaud	503-722-1410
District 21	Christina A. Gaud	541-384-4207



Cynthia Smidt

From: teamrussellbend@gmail.com
Sent: Thursday, August 17, 2017 5:44 PM
To: Nick Lelack; Cynthia Smidt
Subject: Comments re: 247-17-000645-CU

To Whom It May Concern:

I was made aware of the application for the marijuana production facility at 20420 Harper Road and wished to make a few comments as I reside nearby. My comments are:

- 1) I do not think an exception should be made for this property regarding the 100 foot setback of marijuana production from the property line. My reasoning is simply, why should an exception be made? If they are asking for the exception simply to save costs to use existing buildings I find that to be a poor reason to circumvent the law. This is a business we are talking about. Businesses have overhead costs. Why make exceptions to this already lucrative industry? How is this any different than a new business going in at an existing facility having to retro-fit things to fit their needs? It isn't really.
- 2) Are they planning on maintaining their horse riding business in addition to growing marijuana on the premise? If so, some consideration should be given to the fact the place will have children on the property where controlled and potentially harmful substances are being produced.

Thank you for your time. Feel free to contact me if you need additional information from me or have information to share. I can be reached by mail, email or cellular phone.

Sincerely,

Thomas and Molly Russell
66165 Cline Falls Road
Tommy's cell: 541-678-3042



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Prineville District Office

3050 NE 3rd Street

Prineville, Oregon 97754

DEC 22 2017



In Reply Refer To:
2800 (ORP000)

CERTIFIED MAIL – 7012 2920 0000 4958 0818
Return Receipt Requested

Cynthia Smidt
Deschutes County Planning Division
P.O. Box 6005
117 NW Lafayette Ave.
Bend, OR 97708-6005

Dear Ms. Smidt:

The Bureau of Land Management (BLM) Prineville District Office provides the below comments regarding a recreational marijuana production facility off Harper Road file number 247-17-000962-A (247-17-000645-CU).

Upon recent review of the project area BLM does have concern on a number of issues regarding this proposal. The location of this proposed production facility is very close to a BLM managed public land boundary. BLM does not concur with the granting of a variance to the setback requirement, the closeness of the production facility to an actively used public trail could have an adverse impact to people recreating on public lands. BLM recommends that the applicant have a boundary survey of the parcel conducted to ensure no unintentional future trespass onto public lands occurs.

Second, the BLM has concerns over the use of pesticides and herbicides and chemical residue migration onto public lands. It is requested that if chemicals are used in the operation, that protocols are required to ensure that any chemical residue is contained and does not migrate onto public lands.

If you have any questions on these information requests, please contact April Rabuck, Acting Assistant Field Manager Lands and Minerals at (541) 416-6853.

Sincerely,

Dennis C. Teitzel
District Manager, Prineville District Office

Cynthia Smidt

From: Ed Fitch <ed@fitchlawgroup.com>
Sent: Wednesday, January 10, 2018 9:41 AM
To: Cynthia Smidt
Cc: nunzie@pacifier.com
Subject: Baker application/appeal
Attachments: SKM_C224e18011010450.pdf

Cynthia

Please see the attached response to the applicant's submittal. Thanks

Edward P. Fitch
Attorney
210 SW 5th St., Suite 2
Redmond, OR 97756
541-316-1588
541 316-1943 fax
ed@fitchlawgroup.com
www.fitchlawgroup.com

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Cynthia Smidt

From: Dan Hebrard <dhebrard@msn.com>
Sent: Friday, August 18, 2017 7:53 PM
To: Cynthia Smidt
Subject: Forwarded after I sent to Nick Lelack
Attachments: image1.PNG

Sent from my iPhone



2 Messages

Bent wire ranch public com...



I too would like to express my concern with the exception request at the Bent Wire Ranch. Marijuana growing is a big money industry, the applicant is not growing for personal use, but to make a profit. As in any business you must have capital to start up. Part of their start up should be to build a new grow facility, or move to a different location that suits their needs. Us here in Tumalo have been overrun with these grows, it's ridiculous, stinky, and pulls in for lack of a better term shitbags to work them, who are constantly broken down on the side of the road. This is a land of laws, stick to them, enough is enough

Dan Hebrard
66345 white Rock Loop

Sent from my iPhone



Forwarded after I sent to...

Cynthia Smidt

From: Jim Henson <jim@hensonbiz.com>
Sent: Monday, August 21, 2017 2:36 PM
To: Cynthia Smidt
Cc: nunzie@pacifier.com; Nick Lelack
Subject: RE: preliminary comments re: 247-17-000645-CU

Hello Cynthia Smidt,

I would like to comment on 247-17-000645-CU, which I have only been hap-hazardly informed about. I did read the application paperwork online. I think a public hearing is to be called for, and I submit these points below to recommend that the applicant be required to conform fully with all ordinances as written.

If Pot is grown in a closed building, where no light escapes, and no smell escapes, and presumably, the excess water is recycled, then why don't they do it in a warehouse in central Bend? There is no need to do this in a farm area on top of good soil.

This land is about 1500 feet from my property, and mine is the 2nd driveway past theirs. I object to the urban rule on who you notify about this (1000 feet?). I got no notice at the 2nd driveway away! Can you perhaps notify the nearest 100 land owners? Is that too much to ask?

An initial request of 600 square feet seems benign, but let's talk about the future and what that setback variation would do when they wish to expand the business to 2500 square feet. There is a reason the laws/rules specify 100 feet setback today. With the maximum height allowed of approx. 30 feet. The shadows cast at 65 feet across property lines last hours longer than if it was 100 feet back. Light, noise, smells, dust are all considerations in a ranch community, and with the 5 and 10-acre parcels here, you cannot lie to yourself that this is not a residential space. The residents strive to preserve farm uses and preserve open spaces and a high quality of life. This is not an industrial area. This is not a marijuana processing area. The power lines do not support industrial power users. Then roads do not support heavy trucks. There are no street lights and we do not want any. All drinking water is ground water wells, and all sewage is septic tanks and fields. Marijuana production is no more appropriate here than in the Broken Top subdivision.

If the applicant land is truly MUA-10, and not a combo of MUA and EFU, then the historic purpose is for farm support businesses like tractor repair and welding. Do not subvert the intent of the zoning. I happen to know that the Bent-Wire land has been fertile as horse pasture, irrigated and green, for at least the last 8 years, continuously.

Each variance from the laws/rules as written weakens and cheapens these rules. If the Public wishes to revise the laws, then let's have that debate, but for administrators, who are not elected, to weaken ordinances arbitrarily is a violation of our trust.

My experience in just the +-1 mile of my place is that the spirit of the law is not enforced and the CUP variances are subject to favoritism. This is very disappointing.

Please do the right thing.

Jim Henson
66255 White Rock Loop
jim@hensonbiz.com

August 27, 2017

To: Cynthia Smidt
Deschutes County Planning Commission
Deschutes County Code Compliance

From: Dan Noelle and Rosie Sizer
20480 Harper Road
Bend, OR 97703

Re: Application for conditional use for marijuana grow
Chris and Lucinda Baker
20420 Harper Road
Bend, OR 97703

DKC

Dear Deschutes County Planning Commission,

We are writing to you to express our opposition the issuance of a conditional use permit for a marijuana grow to Chris and Lucinda Baker at 20420 Harper Road, Bend 97703. We are opposed to the permit for the following reasons: effect on property values in the immediate neighborhood, deleterious effects of a grow operation (particularly odor and crime), and the Bakers' willingness to follow the rules and the capacity of the County to enforce the rules.

My wife and I have combined have over sixty years of law enforcement experience. We know from direct experience with dozens of in-door marijuana grow operations that the growing of marijuana produces a pungent and noxious odor. Our home is in direct line with the prevailing wind pattern in our area. We are also more than aware the drug activities—to include grow operations—attract crime. The Bakers's property borders Bureau of Land Management property, which would facilitate either burglary or robbery of the Bakers and also the other properties in the development.

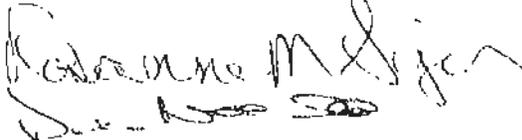
The Baker's property was one of four properties developed in the mid-1990s. The other properties (including our property) sold for over a million dollars apiece. At the time the original property was subdivided there were covenants, conditions, and restrictions (CC&Rs) put in place. We have attached a copy of the CC&Rs to this letter. My wife and I have lived in the neighborhood for seven years. The Bakers have disregarded the CC&Rs for at least the last seven years by operating a horse boarding facility and a light manufacturing facility. The light manufacturing has been in violation of the CC&Rs and also county code. Additionally, we met with Chris Baker on August 18 to express our opposition to his application. The sign required by code indicating there was an application for a marijuana grow permit was removed on or before the 21st of August, thus concealing the application from other neighbors or interested parties.

Given their inability to follow CC&Rs and county code during the last seven plus years, we have grave doubts that the Bakers will follow code regarding the operation of a marijuana grow—despite their protestations otherwise. With this in mind, we have several questions for the County:

1. What can we expect from the County should there be have complaints regarding the Baker grow operation? Can you assure us there will be a timely, fair, and effective response?

2. Will the County inspect the Baker grow operation to ensure the it is and continues to be in compliance with the law? On what kind of schedule?
3. What does Deschutes County do to ensure that the marijuana grown in permitted operations goes to legal markets? Bill Williams, the US Attorney for Oregon, recently reported that the marijuana market in Oregon are saturated and too much of the marijuana legally grown in Oregon is illegally exported out of the state.

We are extremely interested in hearing from you about these questions. And we thank you for your consideration of our concerns.

Handwritten signatures of Dan Noelle and Rosie Sizer in black ink.

DAN NOELLE
ROSIE SIZER



DESCHUTES COUNTY
 COMMUNITY DEVELOPMENT
 117 NW Lafayette Avenue, Bend, OR 97701
 Telephone (541)388-6575, Fax (541)385-1764

CODE ENFORCEMENT COMPLAINT FORM

Instructions: In order for you complaint to be accepted, you must fill in all questions completely and sign on the back of this form. It is important that you supply as much detail as possible. If you have any questions, call code enforcement at 541-385-1707.

Date: 8-27-17

Address of Violation(s): 20480 Harper Rd.
 City: Bend State: OR Zip: 97703
 Nearest Cross Street: White Rock Loop
 Subdivision: _____
 Residents Name: Chris Plucinda Baker Phone: 541-9775566
 Owner of Property: Same
 Address: Same
 City: _____ State: _____ Zip: _____

Details of Complaint (be specific):
See attached letter.
light industrial work on property.

ARE THERE ANY KNOWN OR SUSPECTED HAZARDS AT THIS LOCATION?

IE: Dangerous or unstable residents, dogs, criminal activity, etc.

() YES (X) NO () UNKNOWN

If yes, please identify the hazard in detail: _____

**** Continue on reverse side ****

The top portion of this side is required and must be completed.

Complainant: (Your Name)

Name: Don Noelle
Address: 20480 Harper Rd.
City: Bend State: OR Zip: 97703
Daytime phone #: 503-919-1686

Can violation be seen from the road? () Yes (X) No If not, what is the best inspection point?
Follow up with Baker's

Is the Complainant a neighbor? (X) Yes () No
The complainant gives the Code Enforcement Technician permission to use their property for viewing the violation: (X) Yes () No If not, why: _____

Will you, the complainant, testify in court, should the need arise? (X) Yes () No
(Note: your complaint may not be accepted without your being available to testify.)

If you have photos, or other related information, that can be used as evidence of this violation, please submit them with this form. The submitted documentation will not be returned and will become part of the complaint file.

By signing below, I declare, under penalty of perjury, that all information submitted on and with this form is true and accurate to the best of my knowledge.

[Signature]
COMPLAINANT

8-27-17
DATE

Thank you for assisting in making Deschutes County a better place to live.

Your Code Enforcement Staff

FOR OFFICE USE ONLY

Subdivision: _____ Lot: _____ Block: _____

124353

15 - 96-00656 95-44805

Declaration Of Protective Covenants, Conditions, 395 - 0657
And Restrictions For The
Harper Parcels Of Partition. 396 + 0313

Minor Partition MP95-45 and MP95-46
THIS DOCUMENT IS BEING RE-RECORDED TO ADD THE CORRECT LEGAL DESCRIPTIONS.
Recorded December 28, 1995 in Book 395, Page 0657 DCR; #95-44805

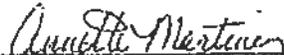
1. Each parcel shall be used for residential purposes only. Single-family dwellings shall not exceed two (2) stories in height.
2. The floor area of any site built house shall not be less than 1200 square feet, excluding porches, decks and garages. Mobile homes or any other kind of manufactured home is strictly prohibited.
3. No more than 12 months construction time shall elapse for completion of a permanent residence.
4. Setback line shall be at least 25 feet back from all property lines to any structure upon the parcel.
5. All driveways must be composed of cinders, gravel or asphalt.
6. All land owners must comply with the laws and regulations of the state of Oregon, county of Deschutes, and any agency with jurisdiction to fire protection, building construction, water, sanitation, and public health.
7. No commercial, industrial, noxious, or offensive trade or activity shall be allowed at any time upon any parcel.
8. Each parcel and its improvements shall be maintained in a clean and attractive condition, in good repair and in such condition as not to create a fire hazard. No property owner shall litter their property with metal objects or other objects, thus creating a visual disturbance and degrading the overall appearance of the neighboring properties.
9. These restrictions may be amended or modified at any time by the affirmative vote of three-fourths of the current property owners.


Mike Constantine

State of Oregon
County of Deschutes
December 28th, 1995
Personally appeared the above named Michael Constantine and acknowledged the foregoing instrument to be his voluntary act and deed.
WITNESS My hand and official seal.

After recording return to:
READ TITLE COMPANY
10000 N. 30th Street
Portland, OR 97228

Denise
3512


Annette Martens
Notary Public for Oregon



AFTER RECORDING
RETURN TO:
P.O. BOX 292
Terrebonne, OR 97760

RECEIVED

SEP 11 2017

Deschutes

August 30, 2017

To: Cynthia Smidt
Deschutes County Planning Commission
Deschutes County Code Compliance

From: Robert and Ann Garey
20460 Harper Rd.
Bend, Or 97703

Re: Application for conditional use for marijuana grow
Chris and Lucinda Baker
20420 Harper Rd.
Bend, Or 97703

To Whom It May Concern:

We are writing to object to the development of a marijuana grow facility on the property of Chris and Lucinda Baker; at 20420 Harper Rd. We object for the following reasons:

1. Protective CC&R covenants were created in 1995 at the time the four properties were created on Harper Rd. (copy enclosed). The purpose of these restrictions were to keep the properties private, quiet, and valuable. The county has created an extensive list of regulations for grow facilities. The first requirement for success is for the applicant to be compliant. The Bakers have shown they will not comply with the restrictions of the covenants or codes of the county by operating a light manufacturing business on the property for years. People who cannot follow the county codes and CC&R's in the past should not be trusted to run a grow facility properly.
2. The security risks to our properties are immense. A grow facility has the potential to bring a criminal element to our quiet secure neighborhood. BLM land that borders our properties make easy access to all four properties. Armored trucks arriving every six weeks to collect the product only highlights the growing activity. This all requires the placement of security cameras, lights and other protective measures on our properties at a significant expense.
3. The environmental impact will also be negative. There is significant noxious odor, light violation and mechanical noise created by a grow facility. Deschutes Co. is known for it's fresh air, limited light pollution and quiet ambience; this will certainly change. Our property values will decline.

4. Finally we question the counties enforcement of the codes. Enforcement is the second important aspect of the county being successful; rules are only as good as the enforcement. Does the county have regular inspections planned? What regularity? How will complaints be handled? Lack of enforcement will create potential lawsuits for applicant, the neighbors, and the county.

We have asked the Bakers for reasonableness and common sense in this matter. They responded by taking their notification sign down so no one else can respond. We only ask the same of the county; we hope we get a different response.

Sincerely,

Robert and Ann Garey

124353

15 - 96-00656 95-44805

Declaration Of Protective Covenants, Conditions, 395 - 0657
And Restrictions For The
Harper Parcels Of Partition. 396 + 0313

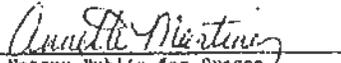
Minor Partition MP95-45 and MP95-46
THIS DOCUMENT IS BEING RE-RECORDED TO ADD THE CORRECT LEGAL DESCRIPTIONS.
Recorded December 28, 1995 in Book 395, Page 0657 DCR; #95-44805

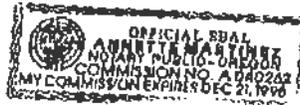
1. Each parcel shall be used for residential purposes only. Single-family dwellings shall not exceed two (2) stories in height.
2. The floor area of any site built house shall not be less than 1200 square feet, excluding porches, decks and garages. Mobile homes or any other kind of manufactured home is strictly prohibited.
3. No more than 12 months construction time shall elapse for completion of a permanent residence.
4. Setback line shall be at least 25 feet back from all property lines to any structure upon the parcel.
5. All driveways must be composed of cinders, gravel or asphalt.
6. All land owners must comply with the laws and regulations of the state of Oregon, county of Deschutes, and any agency with jurisdiction to fire protection, building construction, water, sanitation, and public health.
7. No commercial, industrial, noxious, or offensive trade or activity shall be allowed at any time upon any parcel.
8. Each parcel and its improvements shall be maintained in a clean and attractive condition, in good repair and in such condition as not to create a fire hazard. No property owner shall litter their property with metal objects or other objects, thus creating a visual disturbance and degrading the overall appearance of the neighboring properties.
9. These restrictions may be amended or modified at any time by the affirmative vote of three-fourths of the current property owners.


Mike Constantine

State of Oregon
County of Deschutes
December 28th, 1995
Personally appeared the above named Michael Constantine and acknowledged the foregoing instrument to be his voluntary act and deed.
WITNESS My hand and official seal.

After recording, return to:
Brenda T. Martin
1000 Commercial Building
SS/L


Annette Martin
Notary Public for Oregon



AFTER RECORDING
RETURN TO:
P.O. BOX 292
Terrebonne, OR 97760

A parcel of land located in the Southwest Quarter of the Northwest Quarter (SW14/NW1/4) of Section Nine (9), Township Sixteen (16) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as Parcel 1, of Minor Land Partition MP95-45 and filed December 28, 1995, in the office of the County Clerk, as Plat Partition 1995-60.

A parcel of land located in the Southwest Quarter of the Northwest Quarter (SW14/NW1/4) of Section Nine (9), Township Sixteen (16) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as Parcel 2, of Minor Land Partition MP95-45 and filed December 28, 1995, in the office of the County Clerk, as Plat Partition 1995-60.

A parcel of land located in the Southwest Quarter of the Northwest Quarter (SW14/NW1/4) of Section Nine (9), Township Sixteen (16) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as Parcel 1, of Minor Land Partition MP95-46 and filed December 28, 1995, in the office of the County Clerk, as Plat Partition 1995-61.

A parcel of land located in the Southwest Quarter of the Northwest Quarter (SW14/NW1/4) of Section Nine (9), Township Sixteen (16) South, Range Twelve (12), East of the Willamette Meridian, Deschutes County, Oregon, more particularly described as Parcel 2, of Minor Land Partition MP95-46 and filed December 28, 1995, in the office of the County Clerk, as Plat Partition 1995-61.

