

AGENDA
Aurora City Council Meeting
Tuesday, October 11, 2016, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main Street NE, Aurora, OR 97002

1. CALL TO ORDER OF THE AURORA CITY COUNCIL MEETING

2. CITY RECORDER DOES ROLL CALL

Mayor Bill Graupp
Councilor Jason Sahlin
Councilor Tom Heitmanek
Councilor Bob Southard
Councilor Kris Sallee

3. CONSENT AGENDA

- a) City Council Minutes – September, 2016
- b) Planning Commission – August, 2016
- c) Historic Review Board Meeting Minutes – NA,

4. CORRESPONDENCE –

- **Wave Broadband Rate Adjustment Notice**
- **Keizer Law Name Change and Restructure Notice**
- **DeFazio Letter**

5. VISITOR

Anyone wishing to address the Aurora City Council concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora City Council could look into the matter and provide some response in the future.

6. PUBLIC HEARING

- a) Discussion and or Action on Proposed LA-16-01 Text Amendment to Remove the 1000 Foot Buffer Between Marijuana Businesses in the Industrial Zone.

7. REPORTS

- a) Mayors Report
- b) Planning

- c) Public Safety
- d) Finance Officer
- e) Public Works
- f) Parks Committee
- g) City Recorder
- h) City Attorney

8. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS

- a) Resolution Number 716 A Resolution to Add City of Gervais to IGA for Court Judge Services.

9. NEW BUSINESS

- a) Discussion and or Action of Resolution Number 716 and the Addendum to the IGA for Court Judge Services.

10. OLD BUSINESS

- a) Discussion on Employee Manual
- b) Discussion on Council Procedures
- c) Discussion and or Action on Code Chapter 8 Noxious Vegetation

11. FUTURE TOPICS

- a)

12. ADJOURN

Minutes
Aurora City Council Meeting
Tuesday, September 13, 2016, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main Street NE, Aurora, OR 97002

STAFF PRESENT: Kelly Richardson, City Recorder
Mary Lambert, Finance Officer
Darrel Lockard, Public Works Superintendent
Officer Bell, Marion County
Eleanor Beatty, Kaiser Law
Linda Kendrick, Kaiser law

STAFF ABSENT: Dennis Koho, City Attorney has resigned

VISITORS PRESENT: [REDACTED]

1. CALL TO ORDER OF THE CITY COUNCIL MEETING

Meeting was called to order by Mayor Bill Graupp at 7:00 pm

2. CITY RECORDER DOES ROLL CALL

Mayor William Graupp- Present
Councilor Jason Sahlin - Present
Councilor Kris Sallee-Present
Councilor Robert Southard-Present
Councilor Tom Heitmanek - Present

3. CONSENT AGENDA

- a) City Council Meeting Minutes – August, 2016
- b) Planning Commission – July, 2016
- c) Historic Review Board Meeting – July, 2016

ACTION ITEM: NA

Motion to approve the consent agenda as presented was made by Councilor Southard and is seconded by Councilor Heitmanek. Motion approved by all.

4. CORRESPONDENCE –

- a) Congratulations letter from Oregon State Parks and Recreation Regarding the CLG Grant For Historic Properties.

Action Item: NA.

Councilor Sallee at this time asks for the process and procedure for addressing visitors concerns that are brought up during a meeting. She is concerned because they are not on the agenda for this month for council to discuss them. During a lot of discussion and clarification it was the consensus of the council that staff would address the issues in the form of a report to the council at which point council would decide if it needed to be on the agenda as an agenda item.

During this time council also discuss the procedure for new business to be brought to the council for discussion. The request would need to be in writing to the recorder's office at least 10 day prior in order for staff to respond. At which point it would go on agenda as correspondence at which point council would then decide if it needs to become a new business item on the agenda at the next month's meeting.

A motion is made by Councilor Southard and seconded by Councilor Sahlin to have citizen concerns brought to council during visitors section as a staff report item as a bullet when it will be discussed. Passed by All.

Councilor Sahlin makes a motion and is seconded by Councilor Heitmanek to have information in the city newsletter at least twice a year informing citizens where to look for information. Passed by all.