STATE OF OREGON)
COUNTY OF DESCHUTES) ss.
I, MARY SUE PENHOLLOW, COUNTY CLERK AND
RECORDER OF INSTRUMENTS, IN AND FOR SAID
COUNTY, DO HEREBY CERTIFY THAT THE ABOVE
INSTRUMENT WAS RECORDED THIS DAY:

96 JAN -8 AM 10:35
MARY SUE PENHOLLOW
COUNTY CLERK

BY:  DEPUTY
NO. 96-00656 FILE 15
DESCHUTES COUNTY OFFICIAL RECORDS

ATF

247-17-000172-AD

247-17-000173-SP

247-17-000180-AD

**BEFORE THE BOARD OF COMMISSIONERS
DESCHUTES COUNTY**

File Numbers: 24-17-000803-A
(247-17-000172AD, 247-17-000173-SP and
247-17-000180-AD

OPPONENTS' MEMORANDUM

Regarding the Application to Establish a
Marijuana Processing Facility
at 4800 SW Highland Ave.,
Redmond, OR 97756

In 2016 Deschutes County amended its Land Use Regulations to allow for marijuana production and processing facilities in the non-urban areas of Deschutes County. Such uses are subject to criteria adopted by Deschutes County. Based upon those criteria, the current application for a marijuana processing facility at 4800 SW Highland Ave. must be denied.

To satisfy all land use requirements the burden of proof is of course, on the applicant. A denial of this application is appropriate for a number reasons. The applicant has failed to meet its burden in the following particulars:

1. Year Round Adequate Source of Water;
2. Proof of sufficient controls regarding odor;
3. Safe use and disposal of chemicals in processing;
4. Screening from adjoining properties; and
5. Access from Highway 126.
6. Noise

RECEIVED
BY: CWS

NOV 06 2017

DELIVERED BY

The other basis for denial is (1) the fact that this application differs from all others because it is adjacent to the Redmond urban area and the community of Redmond and (2) failure to disclose the real party in interest.

Redmond as a community has decided it does not want any commercial marijuana facilities or sales. (See Endicott letter (Tab 1) and McIntosh letter (Tab 2); Pastor Campbell's letter (Tab 3); City FAQ sheet (Tab 4)); Petition (Tab 18). Marijuana use in Redmond is restricted to medical use and only allows growing marijuana for personal use under restricted guidelines. This facility will be located at one of the major entrances to the city, to-wit: Highland Avenue near Helmholtz. It is in very close proximity to the community at large, residential neighborhoods, schools, churches and commercial centers. (See Redmond Urban Preserve map, (Tab 5))

Additional problems with this application concern the following: 1) A failure to disclose who the real party in interest is. 2) Evidence of illegal activity by the applicant's owners and principals to-wit: to grow an unlicensed or unpermitted grow operations on 61st St. and Young Ave. 3) Failure to provide detailed information regarding the operation and the effect of this marijuana operation on adjoining properties. As indicated below there is a substantial question as to whether or not this marijuana production/processing facility will be operated by a group out of Central America.

I.

NOT YOUR TYPICAL FARM USE

Proponents of these production marijuana facilities assert that they are a farm use no different from other farm uses allowed in the EFU and MUA zones. That is not true. What other farm use is illegal under federal law? What other crops cannot be advertised or promoted for

children and teenagers? What other farm use cannot deposit proceeds from the sale of their crops into a bank? What other farm use has significant cash deposits on hand at the facility? What other farm use requires security cameras? What other farm use has at the very least anecdotal information and in all probability statistical data that criminal activity has been associated with these uses? (See Denver Colorado District Attorney letter, Tab 4). That criminal activity can either take the form of questionable operators or persons who are trying to rob these facilities for the marijuana crop itself and for the cash on hand.

Industrial Use

There is some confusion in the Staff Findings and Decision as to whether or not this is a farm/industrial operation as opposed to a traditional farm use. For example, on page 17, in the Findings and Decision, there is a finding under Section 18.124.070 that it is not primarily industrial use. However, on page 22, the staff notes that because it is a combined facility, staff finds that the application falls under an industrial standard for parking. There is no question that this application is for farm/industrial marijuana production and processing facility. ATP, the owner of this property, also owns acreage on 61st Street in Redmond as well as on Young Avenue. As of October 31st there are 27 grow operations permitted in Deschutes County with another 11 applications pending. The opponents understand that the other ATP properties are already being used for grow operations, and that those properties as well as other properties that have been or may be approved for grow operations will have their marijuana processed at this facility. In other words, the applicant is requesting approval for a marijuana factory to be placed on an existing farm; a factory which will become the primary use of this property. The applicant states it will limit processing of off-site crops to 75,000 square feet of production for a minimum

total of 100,000 square feet of production. Not only does this significantly alter the use but how will that be monitored or verified?

This is not a crop used or bought by the public when it is harvested. It is subject to an intensive and hazardous process to produce saleable products. It is extremely dissimilar to other crops grown in this county such as hay, alfalfa, wheat or similar types of farm products. It also raises the question of what market is all of this production serving: Deschutes County or other states where it is not legal? The police department suspects the latter may be true. As such, the Board of Commissioners should find that it is in fact a combined farm/industrial use.

II.

Denial Based Upon Specific Criteria

This particular application must be denied for the reasons described below.

Failure to Sufficiently Address Particular Aspects of the Land Use Criteria for Marijuana Facilities

A. WATER:

There are significant concerns regarding the source of water for this facility. COID water is available for a little more than half of the year. For almost half of the year water will have to come from a different source. There are two (2) domestic wells on site which cannot be used for this marijuana operation. (See Tab 11) If the applicant proposes using ground water for production, a permit will be required from the Oregon Water Resources Dept. There are serious problems with wells in this area. A number of adjoining and/or nearby properties have had to re-drill their wells to a lower depth. These marijuana facilities have a very high demand on water. (See Tab 9) Attached to this Memorandum is a map showing all the properties in this area that have had problems with their wells. (Tab 10)

(See Tab 9) Attached to this Memorandum is a map showing all the properties in this area that have had problems with their wells. (Tab 10)

If a well is to be used for this large grow operation, it could have serious impacts on adjoining properties and the ability of those adjoining properties to get the full benefit of the wells that are already established.

The applicant has failed to provide adequate proof that it has an adequate source of year round water and that any use of well water will not adversely impact neighboring wells.

The applicant has recently represented that it will be trucking water in during the non-irrigation season. First, this is not part of their application. Second, it is doubtful there has been any analysis of how much water would have to be trucked in. There is not even a cistern or holding area for the water in the plans. Will this additional truck traffic produce additional noise burdens on the adjoining properties? Further, trucking water is very expensive. Opponents believe that there will be a strong incentive for the applicant to use the well water on the property. If this is approved, there needs to be a condition that would require annual reports confirming the amount of water that is trucked in and paid for and that the amount of water is commensurate with the need of the operation.

B. ODOR:

The applicant has submitted a general and conclusionary letter from an engineer saying that odor will be controlled. On previous applications conclusionary letters such as this one have been questioned as to whether or not these letters are sufficient. The opponents agree that these types of letters do not adequately address the issue. In fact, the letter submitted by JJ Engineering is identical word for word to the letter submitted in the Goodrich Road application.

been approved, it does appear that odor has become a significant problem, despite representations by applicant that the odor can be controlled. This was evident in many of the comments at the public forum held last week. (See Tab 16) At this point, all we have is conjecture instead of proof that odor will be controlled. The applicant has failed to meet the criteria.

One of the main problems with the odor control also is maintenance. Charcoal filters must be replaced on a fairly frequent basis. If the active carbons within those filters become over-exposed, they are no longer active and odor control will not be effective. The filters can be expensive. Further, according to neighbors of existing facilities the charcoal control method is not working. This was the testimony provided on November 2nd. If this application is approved, there needs to be a maintenance plan with inspections of having these filters replaced on a regular basis and proof should be submitted on an annual basis indicating the filters have been replaced when necessary. If odor problems persist, the permit needs to be revoked.

There is another problem with both odor and noise that was brought up at the public forum. Many of these greenhouses are constructed in a manner in which the operators can just leave one or both ends of the greenhouses open. The applicant has not addressed this issue and the opponents suspect, like other operations, the applicants will install a greenhouse that has that capability. If this is approved, the plans for the greenhouse need to be reviewed with this in mind.

C. USE OF CHEMICALS:

The opponents understand that in the processing of the marijuana chemicals will be used to distill the plant into hash oil or other forms of product. The application is silent as to what chemicals are used in the processing, how they are to be handled, stored and how they are going

to be disposed of in a safe manner. As noted in the initial testimony on October 30, 2017, these applications tend to be very vague on how chemicals are used. For example, it was stated that some chemicals used in processing marijuana, particularly zinc phosphate, may have substantial toxic properties. Further, the processing for hash oil is dangerous. There was an explosion in a similar facility east of Sisters in July to which the fire department had to respond to and had to deal with it as a haz-mat situation. This lack of information is an additional basis for denial of the application.

D. SCREENING/SETBACK:

The impact of these facilities on adjoining properties will be significant, particularly because of the topography to this area. The adjoining properties are higher in elevation and will overlook the facility. The distance between the lot boundary and the grow/processing site should be increased and the improvements, if allowed at all, must be placed in the middle of the parcel instead of near the western lot line.

Although the county has a regulation that lighting cannot be conducted after 7:00 p.m. for a large part of the year, (November to March) it will become dark well before 7:00 p.m. That is a time when families generally get together for dinner and other activities. The lighting and the facility in general must be better screened from adjoining properties or the application must be denied. There should also be a condition that lighting will not be permitted after dusk or 7:00 p.m. whichever is first in time.

E. ACCESS:

Based upon the analysis by the Deschutes County Road Department and ODOT, it appears there is going to be approximately 97 daily trips onto this property. Highway 126 west of Redmond is not a particularly safe road. It is a narrow two lane highway with high speeds.

Whenever there is a left turn in westbound traffic problems arise on the highway. The experience of vehicular accidents at 31st and Highland underscores the need for a left turn lane. Although ODOT did a quick review and summary response, based upon a telephone call, we believe if ODOT relooks at the total scope of this operation, particularly the level of production in the marijuana factory, ODOT will deem this to be a change of use. A change of use will then require either a complete traffic study or traffic improvements, including a left turn lane be completed. If approved the opponents and neighbors believe that a left turn lane for this operation must be required.

F. NOISE:

We have reviewed the letter submitted by the applicant regarding noise. This is the identical letter submitted on other applications. In other words, this engineer has not taken any time to go out to the property to determine the topography, soil types, elevations, etc. As Nick Lelack pointed out in the public forum held last week, noise carries differently in many parts of Central Oregon because of the shallow soil and rock formations.

It also appears that the applicant has established a noise level using one greenhouse approximately 100 feet from the property line. It does not appear that the noise level for 4 greenhouses has been measured in any discernable way. Also will the noise from the fans be curtailed at 7:00 p.m.? Will this affect odor emission during the harvest? The applicant has failed to meet its burden of proof regarding noise and odor control. In other words, just saying they will comply without an intelligible, factual background or plan should not be sufficient. All that will do is cause future problems.

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III

This Facility Does Not Relate Harmoniously With the Existing Development in the Area

This facility is on the doorstep of the Redmond community and is situated adjacent to one of the main highway entrances to the city, to-wit: Highland Avenue. It has a close proximity to existing residential development and will be adjacent to lands that are zoned for future residential development within the community of Redmond. Attached to this Memorandum is a map showing the Urban Growth Boundary and the boundary of the Urban Area Reserve. (See Tab 5) This property is adjacent to the western boundary and also across Highland Avenue from the proposed Urban Growth Boundary for Redmond. In other words, this property will be in between the Urban Area Reserve from the north to the east. It also has a fairly close proximity to schools and churches on the west side of Redmond. As the Board is well aware, Redmond as a community has decided that commercial marijuana production, processing or sales are inappropriate in the Redmond community. They have been prohibited in Redmond. This facility is completely inconsistent with Redmond's community values and the decision of the community not to allow these types of facilities.

Section 18.124.060 of the Deschutes County Code requires this facility to relate harmoniously to existing development. It does not. As evidenced in the letters from the School District Superintendent, the Mayor of the City of Redmond and Pastor Campbell as well as the testimony of many concerned community members, this type of facility is completely inconsistent with the residential development nearby as well as with the schools and churches on the west side of Redmond.

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IV

Deception, Incomplete Information and Refusal to Abide by the Law

It also appears this property was acquired came under deceptive and suspicious circumstances. Based upon conversations with Brad Carroll and research the former owner, Carroll was approached by an elderly couple (Brett Berkowitz and his wife) who said they wanted to move to Central Oregon and live on this property. That did not turn out to be true.

The person who actually contacted Brad Carroll was the principal of the buyer, ATP, LLC. Mr. Berkowitz was a real estate salesman in Costa Rica. He is also a retired chiropractor. He goes by a number of names to-wit: Alejandro Berkowitz, aka Brett Elliott, aka Brett Berkowitz, aka Moose Elliott. He was licensed as a chiropractor in Santa Cruz. However, his license was cancelled in 2005. He formed ATP, LLC in April, 2016. He is 63 years old and currently married to a Costa Rican National. ATP is an Arizona LLC with an office in Los Angeles, California. Berkowitz, however, resides in Costa Rica.

Based upon information obtained by the opponents, ATP appears to have connections with persons residing in Central America. Opponents also understand the manager that ATP put in charge has connections to Central America. ATP has entered into an agreement with Evolution Concepts to develop this marijuana facility. Evolution Concepts also has connections with Central America. It is the opponents' firm belief that there have not been adequate disclosures of who is going to operate this facility, whether or not they are U.S. citizens or whether or not any U.S. citizens affiliated with this operation are connected to the group out of Costa Rica or Central America. There are significant red flags as to who the applicant really is, what their intent is and who is really going to be operating this facility.

Last year ATP purchased three properties through a 1031 exchange. They are the subject property on Highland Avenue, an old dairy farm located at 4800 Young Avenue and a ten (10) acre parcel located on 61st Street which is relatively close to the Highland Avenue property. One of the members of Evolution Concepts is living on the property on 61st St. There is a large greenhouse recently located on the property in which the opponents believe an illegal marijuana operation is underway. The opponents have also obtained information, that the old dairy barn on Young Avenue has been retrofitted with substantial electrical work and now is the subject of another grow operation. It appears these two grow operations have been issued without any permits or licenses. (Note: It appears OLCC has not issued any license for either ATP or Evolution Concepts.)

The Deschutes County Procedural Code requires an applicant to file a complete application and also prohibits deceptive or false statements in conjunction with that application. (See Deschutes County Procedure Code §§22.08.030 and 22.08.035) This application and the steps taken to get to this point has been riddled with deceptive conduct and perhaps illegal actions undertaken by the principals of Evolution Concepts and ATP, LLC. Based upon these facts the application should be deemed void by the Board of Commissioners.

This deceptive and perhaps even illegal activity is particularly troubling in light of the applicant's position that any random inspections should not be allowed and inspections by the County only by invitation. If this is approved, there should be a condition allowing random inspections by Deschutes County, including the Sheriff's Office and Planning Department. There should also be an allowance for an inspection by the Sheriff's Office at this juncture on the properties owned by ATP at Young Avenue and 61st Street. This inspection, by the Sheriff's

Office would be to determine whether or not there is evidence of illegal grow operations at those two sites. This should be done immediately.

V

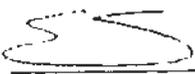
Conditions

The opponents firmly believe that this application should be denied or declared void. If it is approved, however, will this be a conditional approval? That is, if there are complaints about odor, noise, lack of screening, criminal activity, will there be conditions that require the facility to be shut down and the use terminated? There are a significant number of red flags associated with this application. The County will be putting both the neighbors and the Redmond community at large at great risk if this application is approved. Without these types of conditions the risk of significant injury or loss of property values without recourse will become substantial. Attached hereto as Addendum A are conditions that if this application is approved should be imposed.

Both the Redmond community and the neighbors need assurances that in the unfortunate event this application is approved that the facility will be shut down if certain violations occur.

Dated this 10 day of November, 2017. Respectfully submitted,

FITCH LAW GROUP, PC

By: 

Edward P. Fitch, OSB #782026
Attorney for Opponents

Attachments:

1. Mayor George Endicott's letter
2. School Superintendent Mike McIntosh's letter
3. Pastor Campbell letter
4. City of Redmond FAQ Sheet
5. Redmond Urban Reserve map

6. Denver Colorado District Attorney's letter
7. Kern County California Environmental Impact Report
8. Evolution Concepts LLC information
9. How Much Water Does It Take to Grow Cannabis – informational sheet
10. Map of wells
11. Brad Carrol – well documents
12. Deborah McMahon letter dated October 11, 2017
13. Anti-mafia Laws v. Legal Pot
14. Marijuana Facilities Code Standards in Managing the Hazards by Bruce Straughan
15. Citizens for Public Safety email
16. Simmons November 3rd email
17. Redmond Executive Association letter
18. Petition

ADDENDUM A

List of Proposed Conditions

Prior to the issuance of any permit authorizing the production and processing of marijuana, and for each year of operation, the following conditions should be met:

1. The applicant should fully disclose the members of both ATP, owner of the property and Evolution Concepts be operator. This disclosure shall include all members, and their immediate families, as well as addresses and nationality.

2. The applicant and ATP should fully disclose and allow inspection of any suspected growing operations on Young Avenue and 61st Street.

3. The applicant shall provide detailed plans for the construction of the greenhouses to insure that the greenhouses cannot be opened to allow odor and noise to escape.

4. The applicant shall provide proof it has adequate water year round and that the source of water will not adversely affect the neighboring wells within 2,500 of the applicant's property. The offices shall provide annual reports to the County Planning Department as to the source and amount of water delivered to the site each week during the non-irrigation season and that such amounts are commensurate with the crop requirements for water.

5. The applicant shall provide a detailed maintenance plan for odor control, including the replacement of filters on a regular basis. That maintenance plan shall be reviewed with the County Planning Department on an annual basis to make sure there are no odor issues for adjoining properties.

6. The applicant shall provide to the County a detailed plan for the use of chemicals at their processing facility. This will include what chemicals are to be used and how they are to

be disposed of because of the potential for fire, and/or explosions. The applicant shall also install a sprinkler system in the processing facility.

7. The applicant shall provide to the County a detailed landscaping plan to screen the greenhouses and processing facility from adjoining properties. This will include trees and shrubbery and/or fencing of sufficient height to insure that the facility cannot be seen from adjoining properties. Greenhouse lights are to be off at dusk or 7:00 p.m. whichever is first in time.

8. The applicant shall install a left turn lane to the specifications required by the Oregon Department of Transportation on Highway 126 for access to the property.

9. The applicant shall provide to the County an updated analysis regarding noise control so that all 4 greenhouses and processing plant are analyzed for the cumulative impact of noise on adjoining properties.

10. The permit for this facility for both production and processing shall terminate once the Redmond Urban Growth Boundary is expanded to be within 500 feet of this facility.

11. The applicant shall not advertise or have any signage on Highway 126 regarding the nature of its facility.

12. This approval is conditional upon compliance with the terms of this approval. If there is any evidence of the following this permit shall be subject to revocation:

- a. Evidence of noise levels being louder than 30 decibels at the property line.
- b. Odor has not been adequately controlled by the applicant.
- c. Evidence of any criminal activity on the site.
- d. Any evidence of additional processing beyond what the applicant represented.
- e. Any use of grow lights beyond the times allowed by this approval.



CITY OF REDMOND
Office of the Mayor

716 SW Evergreen Avenue
Redmond OR 97756
(541) 948-3219
Fax (541) 548-0706
george.endicott@ci.redmond.or.us
www.ci.redmond.or.us

October 23, 2017

Deschutes County Board of Commissioners
PO Box 6005
Bend OR 97708-6005

Re: Land Use Appeal of Evolution Concepts, LLC Marijuana Production and Processing Facility

Dear Commissioners,

I have become aware of the application of Evolution Concepts, LLC for a very substantial marijuana production and processing facility located on Highland Avenue just west of Helmholtz. On behalf of the City of Redmond, please accept this letter as our deep concern and opposition to this facility. Our community is not in favor of commercial marijuana operations. We have prohibited them from being located within the City limits as well as retail marijuana outlets. The facility that is proposed here is located right on the western gateway of the Redmond community. It is very close to public and private schools as well as churches. This facility is not harmonious with the surrounding environment or the community at large.

I would point out that the Urban Reserve is only one lot away from this facility. It is anticipated, as the City grows, there will be a mixed-use employment center at the intersection of Helmholtz and Highway 126. The proposed marijuana facility is almost "kiddy corner" to this property.

There are other significant concerns of having such a facility almost adjacent to the City as well. These are essentially cash operations. Their legality is questionable under federal law. As I understand it, the investors and operators here are from Costa Rica. That raises a red flag as to why persons from Central America would be interested in establishing a large operation here in Central Oregon, particularly because the Redmond community has expressed a strong opinion against such types of facilities.

As government entities, we have a mutual responsibility to guide land uses and enhance our communities. However, in this case we will not be developing as intended. If approved, you will be creating areas of extreme conflict. The development regulations need to be modified to ensure there is a process for locating such facilities to areas where they do no harm and do not create conflicts. The current regulations need to be enhanced to ensure that smell, noise from fans, light, traffic, and chemicals do not negatively affect other properties. The operation of such facilities must be compatible with adjacent uses and avoid unexpected impacts to existing residents. Existing residents who developed their properties before the marijuana laws were enacted deserve protection. What really needs to happen here is that a Moratorium needs to be put in place so there is time to further refine the local regulations.

Respectfully,

George Endicott
Mayor, City of Redmond, Oregon



P: 541.923.5437

F: 541.923.5142

145 SE Salmon Ave | Redmond, OR 97756

www.redmond.k12.or.us

October 25, 2017

VIA FIRST CLASS MAIL

Deschutes County
Board of County Commissioners
PO Box 6005
Bend, OR 97708-6005

Re: *Land Use Appeal of Evolution Concepts, LLC B Marijuana Production and Processing Facility*

Dear Commissioners:

I am the Superintendent for the Redmond School District. I have become aware of the application of Evolution Concepts to locate a large marijuana production and processing facility on Highland/Highway 126 just west of Helmholtz. We at the school district are strongly opposed to this application for a number of reasons.

First, this facility would be located within close proximity to a number of public and private schools in Redmond. That proximity concerns us deeply as there has been documentation that marijuana is being promoted and used by students at both Redmond and Ridgeview high schools.

Second, as you know, because of restrictions under federal law, these operations are conducted on a cash basis, which invites a significant new level of potential conflict and criminal activity.

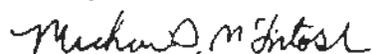
Some have argued that this is just an ordinary farm use. That is not true. We are comparing apples and oranges. What other farm use needs to have security cameras? What other farm use cannot deposit their monies into a bank? What other farm use is illegal under federal law? In what other farm use has there been, at least anecdotal and probably statistical data of criminal activity associated with these types of operations; particularly in light of the fact these marijuana crops have a significantly higher value and there is always a lot of cash involved.

Third, we understand that the operators of this marijuana operation will be coming from Central America, specifically Costa Rica. That begs several questions: Among them are first and foremost, who's interests are being served and at what cost to our children? Of what benefit is this operation on the western doorstep of Redmond to a safe and responsible community? If that is indeed the case, then we are failing in our most fundamental duty to our citizens, the safety of our community and particularly our children.

It is difficult to describe the negative effects of illegal substances in a few sentences. Research and recent history depict a clear picture of these very effects. Higher dropout rates and incidence of suicide are only two of the many negatives that flood my conscience when considering the planned and intentional grow operation on our doorstep. Educating our youth and partnering with this great community is a rewarding, but difficult task. Adding this and any other grow operations significantly diminishes the opportunity to guarantee success for each and every student in my district.

On behalf of the Redmond School District, its employces and particularly its students, we urge you to deny this application as we believe it will be very detrimental to the Redmond community and impose serious conflicts for both the school district and the community at large.

Sincerely,

A handwritten signature in black ink that reads "Michael D. McIntosh". The signature is written in a cursive style with a large initial "M".

Michael D. McIntosh
Superintendent



Highland Baptist Church | 3100 SW Highland Ave. | PO Box 297 | Redmond OR 97756
541-548-4161 | Fax: 541-923-8865 | church@hbcredmond.org | www.hbcredmond.org

October 25, 2017

Deschutes County
Board of County Commissioners
PO Box 6005
Bend, Oregon 97708-6005

Re: Administrative decision approving a marijuana production and processing facility in the Exclusive Farm Use Zone located at 4800 SW Highland Avenue, Redmond

Commissioners:

I am lead Pastor at Highland Baptist Church, located at 3100 SW Highland Avenue in Redmond. Here at Highland Baptist Church, we consider community involvement to be one of our most significant values. I am writing to express our strong opposition to the proposed marijuana production and processing facility on property near our church building.

We oppose this marijuana facility at this location because it is near our church, and children are at our facility several times each week. Our church works hard to provide for the people of our neighborhood. Therefore, we host many different groups which meet at various times during the week - not just on Sunday. It's not unusual to have many children and their parents here on a weekday morning or evening. In addition, we invite groups in our community, who share our values, to meet here; and often children are involved. For example, Hunter Safety classes meet here for their training of young hunters. The presence of this facility near our children is a great concern for us, and is a security risk to those children.

Because this business is illegal under federal law, we are concerned about the security issues this will raise. For example, this business is widely known to be a cash only business. Having such a business as neighbors causes us concern about the safety of our children and senior adults.

The proposed location of this marijuana production and processing facility is next to the Urban Growth Boundary of Redmond. We oppose this approval because someday, in the not too distant future, homes will likely be built almost next door to this facility with all its accompanying safety and security concerns.

We oppose this facility in the proposed location because it moves our community in the direction of normalizing the use of marijuana. Mind altering drugs, like marijuana, are already enough of a problem in Redmond. We must not contribute to the further normalization of this gateway drug in our community. Openness to this drug which alters the mind paves the way for acceptance of other mind-altering drugs. Such drug use is harmful to those who participate in this activity. Do we really want to move our culture farther down this destructive path?

We, the people of Highland Baptist Church respectfully request that you protect our community from this dangerous and destructive marijuana production and processing facility.

Sincerely,

A handwritten signature in cursive script that reads "Barry Campbell".

Barry Campbell
Lead Pastor
Highland Baptist Church

Marijuana FAQ'S

OREGON STATE MARIJUANA FAQ'S RESOURCES

- [Recreational Marijuana in General](#)
- [Medical Marijuana](#)
- [Personal Use](#)
- [Licensing](#)
- [Retail Stores](#)
- [Taxes](#)
- [Printer-Friendly Version \(All FAQs\)](#)

CITY OF REDMOND MARIJUANA FAQ'S - as of June 12, 2017

The City of Redmond is striving to find a balance that supports the new state law allowing the growing of four marijuana plants on a residential lot for private recreational use with the public interest of limiting access to minors and mitigating negative impact to neighbors.

Medical Marijuana Dispensaries

Q: Are Medical Marijuana Dispensaries allowed in the City of Redmond?

A: No. The City of Redmond Business License Code has required that all businesses in the City of Redmond be compliant with local, state and federal laws and regulations since 1989. Since marijuana is still considered an illegal controlled substance by the federal government the City of Redmond cannot issue a business license to any business associated with marijuana.

Although a Medical Marijuana Dispensary is a non-profit operation. All non-profits in the City of Redmond need to have a business license to operate. (Redmond City Code, Section 7.015 and Section 7.020). Additionally, the City of Redmond Development stipulates that no parcel of land or structure may be used for, or in conjunction with, an activity that violates any state or federal law. (Redmond City Code, Section 8.0026).

Marijuana Retail Outlets:

C	of Redmond?
<p data-bbox="129 1459 893 1501">d that all businesses in the City of Redmond be</p> <p data-bbox="129 1501 893 1543">ce 1989. Marijuana Retail Outlets would need to</p> <p data-bbox="129 1543 893 1585">business in Redmond (Redmond City Code, Section</p> <p data-bbox="129 1585 893 1627">substance by the federal government the City of</p> <p data-bbox="129 1627 893 1669">iated with marijuana.</p> <p data-bbox="129 1669 893 1711">no parcel of land or structure may be used for, or</p> <p data-bbox="129 1711 893 1753">ll law. (Redmond City Code, Section 8.0026).</p>	
<p data-bbox="129 1764 893 1806">I</p>	
<p data-bbox="129 1837 893 1879">, 2015, regarding the growing of marijuana on</p> <p data-bbox="129 1879 893 1921">f people in the State of Oregon to grow marijuana</p> <p data-bbox="129 1921 893 1963">ial negative impact to neighbors, associated with</p> <p data-bbox="129 1963 893 1976">code after researching best practices in Colorado</p>	

(state law that all marijuana cultivation needs to occur indoors) and Washington (no marijuana cultivation is allowed on residential properties) and other Oregon communities. City of Redmond Ordinance 2015-07 . Below are questions relative to that code.

Q: How many plants can I grow at my home?

A: Per the state law, you can grow four plants per residential lot unless you are "a" medical marijuana card holder or a caregiver for someone with a medical marijuana card holder.

Q: If I need to grow my marijuana plants inside a secure, locked structure – do I need a building permit if I am building a new shed or greenhouse in my backyard for this purpose?

A: You will need a building permit for any building (including a greenhouse) that is larger than 200 square feet (building footprint) and/or taller than 10 feet.

Q: If I build or install a structure in my backyard, are there any setback requirements?

A: Yes, all buildings must be setback from the side property line by at least 5 feet and the rear property line by at least 6 feet.

Q: What if I want to grow in my front yard?

A: All growing activities need to be screened from the public view of a public right-of-way (streets, public alleyways and public parks) so the growing operations will need to be screened, and the tallest fence that you can build in a front yard is 3 ½ feet. Due to the fence restrictions, please inquire at the City of Redmond Community Development Department to see if your plans would be considered screened from public view?

Q: The code says that I can only grow my plants in a structure made of solid materials, what is the definition of a solid material?

A: A solid material is a rigid structural material.

Q: Can you sell marijuana grown at your home?

A: No. All marijuana grown at home, either for your own recreational purposes or for medical marijuana consumption, cannot be sold to another individual.

Q: The code states that the growing and processing of marijuana plants must not be observable from the public right-of-way – what is considered the public right-of-way?

A: The public right-of-way is all property that is generally owned by the public – typically streets, sidewalks, public alleyways and parks.

Q: What will happen if I do not follow the code requirements?

A: You *may* receive a letter from the City of Redmond requiring the removal of the plants within ten (10) days of the date of the letter. If you do not *correct the violation* in that timeframe, then your property will be posted with a notice, a certified letter will be sent to the *property owner*, and they will have ten (10) more days to *remove the violations*. Violation of this code could result in a citation being issued at any time. Citation fee is \$250.

Q: What about people who currently are growing marijuana in their backyards in open gardens for medical purposes?

A: The code allows an exemption for legally qualified outdoor medical marijuana growing until January 1, 2016.

Q: Can I grow my personal marijuana at my business?

A: No, this provision is only for residential lots.

Q: If the Redmond Development Code (Section 8.0026) stipulates that no parcel of land or structure may be used for, or in conjunction with, an activity that violates any state or federal law – why can people grow marijuana on their residential lots?

A: Ordinance No. 2015-07 exempts residential lots from this part of the Redmond Development Code by declaring that growing marijuana on a residential lot is an accessory land use.

Q: Who should I call?

A: If you feel that someone is breaking the state law (for example - smoking in public, a minor that is using marijuana, someone who is providing marijuana to a minor, someone who is growing more marijuana plants than legally allowed, etc.), please call the police at 541-693-6911 or can be filed online with the Redmond Police Department

If you feel that someone is not compliant with the local nuisance code (for example – is growing their four recreational plants outside in the backyard) please call the Code Compliance Officer at 541-923-7718 or access our online code compliance complaint reporting form.



COMMUNITY DEVELOPMENT DEPARTMENT

CITY OF REDMOND & PORTLAND STATE UNIVERSITY TO HOST A

REDMOND WESTERN HWY 126 GATEWAY DESIGN WORKSHOP



Portland State UNIVERSITY

THE PROJECT

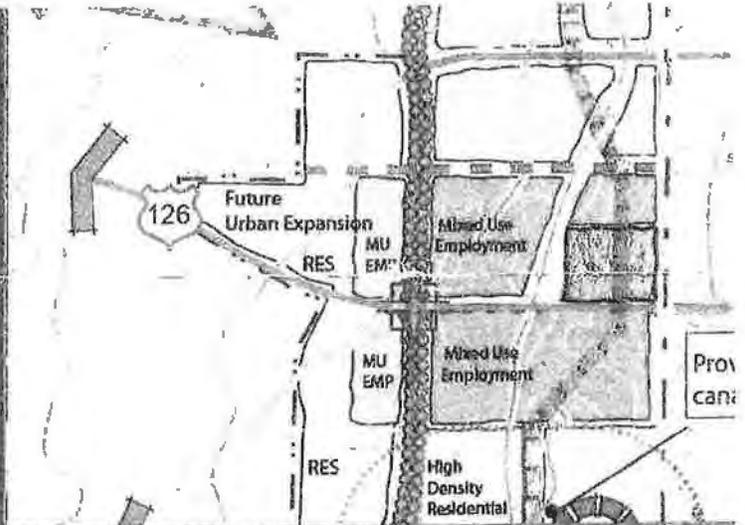
DESIGN WORKSHOP

35 Portland State University graduate students in the School of Urban Studies in Planning course 'Sustainable Cities and Regions' will host, in partnership with the City of Redmond, a half-day design workshop as part of their citizen engagement and sustainable development studies.

The workshop will focus on the 'Western Gateway Design Workshop' studying the area near the Hwy 126 and Helmholz intersection which is planned to be zoned Mixed-use Employment.

WHAT IS A SMART SUSTAINABLE CITY?

A smart sustainable city is an innovative city that uses information and communication technologies (ICTs) and other means to improve quality of life, efficiency of urban operation and services, and competitiveness, while ensuring that it meets the needs of present and future generations.



WESTERN GATEWAY DESIGN WORKSHOP

Please join us for this interactive workshop to seek public input on enhancing the design and development of Redmond's western gateway at the Hwy 126 & Helmholz intersection.

11th

SAT, MARCH 11, 2017 REDMOND CITY HALL 411 SW 9th Street Civic Rm #207 2nd Floor 1:00 - 4:30 PM

YOUR INPUT IS NEEDED

WHO SHOULD ATTEND?

Residents interested in the growth of Redmond, as property owners in the vicinity or business owners in the area.

Your feedback is needed to make sure project goals and objectives are consistent with community needs and desires. There will be special opportunities for you to participate during the workshop.

HAVE QUESTIONS?

OR WOULD LIKE MORE INFORMATION ABOUT THE WESTERN GATEWAY DESIGN WORKSHOP, PLEASE CONTACT:

DEBORAH MCMAHON, PRINCIPAL PLANNER P: 541-923-7724 OR E: DEBORAH.MCMAHON@CI.REDMOND.OR.US



Denver DA

Mitchell R. Morrissey, District Attorney - Second Judicial District
201 W. Colfax Avenue, Dept. 801, Denver, CO 80202

Butt: 303-733-0100
Fax: 303-733-0039

July 27, 2015

Clackamas County
Commissioner Chair Ludlow
Commissioner Bernard
Commissioner Smith
Commissioner Schrader
Commissioner Savas
2051 Kaen Road Road
Oregon City, Oregon 97045

Dear Commissioners,

As you know, Colorado legalized small amounts of marijuana for medical use several years ago and then approved a measure allowing retail marijuana for personal use in January 2014, just about seven months ago. While the full impact may not be known for some time, we already are seeing some of the effects. This includes seeing retail marijuana explode into a multi-million dollar industry that exists simultaneously with a continuing black market. Recent findings from the Rocky Mountain High Intensity Drug Trafficking Area give us a snapshot of what is happening, and it is concerning.

We now have nearly 500 medical marijuana dispensaries in Colorado, and 212 retail stores. Most are in Denver (215 medical marijuana dispensaries and 77 retail stores). There are also hundreds of cultivation facilities and dozens of infused marijuana product businesses.

While pro-marijuana groups are touting selected statistics to the media suggesting that crime is down since the legalization of marijuana, we are beginning to see the effects in our emergency rooms, junior and senior high schools, on our roadways and in our homes.

Since 2007, there have been 15 violent deaths related to medical marijuana in Colorado. In each of these deaths, the victim was a medical marijuana caregiver, was killed in the presence of a caregiver or was trying to rob a caregiver. Dispensaries and stores are lucrative targets for burglaries and robberies. The large sums of cash at these sites have led to execution-style murders and shootouts in residential neighborhoods. There have also been more than 300 burglaries and 7 armed robberies in Denver in the last two years; I do not expect the figures this year to improve.

From 2011 to 2013, there was a 57-percent increase in emergency room visits related to marijuana, and ER doctors noted they treated more small children for accidental overdoses of marijuana. Children are also being exposed when mothers use pot during pregnancy or breastfeeding, as an increasing number of women now report they are trying marijuana for morning sickness or other uses while pregnant. There has also been an increase in calls to our local poison control center involving marijuana and children.

EXHIBIT 2
pg 45/47

July 27, 2015

● Page 2

The National Institute on Drug Abuse reports marijuana use among high school seniors is increasing and may soon become more common than cigarette smoking. This may be connected to the increase we are seeing in the number of adults who encourage marijuana use among young people and adults who are actually using marijuana with a minor. There was a 26-percent increase in monthly marijuana use in Colorado among young people, ages 12-17, in the three years after medical marijuana was commercialized (2009) compared to the three years prior to commercialization.

There was a 32-percent increase in drug-related suspensions and expulsions in Colorado for academic school years 2008/2009 to 2012/2013. A June 2014 Rocky Mountain HIDTA survey of 100 Colorado school resources officers revealed 89-percent have seen an increase in student marijuana-related incidents since retail marijuana was legalized. And, it appears there is a greater likelihood of young people trying marijuana. A study found that 10-percent of high school students who would otherwise be at low risk for habitual pot smoking now say that they *would* use marijuana if it were legal. It is not my intent in this letter to discuss the health impacts of marijuana on young adults, such as lowered IQ and memory impairment, but there is clearly cause for concern.

We have seen a sharp increase in dangerous hash oil explosions. In the first six months of 2014 there have been 26 confirmed explosions and 27 reported injuries. The number of confirmed explosions directly related to the illegal processing and extraction of hash oil in just six months is more than double the total reported in all of last year.

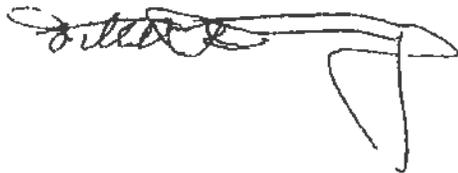
And we have seen an impact on our roads. One in nine drivers in fatal crashes now test positive for marijuana. While the overall number of car crash fatalities were down in Colorado between 2007 and 2012 (down by 14%), fatalities involving drivers who test positive for marijuana are up 100%.

The Colorado State Patrol DUID program (Driving Under the Influence of Drugs), initiated in 2014, show in the first six months of 2014 that 77% of the 454 DUIDs involved marijuana and 42% of the 454 DUIDs involved marijuana only. I do not expect this to improve as another study from 2013 shows marijuana causes more car accidents than any other illicit drug.

The advent of medical marijuana and retail marijuana has not, unfortunately, eliminated the illegal cultivation, possession and sale of marijuana. There remains a robust black market that carries all the risk of illegal drug dealing and continues to require significant public safety resources. Our Crime Lab has requested an additional forensic scientist just to test the volume of marijuana seized over the legal limit.