5. VISITORS

Anyone wishing to address the Aurora City Council concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora City Council could look into the matter and provide some response in the future.

- No one speaks at this time.

6. REPORTS

- a) Mayor Bill Graupp informs council he has been teaching some Economic Development classes on the general fund budgeting process, additionally going to teach some on civics for a class of 3rd graders on if I were Mayor for a day and how a name gets on the ballot. The PAM meeting went well that is Positive Airport Meeting, with Marion County, the sheriff's office and airport owners. There were really no agenda items other than an update however the FAA did comments on the possible 3 violations regarding vehicles on a taxiway. Also discussed was the accident on Butteville Rd and how that is close to Airport Rd issues which resulted in discussion of additional traffic studies.

Council discussed. NA

ACTION ITEM: NA

- b) Planning, there was a public hearing regarding the new building proposal for the Historic Society. There was discussion regarding upcoming code revisions. Councilor Sallee did question as to whom is responsible when it is a tenant property it is always the property owner's responsibility. There is also a discussion regarding pg 11 of the Planning minutes referencing the conditions of approval.

ACTION ITEM: NA

- c) Public Safety, Officer Bell introduces to council the Sergeant in charge of contracts that took Bill Sherburn place. His name is Don Parise who is in charge of the following contracts;

- City of Aurora - **Full time**
- City of Sublimity - **Full time**
- City of Jefferson - **Full time**
- City of Donald - **Part time**
- City of St. Paul - **Part time**
- City of Detroit - **Part time**

- Office Bell informs Councilors that he has been seeing a lot more transient activity in the area and is keeping an eye on the situations.
- Mayor Graupp informs councilors he had learned that if a car is parked in front of a mail box they will not leave the mail that day. City Recorder Richardson explains that there are a lot of issues regarding the mail which at some point council may need to look into. The most recent was an issue on Main Street and the discussions with the property owner went very well. Councilor Sallee had no topics to discuss.

Council discussed, NA

ACTION ITEM: NA

- d) Finance,

- Report attached is going well normal activity.
- Report on citizen Sallee do you have any questions. Moving forward it is agreed that citizen concerns be a bullet during the Departments report area on the agenda so the public is aware there concern is being addressed or at least spoken about.

Council discussed the need for a disclaimer on the decision notice that would inform the public there could be additional invoices received. They also discuss the relevance of providing back up documents with the billing invoices.

A motion is made by Councilor Sallee that a disclaimer be a part of the staff report/decision that indicates there could be additional billings and to check with the city and is seconded by Councilor Sahlin. Passed by All.

ACTION ITEM: NA

e) Public Works

- Report is attached Lockard informs council that contracted services is almost exhausted because of the amount of leaks that have been repaired.
- Councilor Sahlin asks for update on the Storm Water Master Plan there is continued work being done.
- More discussion regarding tree removal in and around the park.

Council discussed, the recent application received and approved for a restaurant along 99E and the impacts that could cause regarding city services. What system development charges are and how they can be used. Also discussed is the fact that there is no water currently supplied to the park shelters.

ACTION ITEM:

f) Parks Committee

Councilor Sahlin really doesn't have a lot to say other than the bases for the ball field have been put away.

ACTION ITEM: Tennis nets.

g) City Recorder

- Report as attached currently 2 pending records requests

Council discussed, contact cards and city council emails in the newsletter.

ACTION ITEM: Update the contact cards, and put the elected officials email address in the city newsletter.

h) City Attorney

- City Attorney report, Dennis Koho has resigned as the city attorney.
- Nothing has been filed as of yet from Ross RV Cart.
- Mr. Bixler had requested that his performance bond be released and it was the consensus of the council to move in that direction at the successful closing of the property.

Council discussed Whether or not they should go out for bid for City Attorney since Linda Kendrick had been working so closely with Dennis the past 6 months they Mayor felt we were still in good hands. Some of the other councilors thought it a good idea but there was no movement at this time to start the process. They did agree to discuss it at the next council meeting.