I believe when the majority of people in Colorado voted to approve Amendment 64, their intention was to de-criminalize the private, personal use of marijuana by adults and that they had no idea marijuana would be become the latest multi-million dollar industry in our state. I also believe they did not anticipate the impacts I've outlined in this letter. We will see what the rest of the year holds and what other unintended consequences we discover.

Sincerely,



Mitch Morrissey
Denver District Attorney

EXHIBIT 2
pg 46 / 47

Draft Environmental Impact Report

SCH# 2017011058

*Volume 2
Appendices A through J*

KERN COUNTY CANNABIS LAND USE ORDINANCE PROJECT

Kern County Cannabis Land Use Ordinance Revisions to Title 19 – Kern County Zoning Ordinance – 2017 B, Title 5 – Business Licenses and Regulations, and Title 13 – Parks Recreation Areas and Public Places and Agricultural Preserve Standard Uniform Rules for two (2) options – Option A – Ban all commercial cannabis activity or Option B – Regulate all commercial cannabis activity



Kern County Planning and Natural Resources Department
2700 "M" Street, Suite 100
Bakersfield, CA 93301-2370
(661) 862-8600

Technical Assistance by:
Kimley-Horn and Associates
555 Capitol Mall, Suite 300
Sacramento, CA 95814
(916) 858-5800

July 2017



	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. For a project located within the adopted Kern County Airport Land Use Compatibility Plan, would the project result in a safety hazard for people residing or working in the project area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Would implementation of the project generate vectors (flies, mosquitoes, rodents, etc.) or have a component that includes agricultural waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Specifically, would the project exceed the following qualitative threshold:

The presence of domestic flies, mosquitoes, cockroaches, rodents, and/or any other vectors associated with the project is significant when the applicable enforcement agency determines that any of the vectors:

	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
i. Occur as immature stages and adults in numbers considerably in excess of those found in the surrounding environment; and	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii. Are associated with design, layout, and management of project operations; and	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii. Disseminate widely from the property; and	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv. Cause detrimental effects on the public health or wellbeing of the majority of the surrounding population.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Hazards and Hazardous Materials Discussion:

(a)-(c) The proposed project would either ban, Alternative 1, or implement, Alternative 2, appropriate zoning regulations to facilitate marijuana-related activities within appropriate Kern County Zoning Ordinance zone classifications. Any future marijuana cultivation and processing, whether at a six-plant scale under Alternative 1 or at a larger commercial operation scale under Alternative 2, would involve chemicals such as, but not limited to, pesticides, herbicides, rodenticides, fertilizers, petroleum products including diesel, propane and butane, heavy metals related to indoor grow lights, and carbon dioxide. For Alternative 1, these chemicals would be obtained for existing gardening supply facilities. For Alternative 2, these chemicals would be delivered to the future commercial marijuana-related facilities. This could create a significant hazard to the public or the environment through the routine transport, use, or disposal. These chemicals could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials. While the proposed project would clarify a ban, Alternative 1, or future facility locations, Alternative 2, there could still be the potential for a facility to be proposed within 0.25 mile of a school. Distances from schools would vary depending on the facility; however, no facility can be closer than 1,000 feet from a school, daycare or youth center, as requirement of Proposition 64.

The toxicity and potential release of these materials would depend on the quantity, the type of storage container, safety protocols used at future commercial marijuana-related facilities, the location and/or proximity to schools and residences, the frequency and duration of spills or storage leaks, and the reactivity of hazardous substances with other materials. The EIR will assess impacts on these



	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
NOISE. Would the project result in:				
a. Exposure of persons to, or generate, noise levels in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Exposure of persons to, or generate, excessive groundborne vibration or groundborne noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. For a project located within the Kern County Airport Land Use Compatibility Plan, would the project expose people residing or working in the project area to excessive noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Noise Discussion:

(a)-(c) Land uses determined to be "sensitive" to noise as defined by the KCGP include residential areas, schools, convalescent and acute care hospitals, parks and recreational areas, and churches. The proposed project will clarify a ban, Alternative 1, or implement appropriate zone classifications where future commercial marijuana-related facilities are allowable in compliance with development standards or under a conditional use permit, Alternative 2. The KCGP Noise Element sets a 65-decibel limit on exterior noise levels from stationary sources (i.e., non-transportation sources) at sensitive receptors. The Noise Control Ordinance in the Kern County Code of Ordinances (Section 8.36.020 et seq.) prohibits a variety of nuisance noises between the hours of 9 PM and 6 AM on weekdays and 9 PM and 8 AM on weekends. The future marijuana-related facilities would adhere to the provisions of the Kern County Noise Ordinance under both proposed project alternatives. The EIR will assess impacts on these resources at the program level for Alternatives 1 and 2. If applicable for the alternative, the EIR will set forth research criteria and report content to enable project-level evaluation of noise level impacts, groundborne vibration and groundborne noise impacts, and evaluate any increases in ambient noise levels above existing levels associated with future commercial marijuana cultivation, processing/packaging, and distribution facilities. This will be evaluated further in the EIR.



	Potentially Significant Impact	Potentially Significant Impact Unless Mitigated	Less Than Significant Impact	No Impact
TRANSPORTATION/TRAFFIC. Would the project:				
a. Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Conflict with an applicable congestion management program, including, but not limited to, level of service (LOS) standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?				
i. Metropolitan Bakersfield General Plan LOS "C"	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii. Kern County General Plan LOS "D"	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Result in inadequate emergency access?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Transportation and Traffic Discussion:

(a)/(b) The proposed project encompasses the entire County and can be split into three main geographic areas: Valley, Mountain, and Desert. The County contains Intestates (I), U.S. Routes (US), and State Routes (SR). SR-99 provides is a major freeway servicing the large central valley urban areas, including the Metropolitan Bakersfield area. I-5 enters the County in the southwest and carries traffic on a north-

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Business Entity Data

11-05-2017
17:14

	<u>Entity Type</u>	<u>Entity Status</u>	<u>Jurisdiction</u>			
1263161-99	DLLC	ACT	OREGON	10-31-2016	10-31-2017	YES
EVOLUTION CONCEPTS LLC						

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Associated Names

Please click here for general information about registered agents and service of process.

AGT	REGISTERED AGENT			10-31-2016		
JACOB	BOW	JENKINS				
2221 SW 28TH ST						
REDMOND	OR	97756				UNITED STATES OF AMERICA
MAL	MAILING ADDRESS					
915 SW RIMROCK WAY STE 201						
REDMOND	OR	97756				UNITED STATES OF AMERICA
MEM	MEMBER					
BRETT	ELLIOT	BERKOWITZ				
21330 YOUNG AVE						
BEND	OR	97703				UNITED STATES OF AMERICA
MEM	MEMBER					
CHARLES	ZACHARY	JENKINS				
1151 SW 53RD ST						

	REDMOND	OR	97756			UNITED STATES OF AMERICA
	MGR	MANAGER				
	JACOB	BOW	JENKINS			
	2221 SW 28TH ST					
	REDMOND	OR	97756			UNITED STATES OF AMERICA

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	Name Type	Name Status		
EVOLUTION CONCEPTS LLC	EN	CUR	10-31-2016	

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				Status		
	NOTICE LATE ANNUAL	11-02-2017		SYS		
	AMNDMT TO ANNUAL RPT/INFO STATEMENT	09-01-2017		NF		
	ARTICLES OF ORGANIZATION	10-31-2016		FI	Agent	

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How Much Water Does it Take to Grow Cannabis?

By Casey O'Neill



How much water does cannabis use



The water/plant figure is actually not a very good one to work with because there are too many variables in terms of plant size, climate, strain, soil, aspect (north/south) etc. After playing with a number of different formulas over the years and trying to find what fits, the best figure we've come up with is **one gallon of water per day per pound of processed flower**, i.e. a one-pound plant needs one gallon of water per day, whereas a five-pound plant needs five gallons per day, and a 10-pound plant needs 10 gallons per day.

One Acre-Foot = 325,851 U.S. gallons

The 1:1:1 ratio was determined by polling numerous cannabis farmers about their water usage. Emerald Growers Association and Mendocino Cannabis Policy Council conducted the polls.

Water Per Joint

Take one pound of cannabis and, for the sake of this example, roll it into 450 joints (approximately 1 gram/joint). Two people smoking a 1 gram joint are going to get an effect that makes them feel good and lasts several hours. Two people could even smoke half the joint and put it out, coming back later to enjoy again. One person could stretch a joint for a number of smoking sessions, achieving the same good feeling each time from the same gram of cannabis.

Two people can share a bottle of wine and get a good feeling that lasts several hours. They can also drink half the bottle and come back later. One person can make a bottle last several days... you get my drift.

So, my suggestion is that we compare the one gallon of water per day during the height of the growing season (say 100 days, which is when it's driest and plants are largest) per pound of cannabis means that 100 gallons of water yields 450 joints with equivalent "human upliftment" to 450 bottles of wine. Wine uses about 400 gallons per bottle¹.

That was my estimate, which is based on drip irrigation and careful usage. You could perhaps tack on another 10-20 gallons depended on length of season of plant. I haven't discussed potential for over-watering or wasteful water practices, which we know occur. Providing education and access to resources for cannabis farmers will bring better industry standards. So, my revised estimate is:

- Low-end water usage estimate for one season: 100 gallons per pound of process flower.
- High-end water usage estimate for a season: 200 gallons per pound of processed flower.
- Most farmers fall in the 100-150 gallon range.

Water Per 1/8 Ounce

EGA and MCPC canvassing indicates that most cannabis farmers grow plants that average between 2 and 4 pounds. One-eighth acre (50 ft x 100 ft with 50 cannabis plants) would use 24,000 gallons per season (8 months = 240 days) to produce 50 two-pound plants (2 gal per day x 240 days x 50 plants) or 480 gallons per plant. A two pound plant divided into 1/8ths of an ounce yields 256 eighths. Thus the whole garden with 50 plants would produce 12,800 eighths of an ounce. (An eighth ounce is a standard retail unit like 1 pound of beef or 1 bottle of wine or 1 can of almonds.)

Each 1/8th ounce then requires 1.875 gallons (24,000 gal/12,800) of water to produce. It has been widely reported that to produce one pound of beef requires at least 1500 gallons of water. Wine uses about 400 gallons per bottle, as mentioned above, and almonds need one gallon per nut or about 100 gallons per can. Broccoli takes about five gallons per head.

Learn more about how much water it takes for all kinds of crops, foods and fuels at WaterFootprint.org.

But, wait! The same plant that produces two pounds of cured finished flower buds also produces at least a 1/2 pound of "little bud" or "smalls" that farmers and dispensaries often donate to needy patients, sell at a steep discount or consume themselves as everyday smoke. So, we need to include that each plant will also produce at least 1/2 pound of "trim shake." The leftover smalls and the shake can then be processed to make concentrates, edibles, tinctures, salves, oils, etc. All that additional product, all that value added, with no additional water required.

References

¹ (Vineyards produce about 2 to 10 tons per acre. 2 tons of grapes produces about 4 barrels of wine which is about 1440 bottles. Water use: 1 acre grapes (about 2400 plants) uses 25,000-35,000 gallons a week. 6 months = 24 weeks total x 25,000 gal = 600,000 gal/per season / per acre. Vineyard acreage in Calif. has increased by 63% since 1985, from 350,000 acres to 570,000. Which means that their water use has likewise expanded by 63%.)

Casey O'Neill and Swami Chaitanya both contributed to this article.

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Casey O'Neill

<http://www.happydailymcsa.com>

STATE OF OREGON
WATER SUPPLY WELL REPORT
(as required by ORS 537.765 & OAR 690-205-0210)

DESC 60182

1/21/2015

WELL I.D. LABEL # 116564
START CARD # 1025750
ORIGINAL LOG #

(1) LAND OWNER
Owner Well ID _____
First Name BRAD Last Name CARRELL
Company _____
Address PO BOX 1914
City REDMOND State OR Zip 97756

(2) TYPE OF WORK
 New Well Deepening Conversion
 Alteration (complete 2a & 10) Abandonment (complete 5a)

(2a) PRE-ALTERATION
Casing:

Dim	+	From	To	Gauge	Stl	Plstc	Wld	Thud

Seal:

Material	From	To	Am't	sacks/lbs

(3) DRILL METHOD
 Rotary Air Rotary Mud Cable Auger Cable Mud
 Reverse Rotary Other

(4) PROPOSED USE
 Domestic Irrigation Community
 Industrial/ Commercial Livestock Dewatering
 Thermal Injection Other

(5) BORE HOLE CONSTRUCTION Special Standard (Attach copy)
Depth of Completed Well 350.00 ft.
BORE HOLE SEAL

Dia	From	To	Material	From	To	Am't	sacks/lbs
12	0	18.5	Bentonite Chips	0	18.5	12	3
8	18.5	350				Calculated	10.49
						Calculated	

How was seal placed: Method A B C D E
 Other POURED DRY
Backfill placed from _____ ft. to _____ ft. Material _____
Filter pack from _____ ft. to _____ ft. Material _____ Size _____
Explosives used: Yes Type _____ Amount _____

(a) ABANDONMENT USING UNHYDRATED BENTONITE
Proposed Amount _____ Actual Amount _____

(6) CASING/LINER

Casing	Liner	Dia	+	From	To	Gauge	Stl	Plstc	Wld	Thud
		8		1.5	18.5	.250				
		6		5	350	.188				

Shoe Inside Outside Other Location of shoe(s) _____
Temp casing Yes Dia _____ From _____ To _____

(7) PERFORATIONS/SCREENS
Perforations Method FAC FURY
Screens Type _____ Material _____

Perf/ Screen	Casing/ Liner	Dia	From	To	Screen slot width	Slot length	# of slots	Tele/ pipe size
		6	330	350	.125	3	228	

(8) WELL TESTS: Minimum testing time is 1 hour
 Pump Bailer Air Flowing Artesian

Yield gal/min	Drawdown	Drill stem/Pump depth	Duration (hr)
20		350	1

Temperature 52 °F Lab analysis Yes By _____
Water quality concerns? Yes (describe below) TDS amount _____

From	To	Description	Amount	Units

(9) LOCATION OF WELL (legal description)
County DESCHUTES Twp 15.00 S N/S Range 13.00 E E/W WM
Sec 18 SW 1/4 of the NW 1/4 Tax Lot 2400
Tax Map Number _____ Lot _____
Lat _____ " or _____ DMS or DD
Long _____ " or _____ DMS or DD
 Street address of well Nearest address
4772 W HWY 126 WELL #2

(10) STATIC WATER LEVEL

Existing Well / Pre-Alteration	Date	SWL (psi)	+	SWL (ft)
Completed Well	1/13/2015			289

Flowing Artesian? Dry Hole?
WATER BEARING ZONES Depth water was first found 293.00

SWL Date	From	To	Est Flow	SWL (psi)	+	SWL (ft)
1/13/2015	293	350	20			289

(11) WELL LOG
Ground Elevation _____

Material	From	To
TOP SOIL	0	3
HARD GRAY LAVA	3	29
MILD BROWN LAVA	29	38
BROKEN BROWN LAVA	38	89
MILD BROWN LAVA	89	148
MILD RED LAVA	148	189
MILD BROWN LAVA	189	202
DARK BROWN SANDSTONE	202	265
COARSE BROWN SANDSTONE	265	293
COARSE BROWN SANDSTONE WB	293	321
COARSE GRAVEL W/WHITE PUMICE WB	321	350

Date Started 1/12/2015 Completed 1/13/2015

(unbonded) Water Well Constructor Certification
I certify that the work I performed on the construction, deepening, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.
License Number 1276 Date 1/21/2015

(bonded) Water Well Constructor Certification
I accept responsibility for the construction, deepening, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.
License Number 1720 Date 1/21/2015
Signed JACK ABBAS (E-filed)
Contact Info (optional) JACK ABBAS

STATE OF OREGON
Water Supply Well Report
 (as required by ORS 537.765)

DESC 57107
 DESC

Received Date: 11-02-2005
 Well ID Tag # L 79414
 Start Card # 177231

Instructions for completing this report are on the last page of this form.

(1) Owner Well Number:
 Name: BRAD CARRELL
 Street: PO BOX 1914
 City: REDMOND State: OR Zip Code: 97758

(2) Type of Work
 New Alter (Recondition) Alter (Repair)
 Deepening Abandonment

(3) Drill Method
 Rotary Air Rotary Mud Cable Auger
 Other:

(4) Proposed Use
 Domestic Community Industrial Irrigation Injection
 Livestock Thermal Other:

(5) Bore Hole Construction
 Special Standards: Depth of completed well: 370.00 ft.
 Explosives Used: Amount: Type:

Hole			Seal			
Diameter	From	To	Mtrl	From	To	Sacks/lbs
12.00	0.00	18.50	BC	0.00	18.50	17
8.00	18.50	330.00				
6.00	330.00	370.00				

 How was seal placed? Other: POURED DRY
 Back fill placed from: Material:
 Filter pack from: Size:

(6) Casing / Liner

Csng/ Liner	Diameter	From	To	Gauge	Mtrl	Weld	Thrd	Shoe at	Shoe used
C	8.00	1.50	18.50	.250	S				
L	6.00	-10.00	330.00	.188	S	X			

(7) Perforation / Screens
 Perforations:

Mtrl	From	To	Width	Height	#Slots	Dia.	1/2pSize	Csng/ Lnr	Method

 Screens:

Mtrl	From	To	S Size	#Slots	Dia.	1/2pSize	Type	Gauge

(8) Well Tests (Minimum testing time is one hour)

Type	Yield	Units	Drawdown	Stam at	Duration
A	30.00	G		370.00	1.00

 Temperature of Water: 52 F
 Was water analysis done? Depth of artesian flow:
 by whom?
 Did any strata contain water unsuitable for use? Too Little Salty
 Muddy Odor Colored other:
 Depth of strata:

(9) Location of Hole by legal description
 County: DESC Latitude: Longitude:
 Township: 16.00 S Range: 13.00 E
 Section: 18 NWSW Lot: Block:
 Tax Lot: 2400 Subdivision:
 Street Address of Well (or nearest address):
 4772 W HIGHWAY 126
 MAP, with location identified, must be attached.

(10) Static Water Level
 Feet below land surface: 290.0 Date: 10 / 17 / 2006
 Artesian Pressure: Date:

(11) Water Bearing Zones
 Depth at which water was first found: 320.00 ft.

From	To	est Flow	swl
320.00	370.00	30.00	290

(12) Well Log Ground Elevation:

Material	From	To	swl
SAND PUMICE	0.00	11.00	
BASALT	11.00	27.00	
BASALT CINDERS	27.00	62.00	
SANDSTONE	62.00	69.00	
BASALT FRACTURED	69.00	110.00	
BROKEN BASALT	110.00	172.00	
CLAY BROWN	172.00	231.00	
SAND BLACK	231.00	276.00	
CONGLOMERATE BROWN	276.00	295.00	
SANDSTONE	295.00	316.00	
CONGLOMERATE BROWN	316.00	370.00	290

Date Started: 10 / 14 / 2005 Date Completed: 10 / 17 / 2005

(unbonded) Water Well Constructor Certification:
 I certify that the work I perform on the construction, alteration, or abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to the best knowledge and belief.
 Signed by: JACK ABBAS WWC #: 1720

(bonded) Water Well Constructor Certification:
 I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.
 Signed by: JACK ABBAS WWC #: 1720

ABBAS WELL DRILLING CO

Phone: 541-548-2787

**STATE OF OREGON
WELL LOCATION MAP**

This map is supplemental to the WATER SUPPLY WELL REPORT

Oregon Water Resources Department

725 Summer St NE, Salem OR 97301
(503)986-0900



LOCATION OF WELL

Latitude: 44.2691180352 Datum: WGS84

Longitude: -121.2253174289

Township/Range/Section/Quarter-Quarter Section:

WM 15S 13E 18 NWSW

Address of Well:

4772 W HWY 126 WELL #2

Well Label: L116564

Well Log: DESC 60182

Printed: March 30, 2015

DISCLAIMER: This map is intended to represent the approximate location of the exempt use well provided by the land owner, it is not intended to be construed as survey accurate in any manner.