ACTION ITEM: NA

7. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS

- a) Discussion and or Action on Resolution Number 715 A Resolution to Increase Garbage Disposal Rates.

Motion to approve Resolution Number 715 and accept the proposed disposal rate change is made by Councilor Sahlin and is seconded by Councilor Heitmanek. Motion Passed by all.

8. NEW BUSINESS

- a) Discussion and or Action on Republic Services Rate Increase, Jason Jordon, Therese McClain, and Republic Services rate increase presentation, Marion County rate increase 29.6 at the burner, asking for disposal increase, 11.8 percent cost inflation. County has speared a subcommittee for waste disposal concerns. Mayor Graupp for the burner what is a ratio of 57% for recycle. This is really a pass through increase because of the increase that Marion County has imposed.
- b) Discussion and or Action on AMC Chapter 8 Noxious Vegetation. (old business for next month)

9. OLD BUSINESS

- a) Discussion and or Action on Employee Manual
- b) Discussion and or Action on Council Procedures.

10. ADJOURN,

Mayor Graupp adjourned the February 09, 2016 Council Meeting at 10:00 PM.

Bill Graupp, Mayor

ATTEST:

Kelly Richardson, CMC
City Recorder

Minutes
Aurora Planning Commission Meeting
Tuesday, September 6, 2016, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main Street NE, Aurora, OR 97002

STAFF PRESENT Kelly Richardson, City Recorder
Renata Wakeley, City Planner

STAFF ABSENT:

VISITORS PRESENT: Iselin Architect Firm, Oregon City
Guy Sperb, Aurora
Ken Hartley, Canby

1. CALL TO ORDER OF THE CITY COUNCIL MEETING

Meeting was called to order by Chairman Schaefer at 7:02 pm

2. CITY RECORDER DOES ROLL CALL

Chair Joseph Schaefer - Present
Commissioner Craig McNamara- Present
Commissioner Bud Fawcett - Present
Commissioner Jonathan Gibson - Present
Commissioner Mercedes Rhoden-Feely - Present
Commissioner Tara Weidman - Absent
Commissioner Open

3. CONSENT AGENDA

- a) Planning Commission Minutes – July, 2016
- b) City Council Meeting Minutes – July, 2016
- c) Historic Review Board Minutes – July, 2016

Motion to approve the consent agenda as presented was made by Commissioner McNamara and is seconded by Commissioner Gibson. Motion approved by all.

4. CORRESPONDENCE –

- a) UGB Training Opportunity how the newly adopted population forecasting administrative rules could affect our city. Chair Schaefer explains that currently PSU is the provider that will provide the forecasting. City Planner Wakeley states that usually this type of forecasting is done by Marion County and that they did a good job in years past. Wakeley states PSU not sure this is there first time not sure how they will accept information from the city.
- b) Planning Commissioner Training 101.

This training is presented by planners and planning directors association this group works in the trenches with the actual workers and geared towards the nuts and bolts and how to get things done.

5. VISITORS

Anyone wishing to address the Aurora Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora Planning Commission could look into the matter and provide some response in the future.

No one Speaks at this time.

6. PUBLIC HEARING, Opens at 7:09 PM

- a) Discussion and or Action on SDR-2016-03 Aurora Historical Society New Building. No ex-parte contact is declared by any of the Commissioners.

**CITY OF AURORA
PLANNING COMMISSION**

STAFF REPORT: Site Development Review 2016-03 [SDR-16-03]
DATE: August 30, 2016 (for September 6, 2016 Planning Commission meeting)

APPLICANT/OWNER: Aurora Colony Historical Society/Ken Hartley
15018 2nd Street, Aurora OR 97002

REQUEST: Site Development Review approval for construction of an approx. 5,773 sq. ft. two-story structure to be located to the rear of the existing structure; on-site improvements include paved walkways and a secondary access/driveway off of Martin Street.