Generated by OWRD



October 11, 2017

Deborah McMahon
60352 Arnold Market Road
Bernd, Oregon 97702

Subject: Impact of Marijuana Grow Operations on Residential Living Environments

Dear Deschutes County Board of Commissioners:

I am totally and unequivocally opposed to marijuana grows near residential developments. They should be in industrial areas or areas that are not close to homes. And, since marijuana plants are not planted outside, in soil, it seems logical to require this.

Nonetheless, I wish to tell you of my experiences with a marijuana grow operation. I live in an area with a mix of zones and lot sizes. Our property is 20 acres in size, zoned EFU, Exclusive Farm Use. We abut a few smaller properties with various other property sizes and zones. Several years ago, my neighbor (on a smaller property) developed and ran a medicinal marijuana grow operation. It consisted of a large hoop structure, fans, and related grow materials. For 2 growing seasons, we experienced a significantly reduced living environment because of the marijuana grow operation. Here is how we were negatively affected:

1. I received no notice of the proposed development. The siting of the marijuana grow operation was very close to the property line and within 400 feet of our house. Other areas on the property could have been used rather the area closest to our house.
2. The smell of the marijuana pervaded our living environment to the extent we could not open our windows, hang our laundry, enjoy our deck and outdoor areas, or have guests over to visit. It was intolerable that we could not enjoy our property due to the obnoxious and unwelcome odors, non-residential operational characteristics, use of unknown chemicals, etc.
3. The odors were worse when the grower was burning the excess plant material. We were told this must be done as part of the grow operation. The odors were so strong that our clothes retained the odors if we hung our laundry outside to dry. If the windows were open, the smell came in and lingered. The oils of the marijuana plant are volatile and cling to clothing and anything else they touch. We were quite concerned since our clothes would retain the smell and we could be at risk of losing our professional insurances due to being non-compliant with Federal law.
4. The marijuana grow operation included many workers who arrived at all hours to manage and harvest the plants. At times, there were over 15 extra cars with unknown people coming and going from the grow site, including large delivery vehicles. The lights from the vehicles, noise from the workers, and the worry that the workers were loitering after their work added to our loss of privacy and increased our concerns since we have livestock on our property and family with young children who visit during the summer months.

Our lifestyle was forced to change and we were greatly saddened when we could not have our 9-year-old niece visit us anymore. My sister did not believe the marijuana grow operation created a safe and wholesome environment especially with the strong odors and unknown persons coming and going. This situation prohibited my niece from playing outside further diminishing the quality of our home life. And, not being able to have my niece visit was very sad indeed. We lost out on key moments in her life.

5. We were very concerned the refuse and chemicals used on the property were not properly handled or disposed of. Contamination is still a lasting worry. No one provided us any assurance the chemicals used for the grow were safe and handled correctly.
6. The marijuana grow operation ran large air moving fans 24/7. The noise from these constantly buzzing devices disrupted our living environment and were non-stop. So not only was the odor etc. a problem, but we had the added detriment of noise pollution.

Our lifestyle was severely impacted because of the marijuana grow operation. We could not enjoy the property rights that should be commonly enjoyed in our area, namely, clean air, privacy, and safety. Eventually, the grower stopped operations. If he had not, we would have moved from our property. Have you tried selling a home that is next to a marijuana grow? It is not a selling point.

I asked the neighbor to stop or modify the operation and were told no.

I called the Deschutes County Sheriff and asked how this situation could be allowed. He checked his records and told us the grower was authorized to grow the marijuana. He said there was nothing he could do. He told me to contact Deschutes County.

I spoke with a Deschutes County Planner who told me the grow operation was allowed and additional rules were being written. I expressed my concerns and described my situation.

Please deny any marijuana operation next to residential homes. My experiences are representative of many other people and should be considered in any decision to evaluate the proper location of the marijuana grow operation.

Sincerely,

Deborah McMahan

Deborah McMahan

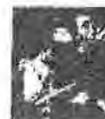
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Taylor Swift's '...Ready for It?' Video Decoded: 13...



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How Anti-Mafia Laws Could Bring Down Legal Pot

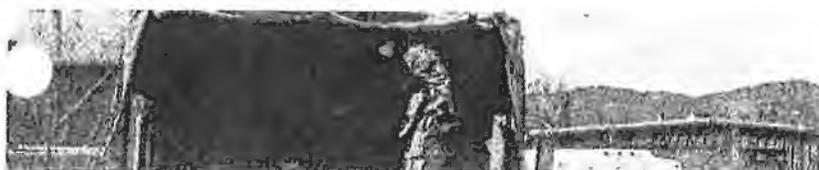


▶ 10 00:15

00:15 ◀ ✕ ↗

How Anti-Mafia Laws Could Bring Down Legal Pot

RICO laws were written to combat organized crime kingpins - but now they're being used against state-legal marijuana businesses





A 10th-Circuit court ruling could provide a road map for people who hate marijuana to initiate the collapse of legal weed in America. P. Solomon Banda/AP

By Amanda Chicago
Lewis

August 28, 2017

Most people have strong feelings about marijuana's distinctive dank odor. Suspicious landlords sniff for it. High-school hot-boxers roll down all the windows of their cars and drive around for hours trying to get rid of it.

Mainstream candle and soap companies seek to recreate it for high-end, non-psychoactive mood settings. And now, it's quietly becoming clear that the powerful smell of legal cannabis could become its ultimate undoing – the thing that causes the entire legalization experiment to disappear in a poof of smoke.

Earlier this summer, the 10th U.S. Circuit Court of Appeals in Colorado decided that

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the "noxious odors" from a pot farm could be lowering nearby property values and creating a nuisance. The decision came out of a civil



How Booming Israeli Weed Industry Is Changing American Pot

U.S. medical marijuana companies are setting up shop in Israel, where fewer roadblocks mean better research – and faster results

suit by the farm's neighbors under federal racketeering law, and could set a landmark precedent. Marijuana remains illegal under federal law, and this decision makes clear that private citizens can now circumvent state law and do what Attorney General Jeff Sessions wants but has yet to do: challenge the legitimacy of states and businesses participating in legalization. Next year, the suit will go back to district court, and unless other appeals courts issue contradictory rulings and the Supreme Court decides to take up the case, the 10th Circuit decision will stand – providing a road map for people who hate marijuana to initiate the collapse of legal weed in America.

Everything about this case is important, from its far-reaching implications to the mysterious,



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thelist.com



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grunge.com



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nickiswift.com



The Real Reason We Don't Hear From Bam Margera Anymore
looper.com

Powered by ZergNet

well-funded organization behind it. But before we get into the details, the key thing to realize here is this neighborly dispute is a microcosm for what's wrong with America's tangled marijuana policy: The commercialization of cannabis has had real consequences for people and places that want no involvement with the drug. Attempting, as we have, to cordon off the states and businesses and entrepreneurs and government agencies that interact with pot is delusional.

Legal weed cannot be neatly contained. Markets and odors don't work that way. Neighbors know this. Interstate pot traffickers know this.

Attorney General Jeff Sessions knows this. The question is: when will we change federal law to reflect reality?

No one knows who

exactly belongs to the Safe Streets Alliance, or where their money comes from.

According to legal filings, the “offensive smell” problem in Colorado began when some licensed marijuana growers decided to set up shop next to a residential development known as The Meadows at Legacy Ranch, described as “105 acres of beautiful rolling pasture with sweeping mountain vistas.” Hope and Michael Reilly own three lots there, which they sometimes come to “on weekends with their children to ride horses, hike, and visit with friends.” Now, however, the stench of pot is ruining their fun, and possibly the value of their land.

The Reillys never would have been able to mount a legal challenge like this on their own. The whole thing is being paid for by a D.C.-based nonprofit called the Safe Streets Alliance – an obscure anti-drug organization that the opposing side’s lawyer has called “a fake organization” and “a sham.” No one knows who exactly belongs to the Safe Streets Alliance, or

where their money comes from. The attorney representing Safe Streets Alliance, Brian Barnes, says he can't provide any details about the group's funding and membership, citing attorney-client confidentiality, but denied that the organization was "fake." Those affiliated with the group have legitimate public health and cultural concerns about legalization, he says, and don't think that states should be allowed to so flagrantly violate federal law.

The goal was ultimately "to set a precedent that this is a thing that can be done, and there are consequences for people in the marijuana business," Barnes says. After searching local news coverage for what he called "ripe"

suits, Safe Streets Alliance decided to support two angry property owners adjacent to proposed marijuana businesses: the Reillys, and a Holiday Inn. The Holiday Inn suit settled at the end of 2015 for \$70,000, and the marijuana business shut down.

Both lawsuits involved the broadly worded Racketeer Influenced and Corrupt Organizations Act, commonly referred to as RICO. Since 1970, RICO has helped the Department of Justice go after top people in the mafia, say, or in the bribe-infested soccer organization FIFA, for crimes committed by their affiliates. RICO also allows private citizens to bring civil suits against

anyone who assists in the committing of a crime that harms their property or business.

RICO's whole notion of "racketeering" creates a useful but alarming tautology, depending on the case and your point of view. To accuse someone of racketeering, or to seek damages under racketeering, is to go after them for the crime of committing a crime. Because marijuana remains federally illegal, literally everyone involved in state-legal pot markets is vulnerable under RICO.



RICO laws were written to go after the kingpins of the Mafia underworld - but now they're being used against pot farms. Marianne Barcelona/The LIFE Images Collection/Getty

From the investors to the budtenders to the utility company providing a dispensary with electricity, a ridiculous number of people could be said to be part of a conspiracy to commit a federal offense. The Reillys' suit even initially named Colorado Governor John Hickenlooper as a defendant, for his part in implementing the 2012 voter initiative legalizing recreational marijuana in that state. (Another federal judge removed Hickenlooper and other government representatives and agencies from the suit in early 2016, saying political officials are not subject to RICO claims.)

Therefore, this 10th-Circuit ruling could be a game-changer. With neighbors everywhere empowered to file civil RICO suits against licensed marijuana operators, legal weed's opponents wouldn't even need the support of Attorney General Jeff Sessions to initiate a widespread crackdown. Almost immediately after the 10th-Circuit ruling, at the end of June, a second plaintiff in Oregon launched another major suit under RICO, complaining about the "unmistakable, skunk-like stench of marijuana."

"I just hope that the

defendants get really good lawyers," says one attorney.

"Because this could have an effect on the entire industry."

A handful of major RICO lawsuits could be enough to scare many legal cannabis operators out of existence – not to mention the potential financial consequences: RICO plaintiffs are entitled to receive triple damages, as well as attorneys' fees.

"Things like this sort of take on a life of their own, and somebody who is obviously anti-cannabis has decided to push it. They think that this is the Achilles' heel," says influential

California attorney Henry Wykowski, who has argued on behalf of cannabis operators in federal court several times. "It is scary stuff. I just hope that the defendants get really good lawyers, because this could have an effect on the entire industry."

Some attorneys have argued that legal pot businesses can protect themselves from RICO claims by installing really good HVAC systems and operating as clandestinely as possible. But asking cannabis businesses to seal themselves off from the rest of the world is not the answer. This was the heart of the Obama era's flawed pot policy: allowing certain states to regulate the commercial sale of marijuana, without a change in federal law.

Attorney General Jeff Sessions knows the conflict between federal and state law is untenable, and recently sent threatening letters to the governors of states with legal pot. But Sessions hardly has the support of President Trump, let alone the manpower and political will to take on the multi-billion dollar legal marijuana industry and the rich white men who now control it.

A proliferation of civil RICO suits could provide legal weed's opponents with a viable alternative. A senior legal fellow at the conservative Heritage

Foundation even mentioned RICO suits in a February blog post outlining suggestions for how the Trump administration might bring down cannabis markets.

There is little indication that the Supreme Court will want to overrule the 10th Circuit on this.

Most people in Washington D.C. are reluctant to put their name on anything pot-related, preferring to wait and see how state-legal cannabis plays out before weighing in. Last year, the Supreme Court declined to hear a case brought by Oklahoma and Nebraska, challenging recreational pot in Colorado for increasing the flow of marijuana to their black markets.

And so until Congress is able to override Sessions and legalize cannabis on a federal level, the era of legal weed in America could be over before we know it.

MARIJUANA FACILITIES: CODES, STANDARDS, AND MANAGING THE HAZARDS (Abridged)

by

Bruce Straughan P.E., CEM

Mechanical Engineer & Building Systems Expert

Robson Forensic

354 North Prince Street

Lancaster PA 17603

717.293.9050

Codes and Standards – Managing the Hazards

Building permits and inspections by local building officials are required for all legal commercial marijuana operations regardless of whether the facility is a new building project or a remodel to an existing building. As long as marijuana facilities are designed, constructed, and operated according to applicable codes and standards, the risk of harm to people inside the facility and the surrounding areas is greatly mitigated. But the various systems in a facility do warrant consideration of any potential hazards, and proper installation and operating procedures must be carefully followed. *An improperly designed, constructed and operated facility can also cause damage to the property or the product.* (Our emphasis.)

Fire Protection:

Grow facilities are classified under the International Building Code (IBC) as an F-1 Occupancy, Factory Industrial, Moderate Hazard. If the floor area of the facility exceeds 12,000 sq. ft., then a fire sprinkler system is required.

Heating, Air Conditioning, and Humidity Control

Due to the high heat output of the grow lamps, indoor grow facilities require air conditioning. Marijuana plants grow best at temperatures in the range of 68 to 72 degrees F, and heating equipment is also needed to maintain this optimal temperature range. The optimum humidity range is about 50% to 60% relative humidity. Growing plants transpire a significant amount of water vapor and will cause the air in the room to become very humid if not controlled. During times when the grow lights are on, the dehumidifying effect of the air conditioning unit will typically keep the humidity levels within an acceptable range. When the lights are off, however, a separate dehumidification unit or a reheat coil in the air conditioning system are typically needed. In order to maximize the rate of plant growth, humidity levels must be kept in the optimum range. If the humidity gets excessively high, the grow room becomes a conducive environment for the growth of mold and pathogenic organisms. The walls and ceiling construction of the room should include vapor barriers and corrosion resistant materials. The walls should have sufficient insulation behind the vapor barrier to minimize the chances of moisture in the air condensing and forming water droplets on the wall.

Continued

MARIJUANA FACILITIES: CODES, STANDARDS, AND MANAGING THE HAZARDS (Abridged)

Fumigation

Fumigation is regulated by fire codes and typically requires an operational permit. Common methods of fumigation include CO₂ to control pests and sulfur burners used to control mildew. CO₂ can be used for fumigation at levels above OSHA's immediately dangerous to life or health level (IDLH) of 40,000 ppm. Sulfur burners create sulfur dioxide, which can burn the respiratory tract if inhaled. Any type of fumigation is a concern to anyone entering the space, such as employees or first responders entering in the event of a fire. Adjacent tenants or bystanders could also be at risk if the chemicals were to leak from the space.

Ventilation

Ventilation systems are important for removing contaminants from the space and also help with keeping the space cool. Marijuana plants emit a very strong "skunk like" odor, and local authorities typically require ventilation systems to be installed such that any odors are prevented from leaving the premises. This is usually accomplished by installing a charcoal filter on the discharge of the exhaust duct. Other methods to reduce odors include ozone generators and ionizers.

Citizens for Public Safety, Quality of Life, Property Values Clackamas County and OLCC Marijuana Violations

From: Shirley Morgan <shirley.morgan@aecinc.com>
To: bobking714 <bobking714@aol.com>
Date: Thu, Sep 28, 2017 10:26 am



September 28, 2017

To: Bob King,

Please note:

In a discussion with Scott Caufield Supervisor of Clackamas County Code Enforcement, he noted that:

"there have been over 71 code violations with marijuana grows with odor, noise, and traffic being the top complaints."

In an email from the Oregon Liquor Control Commissioner, they noted that:

"To date we have logged 598 complaints. However this data includes licensees self-reporting outages and other issues. Some of the common complaints we receive are regarding discount violations, advertising violations, and inaccurate reporting in Metric."

Shirley Morgan



<https://www.youtube.com/watch?v=uTILUKsbyaY&feature=youtu.be>

www.protectorsociety.org
www.unwantedpotgrows.com

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Ed Fitch

From: jayne simmons <jayne.in.sisters@gmail.com>
Sent: Friday, November 03, 2017 1:18 PM
To: Ed Fitch
Cc: Wendie Every; shortshuffle@gmail.com; bmorton1499@gmail.com; rich.m@bendtel.com; katherineh541@bendbroadband.com; Patti Adair (malibustudio@aol.com); jim@lightelegance.com
Subject: Re: status

An update on the Focus Group last evening. All the people present and speaking had legal grows/processing within 1,000 ft. of their boundaries.

1. The water is problematic, as we already have well problems, and the opposition can say then that future water problems aren't their problem. They will also argue that they use a drip system and aren't using or wasting any extra water. The code says that domestic wells cannot be used for irrigation, but growers have been digging new wells and using groundwater to irrigate. The way they are getting away with it is: they buy land with irrigation rights, which they put beneficially back 'in stream,' in exchange for buying water rights elsewhere. They can also do a "nursery grow" by going to the Oregon Water Resource Dept. and getting a permit. Leslie at COI first told me about this, and it was confirmed last night that it is happening. The growers don't use irrigation water because of the run-off and pollution from other farms and ranches. Points to bring up: Is their water use metered? If excess water is used, growers should be fined and warned, and shut down if continued. It was agreed that they shouldn't be allowed to use groundwater, well water, or nursery water. They should be under the same guidelines as COI and other irrigation districts, and be allowed to water from March through October.
2. It was pretty much agreed last evening that all grows should be placed in the center of the approved grow lots so as to effect neighbors as little as possible. The 30 dbA at the lot lines was scoffed at, as it isn't working at all. (Especially when 4 huge greenhouses will be all 100 ft. from the boundary.) This would help smell, sound and lighting enormously. Note: Colorado has put all of their grows and processing into industrial areas and has avoided all of the problems Deschutes County is facing. It was also suggested that the greenhouses and number of grow/processing lots be limited in number in density. One woman spoke and she had 13 greenhouses on all sides of her property in Tumalo.
3. The processing is dangerous. Right now there are 27 approved grows and 3 processing operations. There are pending another 11 grows and 3 more processing. That means that processing in those operations will more than likely be processing for other grows as well as their own. It was agreed that processing should be limited to industrial areas where proper safeguards are in place.
4. Catch 22: The noise from the fans, etc. all, must stop at 7:00 PM to 7:00 AM, hence during harvest, the smell is worse during the evening because the fans can't be used. It was agreed that in all the legal grows the charcoal filtering wasn't working. One suggestion was that the setbacks (to boundaries) should be the same as separation distances from schools, parks, etc. for all reasons of smell, noise and light.
5. Blackout lights do seem to work, but it was agreed that the hours should be from sunset to sunrise, not 7 to 7.

6. Fire protection from rural fire districts. Another reason for grows and processing to be in an industry area is fire and explosion dangers. Last summer, in one of the grows, a truck caught on fire. It was called in, but the firetrucks waited at the locked gate as no one was around or authorized to let them in.

7. The matter of waste products wasn't really addressed, as that falls under the auspices of OLCC. Very unclear and needs to be addressed.

Two other points:

THE COUNTY CAN STILL OPT-OUT! They can do conditional approval so that if they chose to close down marijuana grows in the future they won't be sued. (They currently are being sued by one grower already.)

AT THE MINIMUM, PUT A MORATORIUM ON GROWS AND PROCESSING UNTIL ALL THE DATA CAN BE ASSESSED AND CHANGES ARE MADE.

Wendie, please add to this if I have forgotten other important points.

Jayne



A great business opportunity

November 3, 2017
Deschutes County
Board of County Commissioners
PO Box 6005
Bend, OR 97708-6005

Re: Land Use Appeal of Evolution Concepts, LLC – Marijuana Production and Processing Facility

Dear Commissioners,

I am writing this letter on behalf of Redmond Executive Association. REA is a group of business owners and community leaders in Redmond. The purpose of REA is to improve the business environment in Redmond and to promote the greater good of the Redmond community. At our last meeting we discussed the application of Evolution Concepts, LLC and their substantial marijuana production and processing facility located on Highland Avenue just west of Helmholtz. REA strongly opposes the application of Evolution Concepts, LLC.

As a group of business owners and community leaders we want to support the growth and expansion of business and our community. However, the location of this marijuana production and processing operation will create more harm than good. Our community is rapidly growing and this proposed facility is only one lot away from our current Urban Reserve. This type of operation creates many concerns to businesses and residents that would want to locate to the Redmond area. Additionally, the approval of this application and facility will have a negative impact on the growth and expansion of business and residence that are planned for this area.

Because of the close proximity of the operation to our expanding community and the negative impacts that it brings, we strongly urge you to deny this application. Operations such as this should be located in specific areas that do not impact the community at large and are not going to prohibit the growth and expansion of businesses and residences.

As a group that promotes business in our community, we believe the negative impacts of this operation are far greater than any positives. There are many locations throughout our County that would be more suitable for this type of business. The location and potential negative impacts that this facility will have on our community are far too great. We would urge you to deny this application.

Sincerely,

A handwritten signature in black ink that reads "Matt McGowan". The signature is written in a cursive style with a prominent "M" and "G".

Matt McGowan
President, Redmond Executive Association

PO Box 199C, Redmond, OR 97756

Petition against the Marijuana Processing Facility at 4800 SW Highland Avenue Redmond, OR 97756

Printed names corresponding to signatures on Page ___

Name	Street Address	Phone
Carolyn O'Brien CAROLYN O'BRIEN	BEND 17460 CASCADE ESTATES	847-636-1470
David R. Westworth	^{Sisters} 855E. Coyote Springs Rd. OR 97759	541-303-0030
Optima Hendricks	855 E Coyote Springs Rd	541 588 2157
John Troike	16963 Royal Coachman Dr	541-588-6438
Jan Shaver	^{SISTERS} 842 NEW MOON CT	541-549-1680
David Barry	70532 Sald BRR, OR	541-595-5338
Dana Van Brocklin	PO 8297, Sisters, OR	515-227-6020
Frank Baldwin	^{SISTERS, OR} 69265 Hawkflight Dr	541-549-2015
Sharon Boyd	3635. Pine Meadow St	541-549-1010
Jane Morris	14883 Bluegrass Lp Sisters, OR	541-815-3076
Jue Owen	14883 Bluegrass Lp Sister	541 815 3078
Ann R. L.	500 Victoria Falls - Redmond -	541-526-5651
Marjorie Tipton	16415 Surtain Ln, Sisters, OR	541-549-0904
Margery Guthrie	69305 Hawkflight Dr Sisters	541-549-9313
Riley McHugh	15818 Magpie Ln	Sisters (541) 549-8656
Leslie McHugh	"	"
Eloise Barry	70532 Sald	Sisters 541-595-5338
Joe GUTTERMAN	69284 LADIGO	97759-
Judith Troike	16963 Royal Coachman Sisters, OR 97759	541-588-6438

Petition against marijuana processing facility at 4800 SW Highland Avenue Redmond, OR 97756

Printed names corresponding to signatures on Page ___

Name	Street Address	Phone
Bob Lawton	975 E. Creekview Dr. ^{Sisters}	541-516-0638
Bob Reed	Redmond, OR 500 VICTORIA Fwy	541-526-5651
Sandy Marlow	70110 Running Horse Ct, Sisters	541-504-2413
Greg Pozorich	PO Box 1605 Sisters OR 97759	541-549-1510
Frank Guthrie	69305 Hawthornight Sisters OR 97759	541-549-9313
Edith Ann Jones	67040 Rock Island Ln Bend, OR 97703	541-389-8057
Led Jones	67040 Rock Island Bend OR 97703	541-389-8057
Sue Kline	69620 Carlton Sisters OR 97759	541-241-4510
Claudia Williams	16865 Lynwood Sisters	541-549-8299
Bernice Boyer	66572 Ponderosa Way Bend, 97703	541-382-9399
Vickie Babbitt	66572 Ponderosa Way Bend 97703	541-382-9399
Rosanne Peck	1760 Cascade Estates Bend 97703	505 670 9652
Marian Lee	15665 Trapper pt.	541-549-0905
Diane Lee	" "	" "
Stephanie Buck	PO Box 1116 Sisters OR 97759	541-668-1995
Richard, Barbara Martin	4861 W. Hwy 126 ^{Redmond} OR	541-548-7925

RECEIVED

APR 05 2017

Deschutes County CDD

April 2, 2017

Cynthia Smidt, Associate Planner
Deschutes County
Community Development Department
P.O. Box 6005
117 NW Lafayette Ave.
Bend, Oregon
97708-6005

RE: File No: 247-17-000172-AD/173-SP/ 180 AD
Applicant: Evolution Concepts, LLC

Location: Subject Property, 4800 SW Highland Avenue, Redmond; Tax
Map 15-13-18 as Tax Lot 2400

Dear Cynthia,

In September of this year my family will have lived in this Helmholtz, Antler,
Highway 126 vicinity for approximately forty-seven years.

I am 82 years old, my wife Patty and I have five married children and 17
grandchildren and five great grandchildren. We are currently and have
always been involved in taking an active part in Deschutes County and
Redmond vicinity projects such as the Redmond Airport Board, County
Fair, Redmond Flag Day, Boy Scouts, 4-H, FFA, Kiwanis, Rotary, etc.
I would appreciate your careful consideration of the following facts,
regarding this Applicant and subject land use.

Listed are several approximate GPS distances of subject property to
factual sites....

Eagle Crest Residential Development.. 1.7 miles
Summit Crest Residential Development.. 1.3 miles
Redmond City Limits.. .5 miles
Ridge View High School.. 2.4 miles
Redmond High School..1.6 miles

Redmond, Hwy, 126 Gateway , Future Urban Expansion, 200' (200 Feet)
(Directly across Hwy, 126)

Additional Comments :

I notice that a part of the Mission Statement of Deschutes County, reads the following.. " To enhance the lives of the Citizens of Deschutes County"
I also read in the State Of Oregon , Guide Lines, ORS-215.253.. Titled :
Limitations on Restrictions By Governing Bodies.

" Unless practice effects the Health, Safety & Welfare of the Citizens of the State off Oregon..

Regarding Safety.. Subject Property is exactly 1/4 mile from the Helmholtz, Hwy . 126 Intersection, at a 45 mile per hour speed Limit (A very dangerous intersection)

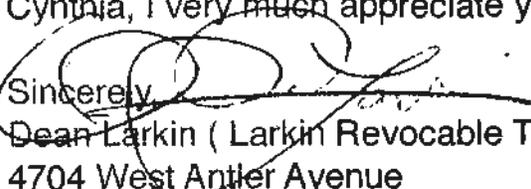
The Webster Dictionary defines Public Welfare as follows : " Promoting the health, safety, morals , well being, and prosperity of the people "

Regarding Prosperity: I understand that property values decrease substantially with real estate in close proximity to Marijuana Facilities...

Marijuana Is still Federally illegal in the United States, and that could cause many, many complications that could impact the citizens of this vicinity... (We are gambling with Risks).

Cynthia, I very much appreciate your careful consideration.

Sincerely,


Dean Larkin (Larkin Revocable Trust)

4704 West Antler Avenue

Redmond, Oregon

541-788-1548

RECEIVED

APR 06 2017

Deschutes County CDD

Cynthia Smidt, Associate Planner
Community Development Department
P.O. Box 6005
Bend, OR 97708-6005

March 31, 2017
File # 247-17- 000172 – AD/173-SP/180-AD

Dear Ms. Smidt,

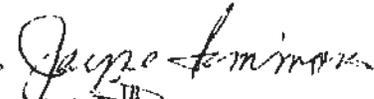
We are ***absolutely opposed*** to Evolution Concepts, LLC, proposed land use application to establish a marijuana production and processing facility next to our land, 5200 W. Hwy 126. Our reasons are as follows:

1. Marijuana growing and processing has a ***huge and lingering stench***. Our land value would decrease considerably, which is a real problem as we have it listed for sale at this time. The buildings they propose are 140 feet from our property line which is close to our approved CUP – for a farm house.
2. The noise of the drying, heating and cooling fans would be deafening and again reduce the value of our property. It would also erode the quality of life of anyone considering our property as a home.
3. Traffic would increase exponentially in and out of the facility, as well as on Hwy 126, which is already very dangerous and an area of many accidents each year.

The only way we would consider changing our position on this application is two-fold:

- A. If the owners of 4800 want to grow pot on their land, they can buy our property also, at list price plus a 10% premium, or
- B. If the City of Redmond includes our parcel in their Future Urban Expansion Area. This would increase our options for maintaining value on our land. We don't know why our land isn't included at this time, as the property north and west of ours is included. Furthermore, ODOT has a 200 foot easement on our property frontage already.

If one of these two conditions isn't met, we will remain opposed to 4800 SW Highland using their land for pot production and processing. Please consider our stand and reasons on this issue.

Most Sincerely, 
M. Lindsay Simmons, III
M. Lindsay Simmons Living Trust, Et All
17420 Cascade Estates Drive
Bend, OR 97703

Cynthia Smidt

From: Wendie Every <wendie@every-idea.com>
Sent: Thursday, April 06, 2017 1:55 PM
To: Cynthia Smidt
Cc: Phil Henderson; Tammy Baney; Tony DeBone
Subject: Testimony for File# 247-17-000172-AD/173-SP/180-AD
Attachments: Document1 (002) (002).docx

Attached please find our written testimony on the Application for a marijuana production and processing facility noted above.

If you have any questions, we welcome your call.

Thank you
Wendie Every

Charlie & Wendie Every
1210 SW 51st Street
Redmond, OR 97757

April 4, 2017

Cynthia Smidt – Associate Planner
Deschutes County Planning Department
PO Box 6005
Bend, OR 97701-6005

RE: Proposed Land Use Action #247-17-000172-AD/173-SP/180AD

Thank you for the opportunity to submit comments on the proposed land use action mentioned above. We are the landowners of the property due south of the subject property, and we strongly oppose this application due to the following:

Our first and most serious concern is safety. We've been told by law enforcement that anytime you have a product such as marijuana there is always a risk for theft, violence and the type of activity that would create a safety issue. We have grandchildren who play and ride their horses within 1,000 feet of the proposed production and processing facility.

When property in Central Oregon is purchased by someone from Central America that only spells trouble to me, and you would be hard pressed to convince me or guarantee me that there is not some type of connection to unlawful drug activity. I understand there are a lot of players in this operation which also sends up a red flag for us.

This property is only ¼ mile from the Redmond Urban Reserve boundary, and only 2 miles from Vern Patrick Elementary School, RPA Middle School, and Redmond High School.

We believe our property value will decrease due to the proposed business we share a fence line with. We have talked with others who have experienced the same situation and devaluation was a true reality for them. We've lived here for 20+ years and don't want to move due to this new proposed operation.

We have also been told by several previously affected property owners that the strong odor neighbors will experience from marijuana production and processing is nasty and very annoying. We spend a lot of time on our deck facing this proposed operation and feel that experience will be destroyed.

We believe the precincts of voters who passed the legalization of marijuana in Deschutes County were very few with concentrated population, and the precincts in rural areas voted NO. So, urban users of marijuana benefit and rural property owners take the hit.

We're concerned about bright grow lights disturbing our views and quality of life.

We have already noticed increased traffic to the subject property and see this as a commercial business, not an agricultural business that lawmakers intended Exclusive Farm Use Zone to be used for.

I understand voters passed this law in Oregon, but not those of us who are going to be the most affected by the grow operations. And while marijuana is still federally illegal, what happens if government funds are withheld from cities, counties and states who have allowed this activity and development?

Please be brave and do what's right for the citizens who have paid their taxes, been mindful of building strong communities and neighborhoods, and truly care about Deschutes County. Have the courage to say no to those who are only here to make a lot of money and have no concern for our community or what we have all worked so hard for.

We strongly encourage denial of this application, and truly hope this written testimony will assist in a decision that will benefit this entire area of property owners, not just one.

Thank you again for your time and serious consideration.

Charlie Every

541-480-8440

Wendie Every

541-419-1346

Cynthia Smidt

From: Wendie Every <wendie@every-idea.com>
Sent: Friday, April 07, 2017 2:49 PM
To: Cynthia Smidt
Subject: Land Use Application #347-17-000172-AD/173-SP/180AD
Attachments: SKM_C284e17040714460.pdf

Cynthia,
Attached is the letter from Barbara Rich. She ask me to forward to you.

Thank you

Wendie Every



355 NE Lafayette Ave, Bend, OR 97701
ph 541.383.2669 | fx 541.383.2072
wendie@every-idea.com | www.every-idea.com

Barbara Rich
1150 SW 53rd
Redmond, OR 97756

April 7, 2017

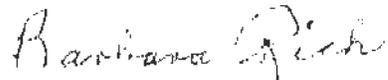
Cynthia Smidt – Associate Planner
Deschutes County Planning Department
PO Box 6005
Bend, OR 97701-6005

RE: Proposed land Use Action #247-17-000172-AD/173-SP/180AD

I would like to express my serious concerns about the marijuana production and processing facility application mentioned above, by agreeing with everything that has been stated by Charlie and Wendie Every in their testimony dated 4/4/17, which is attached.

I've lived here for 40 years and I'm asking that the application be denied.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Barbara Rich".

Barbara Rich

RECEIVED

APR 06 2017

Deschutes County CDD

3/30/17

To Deschutes County Planning Division:

We are writing this letter out of grave concern regarding the proposed commercial marijuana production and processing facility to be located on 4800 Highland Avenue in Redmond, Oregon. We all have standing in this matter, having lived adjacent to the property for decades.

The fact that this activity is now legal in Oregon reasonably does not allow its establishment in an area without considering relevant social and environmental impacts.

Even though we are just outside the city limits, this is a neighborhood; there are 7 properties/families living next to this parcel, most of whom have raised families and lived here for decades. It is obvious that having such a business situated here, with the required security and surveillance equipment in sight, will change the character of the area. We are located in the Urban Growth Boundary Reserve and will likely be included in the Urban Growth Boundary in the future. Surely, this type of facility would not be allowed in the Urban Growth Boundary. Our proximity to this facility will make the sale of our properties in the future more difficult. One estimate from Colorado states that property values within ½ mile from a marijuana growing and production facility fell **8.4%**. Practically speaking, what family would want to live next door to a marijuana farm? The submitted application describes this area as rural-that is ridiculous-we are close to town and we are a neighborhood.

This area of Highway 126 is already congested and there is frequent traffic leaving and arriving in our multiple driveways. The traffic from Sisters and Redmond can be heavy much of the day as it is. The application for this facility states that they will also process other growers products which will result in increased traffic and congestion. We have decades of practical experience and strongly refute their traffic impact assessment.

There is a real and measurable impact on the local environment to consider. One marijuana plant, growing for 5-6 months uses up to 1000 gallons of water. For 100 plants that is 100,000 gallons of water in an area with very deep well depths. Our well had to be deepened several years ago and the very real fact of worsening a falling water table is of great concern. The energy requirements of 24/7 high intensity lights is significant. One estimate is that 4 indoor plants use as much electrical energy as 30 refrigerators (200 watts/sq ft). The use of outside high intensity security lighting will contribute to light pollution, an established subject of litigation.

The pervasive odor of marijuana growing operations has been a demonstrable problem in areas that allow grow facilities. Some communities need officers with special smell detectors to cite operations that exceed local standards. This also has been shown to make selling nearby properties problematic.

Despite odor control measures, the literature abounds with references to the lack of efficacy of these measures resulting in multiple odor complaints. A current grower in Deschutes County confirms that the odor is impossible to completely control.

Marijuana remains a federal Schedule I drug - illegal to possess or grow. The danger of civil asset forfeiture and seizure is very real. This is even more relevant considering the new administration's stated intention to enforce existing federal law - "recreational marijuana will be subject to greater enforcement of federal laws" (CNN.com/2017/02/2017).

As one of the authors of this letter, on a personal note, it has been my privilege to be a physician in Redmond since 1988 and have seen it grow from a population of 6500 to over 25000. I have taken care of thousands of my fellow citizens – and I care about my community. I am not disputing the usefulness of medicinal cannabis. However there is abundant peer reviewed literature to support the fact that there are real side effects to its regular use including:

Measurable decrease in IQ among regular users who began as a teen (Substance abuse and behavioral health statistics and quality. 2015).

Low birthweight babies in regular users (Neurotoxicol and Teratol; 200:22(3):325-336).

Gateway drug phenomenon. (Int J Drug Pol. 2015; 26(2):135-142).

It is at least apparent that there are some unresolved issues with the recreational use of marijuana. That is not the focus of this letter. Rather we want to express our legitimate and serious concerns that allowing this business to operate in this location has significant negative impacts to the surrounding properties and the families that call it home.

- Measurably decreased property values
- Pervasive odors
- Security measures and potential crime
- Excessive water use in an area of low water tables
- Light pollution
- Federal law regarding marijuana and the probability of enforcement of existing laws including forfeiture and seizure of assets
- Adverse environmental impact resulting from the carbon footprint of excess energy consumption in the form of electricity
- Increased traffic and congestion on an already busy highway

These are justifiable and reasonable concerns about an entity with potential adverse social and environmental impacts that should not be located in an area with surrounding established families and businesses. The proposed facility can and should be built in an area that is truly rural, not in the Urban Growth Boundary Reserve and located near established family homes. **It is critical to note that the owners of the facility do not live here and will not be impacted by the changes in the area caused by the operation of their facility.**

As families and business owners, we want to register our strong opposition to the location of this commercial marijuana enterprise in our neighborhood.

Sincerely,

Jack Hartley MD FACS

Katherine Hartley
4937 W Hwy 126
Redmond, Oregon

97756

RECEIVED

APR 10 2017

Deschutes County CDD

April 5, 2017

To whom it may concern

On April 3, I submitted a letter concerning the proposed marijuana grow operation located at 4800 W Hwy 126, and I inadvertently did not include the list of signatures of the concerned neighborhood families. Here it is.

Thank you for your consideration.

Jack Hartley MD
4937 W Hwy 126

541-306-8653

3/30/17

To Deschutes County Planning Division:

We are writing this letter out of grave concern regarding the proposed commercial marijuana production and processing facility to be located on 4800 Highland Avenue in Redmond, Oregon. We all have standing in this matter, having lived adjacent to the property for decades.

The fact that this activity is now legal in Oregon reasonably does not allow its establishment in an area without considering relevant social and environmental impacts.

Even though we are just outside the city limits, this is a neighborhood; there are 7 properties/families living next to this parcel, most of whom have raised families and lived here for decades. It is obvious that having such a business situated here, with the required security and surveillance equipment in sight, will change the character of the area. We are located in the Urban Growth Boundary Reserve and will likely be included in the Urban Growth Boundary in the future. Surely, this type of facility would not be allowed in the Urban Growth Boundary. Our proximity to this facility will make the sale of our properties in the future more difficult. One estimate from Colorado states that property values within ½ mile from a marijuana growing and production facility fell 8.4%. Practically speaking, what family would want to live next door to a marijuana farm? The submitted application describes this area as rural-that is ridiculous-we are close to town and we are a neighborhood.

This area of Highway 126 is already congested and there is frequent traffic leaving and arriving in our multiple driveways. The traffic from Sisters and Redmond can be heavy much of the day as it is. The application for this facility states that they will also process other growers products which will result in increased traffic and congestion. We have decades of practical experience and strongly refute their traffic impact assessment.

There is a real and measurable impact on the local environment to consider. One marijuana plant, growing for 5-6 months uses up to 1000 gallons of water. For 100 plants that is 100,000 gallons of water in an area with very deep well depths. Our well had to be deepened several years ago and the very real fact of worsening a falling water table is of great concern. The energy requirements of 24/7 high intensity lights is significant. One estimate is that 4 indoor plants use as much electrical energy as 30 refrigerators (200 watts/sq ft). The use of outside high intensity security lighting will contribute to light pollution, an established subject of litigation.

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Marijuana remains a federal Schedule I drug - illegal to possess or grow. The danger of civil asset forfeiture and seizure is very real. This is even more relevant considering the new administration's stated intention to enforce existing federal law - "recreational marijuana will be subject to greater enforcement of federal laws" (CNN.com/2017/02/2017).

As one of the authors of this letter, on a personal note, it has been my privilege to be a physician in Redmond since 1988 and have seen it grow from a population of 6500 to over 25000. I have taken care of thousands of my fellow citizens – and I care about my community. I am not disputing the usefulness of medicinal cannabis. However there is abundant peer reviewed literature to support the fact that there are real side effects to it regular use including:

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Low birthweight babies in regular users (Neurotoxicol and Teratol; 200:22(3):325-336).

Gateway drug phenomenon. (Int J Drug Pol. 2015; 26(2):135-142).

It is at least apparent that there are some unresolved issues with the recreational use of marijuana. That is not the focus of this letter. Rather we want to express our legitimate and serious concerns that allowing this business to operate in this location has significant negative impacts to the surrounding properties and the families that call it home.

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- Security measures and potential crime
- Excessive water use in an area of low water tables
- Light pollution
- Federal law regarding marijuana and the probability of enforcement of existing laws including forfeiture and seizure of assets
- Adverse environmental impact resulting from the carbon footprint of excess energy consumption in the form of electricity
- Increased traffic and congestion on an already busy highway

These are justifiable and reasonable concerns about an entity with potential adverse social and environmental impacts that should not be located in an area with surrounding established families and businesses. The proposed facility can and should be built in an area that is truly rural, not in the Urban Growth Boundary Reserve and located near established family homes. **It is critical to note that the owners of the facility do not live here and will not be impacted by the changes in the area caused by the operation of their facility.**

As families and business owners, we want to register our strong opposition to the location of this commercial marijuana enterprise in our neighborhood.

Sincerely,

Jack Hartley MD FACS

Katherine Hartley
3937 W Hwy 126
Redmond, Oregon



Richard and Barbara Morton

4861 W. Hwy 126

Redmond, Oregon

Richard Morton
Barbara Morton

Keith and Tami Ross

5067 W. Hwy 126

Redmond, Oregon

Keith Ross
Tami Ross

Michael + Cindy Gillaspie

4355 W Hwy 126

Redmond, OR. 97756

Michael Gillaspie
Cindy Gillaspie

Jay & Dawn Morrison

4690 W Antler

Redmond Ore 97756

Jay Morrison
Dawn Morrison

Phillip & Sandy Morrison

4622 W Antler

Redmond Ore 97756

Phillip Morrison
Sandy Morrison

DEAN + PATTY Larkin

1704 W. Antler Ave.

Redmond, OR. 97756

Dean Larkin
Patty Larkin

Cynthia Smidt

From: Debra Ford <debraford58@gmail.com>
Sent: Tuesday, April 18, 2017 4:38 PM
To: Cynthia Smidt
Subject: 4800 W Hwy 126

Hi. We are property owners, adjoining property to 4800. Our address is 4500 and 4542 SW Indian Ct. I am wondering why we were not notified, like all other neighbors were notified of impending change of EFU. I just found out yesterday, from my 104 yr old neighbor.

So, a few questions, please. Water source is coming from where? Waste going where? Chemicals being used? Since I have organic livestock, cows, chickens and pigs. Security issues, since my property borders this property, is an issue. If someone were up to nefarious actions, well, they would probably come down new frontage road to end, go across my property, and access their property.

I would love a call back, or a reason why we were excluded from notifications.

Sincerely, Rob and Deb Ford 4542 SW Indian Ct Redmond, OR 97756, or Deb at 541-610-8077, or email me back please. We would appreciate your attention to this matter.

Cynthia Smidt

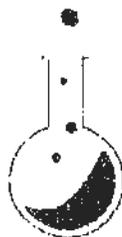
From: Jim McConnell <jim@lightelegance.com>
Sent: Thursday, June 29, 2017 11:44 AM
To: Cynthia Smidt
Subject: Proposed Pot Grow on Hwy 126
Attachments: DeschuteCountryPotGrowJune 29.pdf

Hi Cynthia,

Thank you for returning my call today. Per our conversation, I have written a letter regarding my thoughts on the proposed growing and processing of marijuana on Highway 126, west of Redmond. I have spoken with my family members about this issue and they are in complete agreement with me on this issue. The letter represents 6 adults whom all live in Eagle Crest.

Best regards,

Jim



Jim McConnell

President

mobile:

406 SW Umatilla Ave, Redmond, OR 97756

p: 541.526.1417 w: lightelegance.com





June 29, 2017

Cynthia Smidt
Deschutes County

Cynthia.smidt@deschutes.org

Subject: Opposition to the Marijuana Production and Processing proposed land use west of Redmond on Highway 126

Dear Cynthia,

I write to you regarding the proposed land use of the property on Highway 126 west of Redmond, OR for the use to grow and process marijuana. I am **opposed** to the use of the property to grow and process marijuana. It is my opinion that if the operation is allowed to proceed, the following will occur: 1) an increase in traffic in the area that is already subject to accidents, 2) increase in crime in the area based on the knowledge of the production facility being present, and 3) the effect on the community of Redmond and surrounding land.

Highway 126 seems to have a fairly high incident rate of accidents. The intersection of Highway 126 and 35th Avenue is certainly one of our intersections host subject to accidents in and around Redmond, but the highway in general seems to suffer from a lot of accidents. If the growing and processing operation is allowed to be a business in this location, being directly on the highway, it is my fear that the accident rate will increase significantly as a result of increased traffic.

My wife and I moved from Eugene to central Oregon in 2010. When we had our business in Eugene, the office was in an industrial complex in which the offices were all quite close. Across the complex from us was an illegal (this was in 2008-2010) growing and processing operation for marijuana. The traffic that went through the complex on Wednesday through Saturday had a significant impact on our business because it made it difficult for our employees and customers to enter our building. The crime rate in the area also increased as a result of some of the people who came to make their purchases. While the proposed operation on Highway 126 may or may not sell marijuana, it is a concern of mine that the crime rate will go up. While working late in my office in Eugene one evening, three men came into my office with the intent to steal money, computers, laboratory equipment and more. I was able to fend them off and get them out of my office without harm, but if I had not been equipped at the time to deter

McConnell Labs, Inc.
406 SW Umatilla Ave
Redmond, OR 97756
+1 541 526 1417



them, I would have been robbed. The last issue surrounding the growing and processing operation in Eugene is that the growers tried to process the marijuana into hash. During the processing of the finely ground marijuana buds, there was an explosion that sent three people to OHSU in Portland, OR via Life Flight and endangered a young child. The pot growing and processing operations are not safe, not conducted as a reliable business and are often operated by people whom I wouldn't want in my community.

Redmond and the surrounding area is primarily ranch land and hardworking inhabitants. A pot growing and processing operation is counter to our community. We would lose our sense of community to some degree or to a great degree. While areas do change, this would be extremely detrimental to our area and as such, I think that the ranches and farms would close and our residents would move away.

My family history is a common one. My mom smoked pot when I was young. I saw the types of people that it brought to our home and they were not nice, kind fun-loving people. They stole from me and my brothers. My experience was the same in Eugene when the growing operation was in our business complex. The same people came to our location and they stole or attempted to steal from everyone around. The operation in Eugene brought unwanted traffic and crime. It is my experience that the same will occur in Redmond at the proposed facility on highway 126. Please do not allow this operation to be in our community.

I live in Eagle Crest at:
1953 Kingfisher Circle
Redmond, OR 97756
jim@mclabs.us.com
541 285 1283

I work in Redmond near the airport and employ 30 people at our facility.

Best regards,

James (Jim) McConnell
President, McConnell Labs, Inc.

McConnell Labs, Inc.
406 SW Umatilla Ave
Redmond, OR 97756
+1 541 526 1417

Linda Cavalli Nelson

From: Linda Cavalli Nelson <lcn@smithrockresources.com>
Sent: Monday, November 6, 2017 3:39 PM
To: Tammy.Baney@deschutes.org; Tony.DeBone@deschutes.org;
Phil.Henderson@deschutes.org
Cc: George.Endicott@ci.redmond.or.us; joe.centanni@ci.redmond.or.us
Subject: Marijuana grow & processing project on Redmond's urban reserve border

Honorable Commissioners,

I am writing to express my alarmed concern regarding the "major marijuana grow and processing facility" that Deschutes County has approved for development on 55+ acres near the intersection of Helmholz Ave. and Highway 126, on the border of Redmond's urban reserve.

By way of summary, I have the following concerns:

1. The location of this project at one of the primary gateways to Redmond.
2. The inclusion of a processing plant in a largely residential area, with the associated offensive odors and dangers of explosion and fire.
3. The inordinate water usage required by the project in an area reliant on well water.
4. Questions regarding whether all necessary due diligence has been conducted regarding the impacts of the above issues prior to project approval.
5. More generally, the need for regulatory controls and safeguards to ensure that drug cartel money does not infiltrate our local marijuana industry.

The Risks of Marijuana Processing

I beg your forbearance given that I am raising these issues so late in the process, after you have already approved this and many similar projects. I would expect that you and your staff have already conducted rigorous due diligence and enacted all necessary precautions and coding requirements to ensure the safety and well-being of your constituents and the protection of their property and quality of life.

This expectation notwithstanding, as I read the expert witness article in the references below, I became increasingly alarmed at the myriad of complicated issues and dangers associated with commercial marijuana growth and processing. These issues and dangers give rise to serious questions regarding the suitability of the acreage near Helmholz and Highway 126 for this type of project. I raise the following concerns:

- **Location**: Given the industrial nature and associated risks of marijuana grow and processing operations, why is this bucolic residential and agricultural area at our city's western gateway deemed an appropriate site for what County documents describe as a "major marijuana grow and processing facility"?
- **Water**: It is an established fact that marijuana cultivation and processing place extremely high levels of demand on water supplies. Have the impacts on local water supplies been fully studied for the subject project? And what about the wastewater? How will that be managed? Aren't these types of commercial operations better suited for areas with access to city water supplies?
- **Safety and Quality of Life**: Given the multiple associated risks of these types of operations, what measures have been taken to ensure that the safety, well-being and quality of life of local residents will not be adversely affected by this project?

References:

<http://www.robsonforensic.com/articles/codes-standards-hazards-marijuana-grow-facility-expert-witness>

<http://www.cbc.ca/news/canada/calgary/innisfail-medical-marijuana-plant-1.4222722>

<https://ww2.kqed.org/science/2016/07/11/growing-marijuana-state-will-now-regulate-water-use-for-pot-cultivation/>

The Growing Influence of Drug Cartels in the US Marijuana Industry

Of more general concern regarding these types of large commercial projects, there is growing evidence of the infiltration of foreign drug cartel money into the legal US marijuana industry (see references, below). Marijuana is a huge cash crop for the cartels, in many case providing 50% or more of their cash flow. While legalization initially hurt the cartels' business by putting pressure on prices and increasing consumer options, the cartels have quickly adapted by moving aggressively into the legal US marijuana business themselves. In addition to exploiting the market opportunity in states that have legalized the drug, the cartels are using these states as US beachheads for distributing marijuana and related products into states that have not yet legalized the drug. There is also evidence that the cartels are using their legal marijuana businesses to shelter other criminal activities.

All of this makes perfect sense from an economic point of view. The cartels are rational business enterprises that wield their power to protect and expand their economic interests. By creating a legal beachhead into their largest market, we have put ourselves in their path. If we do nothing to stop them, they will inevitably set up shop here, with all that comes with them – the crime, the terror, and the destruction of families and communities.

My respectful question for you as decision-makers and gatekeepers is whether you have set up any means of rigorously evaluating projects to protect the residents of Deschutes County from the infiltration of organized crime in our communities under the guise of supposedly legitimate business operations.

References:

<http://www.thedenverchannel.com/news/local-news/marijuana/mexican-drug-cartels-are-taking-full-advantage-of-colorados-marijuana-laws>
<http://www.sandiegouniontribune.com/news/public-safety/sd-me-indepth-prop64-cartels-20161011-htm1story.htm1>
<http://www.sandiegouniontribune.com/news/courts/sd-me-backstory-prop64-story.html>

Requests

I wrote the above before reading the cover story in the Sunday *Bulletin* and gratefully learning of your current efforts to solicit community input on some of these very issues. In light of your ongoing process, I respectfully request the following:

1. That you grant the appeal against this project in your hearing on November 8th to allow for further community input and a more thorough review of land use requirements and safeguards.
2. That you revisit the suitability of locating large commercial marijuana grow and processing facilities in predominantly rural and residential areas.
3. That you ensure that adequate safeguards and requirements are in place for ensuring the safety and well-being of your constituents, and the protection of their property and quality of life.
4. That rigorous environmental impact analysis and reporting be required prior to the approval of these types of projects to ensure that adverse impacts are adequately mitigated and that limited resources are managed in the best interests of all Deschutes County residents.
5. That procedures be enacted for evaluating the legitimacy of those individuals and entities seeking approval of these types of large marijuana grow and processing facilities in Deschutes County to ensure that such operations do not become a beachhead for organized crime in our communities.

My apologies for this long letter and for not stepping up sooner. I am grateful for your dedicated service, and appreciate your consideration of my eleventh-hour concerns and requests. I will look forward to seeing you at the hearing on Wednesday.

With sincere regards,

Linda Cavalli Nelson
3916 SW Timber Ave.
Redmond, OR 97756

Submitted by Patti Adair

marijuana grows in inappropriate locations.

Janet Dorgan

Opt. Out.

Petitions = 39

From: Janet Dorgan

janetadorgan@bendbroadband.com

Subject: Marijuana Applications 11/8/17

Date: Nov 8, 2017 at 8:11:48 AM

To: Tammy Baney

Tammy.Baney@deschutes.org, Phil

Henderson

phil4deschutes@gmail.com,

<tony@debonefamily.com>

tony@debonefamily.com

Deschutes County Commissioners;

Highland Baptist Church has served the community in many ways.

As community leaders and candidates, all three Deschutes County Commissioners have spoken at the church and participated in candidate forums there.

Highland Baptist Church also has an active youth program.

The church routinely provides a safe haven for the homeless.

Both groups are vulnerable to the expanding presence of drugs.

History
Pot
advisory
Board was
stacked
against
us

Per Jack Addison
Decibel
reading was
over
30
in his
hearing
this
AM

The proposed large grow will affect the value of the Church's property.

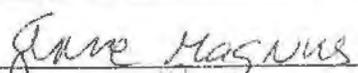
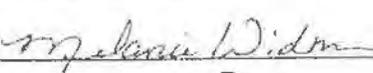
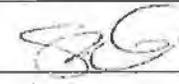
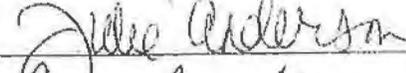
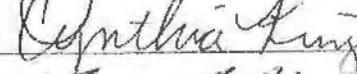
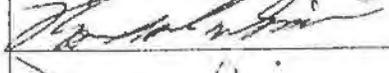
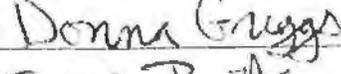
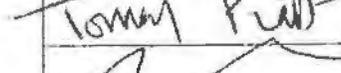
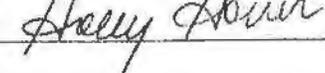
For example, the increased traffic will affect safe access to the church.

Just as it doesn't make sense to allow grows and dispensaries in close proximity to schools, it makes no sense to allow marijuana grows in close proximity to institutions that provide services to the community as well as services to a vulnerable population.

As commissioners, you are obligated to protect the community from poor judgement that would allow

Petition against marijuana production facility at 69188 Goodrich Road, Sisters, OR 97759

Printed names corresponding to signatures on Page ___

Name	Signature	Street Address	Printed Name
		160 S. Oak St #408 Sisters, OR	Debbie Bucher
		65338 Old Bend Redmond Hwy Bend OR 97703	Kayla Briggs
		65338 Old Bend Redmond Bend OR 97703	Elivah Matteson
		65348 Koh Field Rd Bend OR 97703	ANNE MAGNUS
		15069 Bardo ^{CRISP} Sisters	Jan Glazier
		3916 SW Timber Ave Redmond OR 97756	Linda Nelson
		20420 Harper Rd	LINDA BYANS
		3120 SW 53RD CT REDMOND, OR 97750	MELANIE WIDMER
		3120 SW 53RD CT Redmond, OR 97750	
		4182 NW Grubstake Way Redmond, OR 97756	Julie Anderson
		63564 Brahma Ct Bend, OR 97703	Cynthia King
		65338 Old Bend Redmond Hwy Bend OR 97703	Ronald Griggs
		65338 Old Bend Red. Hwy Bend, OR	Donna Griggs
		956 NW Garden Bend Torrey Piatt	
		65600 Old Bend Red Hwy Bend OR 97703	Shauna Wittercraft
		60440 Chickasaw	Bend Holly Hower 97702

Petition against the Marijuana Processing Facility at 4800 SW Highland Avenue Redmond, OR 97756

5:45 PM
D. [unclear]

Printed names corresponding to signatures on Page ___

Name	Street Address	Phone
Suzanne Schuler <i>Suzanne Schuler</i>	17343 Mt View Rd Sisters OR 97759	541-549-5382
CHRISTINE B. NELSON <i>Christine B. Nelson</i>	6928A SISTERS VIEW DR SISTERS, OR 97759	503-679-2499
MARIAN M KESLER <i>Marian Kesler</i>	6685 GIST RD BEAD OR 97701	541-317-8458
Shelley A Smith <i>Shelley A Smith</i>	17650 Mountain View Rd SISTERS, OR 97759	541.588.6354
Glenn Engweiler <i>Glenn Engweiler</i>	17650 Mountain View Rd Sisters, OR 97759	541 588 6354
Derrick Engweiler <i>Derrick Engweiler</i>	17650 Mountain View Rd Sisters, OR 97759	541 588 0872
GEORGE A. SULLIVAN <i>George A. Sullivan</i>	17343 Mt View Rd Sisters OR 97759	541-549-5382
Barbara J Cobb <i>Barbara J Cobb</i>	17560 Mt View Rd SISTERS OR 97759	541-588-6521
SHARRON L TULLIUS <i>Sharron Lullius</i>	17323 Mountain View Rd Sisters OR 97759	541-549-0695
FIRANK J. TULLIUS <i>Frank J. Tullius</i>	17323 Mountain View Rd SISTERS, OR 97759	541.549-0695
CHERYL A. SCHERER <i>Cheryl A. Scherer</i>	17107 Mt. View Rd SISTERS OR 97759	541-549-8997
met smaller <i>met smaller</i>	17110 Mountain View Rd Sisters OR 97759	503-547-4727
Chelsie Hoyt-Glockner <i>Chelsie Hoyt-Glockner</i>	17280 Emerald Valley Rd	541-549-1078
Julie Willis <i>Julie Willis</i>	70084 Appaloosa Drive Sisters, OR 97759	707 888 0958
VANWELL T. TEMPLE <i>Vanwell Temple</i>	1141 S. CREEKSIDE DR Sisters, OR 97759	541-549-1385
BOB TAMPLA <i>Bob Temple</i>	1141 S. CREEKSIDE DR SISTERS, OR 97759	541-549-1385

Before the Board of Commissioners of Deschutes County

File #247-17-000803-A

An appeal of an Administrative Decision approving a marijuana production and processing facility in the EFU at 4800 SW Hwy 126, Redmond, OR

November 8, 2017

Commissioners, I am Jayne Simmons and I speak for my husband, Lindsay Simmons, and myself. We are opposed to the proposed grow and processing of marijuana at 4800 SW Hwy 126, Redmond, OR. We own the property adjacent to it, just west of the proposed grow and processing facilities.

Please put site map up on screen.

1. Greenhouse . All measurements of site plan are from Sun Engineering and Surveying. These are Evolution Concepts, ATP., Jenkin's and Berkowitz's engineers.

$$140 \times 42 = 5,880 \text{ sq. ft.}$$

$$5880 \times 4 = 23,520 \text{ sq. ft. They are over the legal current code}$$

amount allowed of 20,000 sq. ft. by 3,520 sq. ft. *Average canopy size approved grows 8,200, canopy 6,300*

2. Measure inside the greenhouses:

Grow rooms are $35 \times 35 = 1,225$, $\times 2 = 2,450$ sq. ft. What is vegetative space? Add 540 sq. ft. = 2,990 $\times 4$ greenhouses = 11,960 sq. ft. of growing area.

Size of Greenhouse per Sun Engineering and Surveying has 41 +42 + 41 as dimensions. The greenhouses are 140 feet long. These engineers are 26 ft. short in their dimensions. 26×42 adds up to 672. sq. ft. per greenhouse of additional space that isn't accounted for in any way. Shall we throw that into the grow space as well? The Sun Engineering's dimensions don't add up to the stated size of the greenhouse. Very possibly that is more growing room that isn't accounted for.

So why is this important?

According to Evolution Concepts, LLC.'s mechanical engineering report by JJ Engineering, a Mr. Jay Castino, a 'typical grow room' is 1,000 sq. ft.. Each grow room will be equipped with an exhaust fan of 3334 CFM. (Cubic feet per minute.) However, each of Evolution Concept's grow rooms are 1,225 sq. ft, and there are two grow rooms per greenhouse, PLUS a

“vegetative space” of 540 square feet, plus that missing 672 sq.ft. But Evolutions Concepts, ATP, Jenkins, and Berkowitz’s mechanical engineer only talks about 1,000 square feet per grow room. Bottom line: As per their own engineering report, they are leaving 3,960 sq. ft. without sufficient exhaust systems. 990 square feet per greenhouse, times 4 greenhouses, plus that worrisome 672 sq. ft. per greenhouse that is unaccounted for. If that is grow space, it would equate to 1,662 extra sq. ft. of grow space per greenhouse, X 4 = 6,648 sq. ft. without exhaust fans.

Why would they do that?

Because if they had to have more and larger exhaust fans, the 100 feet from the property line doesn’t work. Not even close. Instead of the 30 dbA *-decibels* per greenhouse, it would be considerably more. We are talking about 4 greenhouses: $30 + 30 + 30 + 30 = 120$ dbA at the property line. And JJ Engineering’s Jay Castino is a little skeptical himself. He says noise from the exhaust CAN BE 70dbA. Can be more also, and would be more if larger exhaust fans are required.

More square footage than code allows. More smell. More noise. More grow lights to accommodate the additional grow rooms. The mechanical engineer's report is not accurate. The surveying and engineering report is not accurate.

Let me be clear: IF WE CAN'T TRUST EVOLUTION CONCEPTS, ATP., JENKINS AND THE GUY FROM COSTA RICA'S APPLICATION IN REGARD TO SIZE, NOISE, LIGHT AND SMELL, HOW CAN WE TRUST THEM WITH THE SAFE DISPOSAL OF TOXIC WASTE FROM PROCESSING THEIR OWN MARIJUANA AND THAT OF OTHER GROWS?? The processing cannot be left in their hands. It has to be done in an industrial area with safeguards in place.

Lastly, as the "Rolling Stone" magazine. August 28, 2017 issue. An article entitled, "How Anti-Mafia Laws could Bring Down Legal Pot." Civil suits are being fought and won for property damages. Property owners are winning in court because marijuana is not just another farm crop and the processing is an industry. These property owners are winning because of RICO, (Racketeer Influenced and Corrupt Organizations Act.)

Please DENY EVOLUTION CONCEPTS, ATP., ~~LSE~~, JENKINS, BERKOWITZ OF COSTA RICA'S APPLICATION. IT IS RIDDLED WITH ERRORS, IS PURPOSELY DECEITFUL AND BREAKS CURRENT CODE WITH IMPUNITY.

Furthermore:

1. Put greenhouses in the middle of the applicants property, at least as far away as the setbacks for schools, parks, and other public spaces.
2. Put processing in an industrial area where safety precautions can be observed, there is better response time, and HAZMAT is called first if an explosion occurs.

3. Don't let them use up all of the county's ground and well water. Make them abide by the irrigation laws in place in Deschutes County. Don't let them circumvent them by "nursery" or "buying water credits" from other areas in Oregon. ** not using irrigation water for grows. How much? * prohibited water - organic grow? Round up?*

- 3A. Do not grandfather in grows that are already approved.
4. Declare a moratorium on applications until all the questions are settled

or:

5. Be the first county in Oregon to opt-out or discontinue the approval of marijuana grows and processing in rural areas. THANK YOU.

Cynthia Smidt

From: Tammy Baney
Sent: Tuesday, November 14, 2017 2:36 PM
To: Cynthia Smidt
Subject: FW: Marijuana Applications 11/8/17

For the record...



In service to our community-

Tammy

Tammy Baney | Deschutes County Commissioner



Direct: (541) 388-6567 | 1300 NW Wall Street, Suite 200 | Bend, OR 97701
tammyb@deschutes.org | www.deschutes.org

From: Janet Dorgan [mailto:janetadorgan@bendbroadband.com]
Sent: Wednesday, November 08, 2017 8:12 AM
To: Tammy Baney <Tammy.Baney@deschutes.org>; Phil Henderson <phil4deschutes@gmail.com>;
tony@debonefamily.com
Subject: Marijuana Applications 11/8/17

Deschutes County Commissioners;

Highland Baptist Church has served the community in many ways. As community leaders and candidates, all three Deschutes County Commissioners have spoken at the church and participated in candidate forums there.

Highland Baptist Church also has an active youth program. The church routinely provides a safe haven for the homeless. Both groups are vulnerable to the expanding presence of drugs.

The proposed large grow will affect the value of the Church's property. For example, the increased traffic will affect safe access to the church.

Just as it doesn't make sense to allow grows and dispensaries in close proximity to schools, it makes no sense to allow marijuana grows in close proximity to institutions that provide services to the community as well as services to a vulnerable population.

As commissioners, you are obligated to protect the community from poor judgement that would allow marijuana grows in inappropriate locations.

Janet Dorgan

Cynthia Smidt

From: Concerned Oregon Citizen <concernedoregoncitizen@protonmail.com>
Sent: Saturday, November 11, 2017 9:30 AM
To: Cynthia Smidt; Matt Martin
Subject: For the file 24-717-000803-A AND the commissioners review for November 30

Please add these comments to the file noted above for the ATP, LLC application for a marijuana production and processing facility at 4800 SW Highland Avenue in Redmond. Also please submit to the commissioners for November 30 deadline for their marijuana review.

To the commissioners -

With regard to the appeal hearing on Wednesday, 11/8, and marijuana growing in Deschutes County as a general topic, you are not asking the right questions. The questions you need to be asking specifically for this operation and generally regarding the topic are (who, what, where, why, when, how):

1) WHO is ATP? Who are all of the members? Who is the person who testified as the applicant? He mentioned that ATP is the landlord? Who are all the players? Many of them are from Costa Rica as admitted. Land use applications for growing marijuana should not be approved to out-of-town syndicates, let alone out-of-country syndicates.

2) WHY are they wanting to grow marijuana here? **Marijuana is ILLEGAL in Costa Rica.** WHY would a group of investors from Costa Rica be wanting to grow marijuana in Deschutes County? Aside from the person who testified growing up here, what makes our county attractive? Is it our multiple small airports that make flying in and out of the county easy? Is it our easy access to multiple highways that head north and south and east?

3) WHERE is this marijuana going? You asked questions of him about how many employees he was going to have and if needs would increase during harvest season. He himself testified that it would be a continuous production schedule with harvesting every two weeks. EVERY TWO WEEKS! That is a lot of marijuana. What is the end game? As you know, the legal market is saturated. More marijuana is grown than is consumed legally in our state. Trafficking is a real issue. Deschutes County is part of the problem and increasingly so. They say that the plants will have an ID tag for tracking purposes. It is easy to put ID tags on the plants you want to make legal and then grow extra plants that you never enter into the system. There are many other ways around it. And if there are no surprise visits from any sort of enforcement agency, then basically anything goes. Reminder: **Marijuana is ILLEGAL in Costa Rica.** A simple Google search shows that 1 lb of marijuana in Costa Rica sells for twice as much as it does in legal markets. Plus the legal markets are taxed and there is no tax on black market marijuana, so that also adds to the bottom line and makes trafficking a more interesting business venture.

4) WHAT are you going to do to protect the citizens of Deschutes County? By your own standards, your job is to promote and **enhance the county as a safe, sustainable, and highly desirable place to live, work, recreate, visit and more.** You are failing at that effort in all aspects, as people who live near grows have been threatened (not safe), their enjoyment of their properties is suffering (not a desirable place to live), traffic is making county roads more dangerous (traffic problems in going to work), people cannot enjoy their outdoor lifestyles on their properties (not a nice place to recreate),

visit (people cannot have their grandkids/neices/nephews visit because of the federally illegal drug that presents a danger to communities).

5) **HOW** can you maintain and enhance the quality of life for your constituents and voters when you are ignoring the majority of citizens who voted **AGAINST** this in the county? You know it. You know we don't want it. You ignored our voices and admitted in a letter to Salem that the rural citizens did not want this in our neighborhoods. Yet we bear the brunt of all of the negative repercussions.

6) **WHEN** are you going to put a stop to this in our rural neighborhoods? All of the people who show up at the hearings represent just a small percentage of the people who are outraged that this is going on in our neighborhoods. You see that more and more people are showing up at these hearings and our voices are getting louder.

Compromise is basically getting to a place where both parties are equally unhappy. Ideally the rural citizens would like this banned outright and for Deschutes County to **OPT OUT**. Ideally the growers would like zero regulations. You could compromise on this issue by mandating that all marijuana growing, production, and processing be moved to commercial/industrial zoning (since it is already in the codes that it must be grown indoors). Those who oppose marijuana would still be unhappy that it is being grown in our county. The growers would be unhappy that they have to move their operations to a different zone. But it would be an acceptable compromise and one that allows you to keep your goals of enhancing the quality of life for all citizens.

Don't let your legacy be selling out Deschutes County and making it a horrible place to live for those of us in rural areas. Your responsibility is to **ALL OF US**.

JJ

Sent with [ProtonMail](#) Secure Email.

Anderson

247-18-000 361-AD

RECEIVED

BY: AXD

NOV 13 2018 10:45
am

DELIVERED BY:

11-11-18

To the board of County Commissioners:

We, Todd & Denese Fitzmaurice, are very concerned about the final decision of Andrew Anderson's Marj. grow operation.

When we went to the Appeal hearing last month, the board recognized that "no one comes out to follow up with the criteria that is suppose to be met,"

Andrew Andersons grow operation at Johnson Ranch Rd still does not meet the criteria that was set before. We are very concerned that that will happen ~~again~~ to us as Deschutes County doesn't have the man power nor the resources to follow up, which we don't feel is fair to our property rights. How can Deschutes County issue another Permit to him for another grow operation but at a different location, when he still has not met the criteria for the Johnson Ranch Rd operation.

(2)

The last month & half there has been between 12 & 14 vehicles at the Johnson Ranch operation that belong to the workers. It started out at 2-4 and now has grown to 12-14 on a daily basis. Our Road is a "Home Owner maintained" Road that can not handle that amount of traffic per day.

Andrew stated that the smell travels 5 miles away from the site. We have never smelled the smell before at our house and we don't want it to start now. He is trying to cover his tracks now for when it starts to smell here when it never has in the past. We request the County Commissioners themselves to come out and check all these issues themselves.

Andrew has also stated that he plans to have a water truck bring in water for his plants and our road can not handle that type or frequency of vehicle. Who comes out to check that he does that and is not using his well water, which is not allowed

and will drain on ours and the other 5+ houses wells in the area.

When the road needs to be maintained who is going to pay for it? Right now the road maintenance agreement states that all properties are to share in the expense but Andrew will have the majority of usage because of his workers coming & going and also the water trucks.

Andrew Anderson is from California and unlike us who were born and raised here, he is not to ruin our State!

Why is he allowed a second operation when he already has one less than 2 miles down the road. The city of Bend is overly saturated with meat, grow operations and dispensaries.

We hope you will take our concerns into consideration as you make your decision about his second operation.

(4)

I wouldn't wish this on any
of you.

You the County Commission opted
to allow marj. grow operations with
no say or vote from the public.
Now numerous wells have dried up
in Alfalfa and this includes Alfalfa
Marked Store.

Thanks so much for taking our
concerns into consideration.

Todd & Denese Fitzmaurice

Denese Fitzmaurice

Todd Fitzmaurice

63760 Diamond Forge Rd

Bend, OR 97701

Matt Martin

From: td tammy <shortshuffle@gmail.com>
Sent: Tuesday, November 13, 2018 3:45 PM
To: Matt Martin; Tammy Baney; Phil; Tony DeBone
Subject: Appeal # 247-180000776-A/361-AD/ Andrew Anderson/ 63775 Diamond Forge Rd.

Matt Martin and BOCC Members,

I realize this applicant currently has a ongoing pot grow and this will be an additional, however I find it unbelievable that as a current grower that applicant is still not willing to be transparent to the rules and regulations of the County. The burden is on the applicant to provide all applicable criteria for application. This clearly has not been met and watching the dial video of appeal, continues to argue and degrade the decisions of criteria by our county. This is NON-Compliance !

The Specific placement of this grow is very vague and the size of buildings is not transparent to what will be used for what ? The road seems to be a huge issue due to applicants proposed traffic volume.

Applicant seems to blame everyone for everything instead of taking self responsibility of issues to be corrected. I have been under the understanding that Deschutes County Did Not want specific areas saturated with pot grows due to all the issues addressed of this appeal: Water, Noise, Odor(which applicant has not been transparent on) and with the current close large pot grows this would clearly add over saturation to neighbors of all above issues. We have increased traffic now on Alfalfa Market Rd. that runs 24/7 hrs. a day at speeds that are unacceptable. The road crew told me they were doing a study of new Deer crossing sign areas due to the number of deaths and accidents involving our Mule Deers as they travel from our BLM LAND to BLM LAND which is their normal paths. Please take a look at the rural community areas and all of the impacts occurring due to over saturation of these Non-outright farming year round weed crops.

I Oppose this application as yet this is another, incomplete approved application. Homeowners should not have to be fighting "incomplete applications" when the burden is on the applicant to have a completed application!
Please deny.

Respectfully,

Tammy Threlkeld/Ken Clouse
23344 Alfalfa Mkt Rd.
Bend, Or 97701

DTF

247-17-000201-AD

RECEIVED

APR 13 2017

Steve and Gail Merydith
8484 SW 82nd Street
Redmond, OR 97756

Deschutes County CDD

April 10, 2017

Deschutes County Planning Division
PO Box 6005
Bend, OR 97708-6005

RE: Proposed Land Use Action
File 247-17-000201-AD
Marijuana Production Facility
21115 Young Ave, Redmond, OR

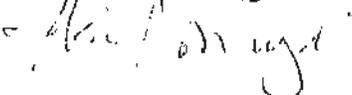
We are writing to express our concern with the marijuana production facility. Our property is directly across Young Avenue from the proposed facility.

Our concerns include the possible increase in traffic with the resulting erosion of local roads and the limited funding available for road repairs and upkeep. Another concern is the possible odor from the production, which we find offensive.

We would like clarification to the specifics involved in the production process – is it growing, drying and packaging? Will sales take place at this facility, either wholesale or retail? Will the facility attract a clientele in large numbers that would be disruptive to the quiet small farms and animals in the area?

We appreciate your response in addressing our concerns.

Sincerely,



Steve and Gail Merydith

With specific regard to Tim Tess' application, the following information is missing or weak. Granted, the application and information he must comply with is proving not specific enough to address the problems that are already existing with Couch Market and Alfalfa:

Odor: Mr. Tess states in his application he will use an engineered system in an effort to greatly control odor from escaping the building and names the fans and filters to be used. The existing building he will begin his operation will be entirely different than the buildings he will likely construct for his expansion plans. They will likely be similar to those on Couch Market Road and Alfalfa. The odor is a serious problem. So much so, a number of residents are moving because the odor makes them ill.

What does the County have in place to enforce control of excessive odor?

Crime and Thefts: In the last 9 months there have been six reported burglaries or thefts in the Couch Market Road area and in the same period there have been none in the Young Avenue area.

Decline in Property Values: A Couch Market resident who is now looking to move has had two realtors out for a market analysis and decreased the resale value by \$100,000 of their 10 Acres and 2400 square foot home.

These unresolved issues alone should cause the Deschutes County Commissioners and the Community Development Department to realize that the status quo will not do for commercial marijuana grow operations. This is not typical agricultural use that any of us have known. This is the growing of what recently was a controlled substance into commercial operations for legal profit. It does not fit in the usual and standard measures for safety of an agricultural product on this scale. It is evident by the problems on Couch Market and Alfalfa improved monitoring and regulation are desperately needed. You are leaving a large portion of your taxpayers and constituents frustrated over the lack of prudent standards at the onset of commercial marijuana grow operations in Deschutes County.

We would like to suggest developing a community group who would help Deschutes County establish improved policy for monitoring these commercial grow operations and aid in the areas where the ordinances fall short on behalf of the neighbors. For now, with our interviews it appears concerned neighbors are falling by the wayside with very valid concerns that could be resolved with good policy.

Our neighborhood would also like to know the following from Tim Tess and his plans and should be important consideration for other applicants within Deschutes County EFU Zones:

Why are there no regulations for fire suppression for any grow building?

Is the grow for medical or recreational marijuana?

What are your long range expansion plans?

When irrigation water ends for the season will your cistern or pond be using any well water?

How will you house/store your processed marijuana before it is sent to buyers? Will that area be secure? How long will it be before it goes to buyers once it is processed?

Will the Shake (marijuana leaves trimmed off and not fit for selling) go into an unsecured compost pile? How will you control the odor outdoors?

In what ways will Tim Tess (or any grower) be responsible and receptive to neighborhood concerns or issues that arise? In what format can we bring these concerns up?

In closing, not one of the neighbors of the Young Avenue area ever thought that a commercial marijuana grow operation would come to our area. We enjoy our rural lifestyle and all the varied farming practices we can make from our land and irrigation. Marijuana, the issues and concerns it brings to the neighborhood is of great concern. We ask that you recognize this industry is in its infancy and your control measures will be challenging to implement after the fact and as more growers come in. Tim Tess has been a good and conscientious neighbor and we will expect nothing less from him as he steps into this venture. We strongly urge Deschutes County to take a proactive role and be a pioneer in this industry in seeking fair regulation and monitoring while providing assistance between Marijuana Growers and the neighborhoods they affect.

With kind respect, we thank you for your time and consideration,

Sincerely,

Neighbors of Young Avenue Are:

Steve and Michaela Grabenhorst

Tim and Cybil Ewalt

Kenny and Lorraine Rice

Lee and Marlene Dempsey

Steve and Gail Merydith

Judie Geist

Jim and Gilda Sumner

John and Carol Bunge

Jeff and Wendy Puller

John Iwamura

Lynda Krogh