SITE LOCATION: 21561 Main Street, Aurora, OR
Map 41.W.12CD Tax Lot 5700

SITE SIZE: 10,890 square feet or 0.25 acres

DESIGNATION: Zoning: Commercial (C) with Historic Commercial Overlay (HCO)

CRITERIA: Aurora Municipal Code (AMC) Chapters 16.22 Historic Commercial Overlay and 16.58 Site Development Review

ENCLOSURES: Exhibit A: Assessor Map
Exhibit B: Application and site plan
Exhibit C: Historic District Inventory #89
Exhibit D: Historic Review Board Notice of Decision (July 28, 2016)
Exhibit E: Request for Comments (RFC) responses

I. REQUEST

Site Development Review approval for construction of an approx. 5,773 sq. ft. two-story structure to be located to the rear of the existing structure; on-site improvements include paved walkways and a secondary access/driveway off of Martin Street.

II. PROCEDURE

The application was submitted to the City on July 25, 2016. Notice to property owners within 200 feet of the subject property was mailed on August 18th and published in the Canby Herald on August 24th in compliance with AMC 16.76.

The City has until **November 21, 2016**, or 120 days from acceptance of the application to approve, modify and approve, or deny this proposal.

III. APPEAL

Appeals are governed by AMC 16.76.240. An appeal of the Planning Commission's decision shall be made, in writing, to the City Council within 15 days of the Commission's final written decision.

IV. CRITERIA AND FINDINGS

The applicable review criteria for Site Development Review are found in AMC 16.58.

16.58.100 Approval Standards

The review of a Site Plan shall be based upon consideration of the following:

A. Provisions of all applicable chapters;

FINDINGS: The subject parcel is zoned Commercial (C) with a Historic Commercial Overlay (HCO). According to the applicant, the currently structure houses an antique store which is a permitted use. The applicant states the addition/new structure will contain a new preservation and research facility for the Aurora Colony Historical Society used to consolidate and improve ongoing work for collecting, analyzing and repairing historical artifacts. Staff finds the proposed use meets AMC 16.22.020.E. "cultural exhibits and library services" and is a permitted use in the zone.

According to the Marion County assessor, the existing structure was built in 1910 and includes an approx. 1599 sq. ft. of main floor and 1,000 sq. ft. of unfinished basement (the applicant also provides existing total square footage similar to the Assessor's office in Exhibit B). The applicant proposes an approx. 5,773 sq. ft. two-story addition to the rear (west) of the existing structure with on-site improvements to include paved walkways and a secondary access/driveway off of Martin Street.

Staff finds the property and proposal meet the HCO zone requirements for lot depth, width, and height. AMC 16.22.040.D. states, "no front setbacks shall be permitted, except as necessary to maintain visual

clearance areas. The existing structure is setback approximately 20 feet from the front property line and is considered a pre-existing non-conforming structure to the zero front setback requirement. No rear or side setbacks are required in the zone.

The existing structure is also identified in the Aurora Historic Building Inventory as Resource #89 (Exhibit C) and has a Secondary Significant classification.

AMC section 17.040.020.A. governs additions to contributing commercial structures (which applies to the existing structure/subject property as follows:

1. New additions may only be placed on the rear elevation. Architectural detailing including roofing, siding, trim, doors, and windows shall match the existing structure in design and materials unless supported by evidence in the historic inventory.
2. Previous additions to the original structure that were added prior to 1921 shall be subject to the same standards and criteria as the original portion of the structure; however, in the event that the addition does not match the original, the exterior features of the addition may be altered to match the original.
3. Additions to contributing structures that were built in 1921 or later may be removed, and following removal, the exterior materials on that portion of the structure must match the remainder of the structure.
4. Additions to commercial structures are exempt from the parking requirements in Title 16.

Staff believes requiring new construction be placed in front of the historic structure or parallel to the existing would be in conflict with AMC 17.040.020 and staff finds the proposed addition to the rear of the historic structure satisfies both AMC section 16 and 17.

AMC 16.22.040.I states all properties, uses, and structures in the historic commercial overlay shall be subject to the requirements of Title 17, Historic Preservation. The Aurora Historic Review Board (HRB) reviewing the application at a July 28, 2016 meeting and comments from the HRB are included under Exhibit D. Recommended conditions of approval from the HRB are included as recommended conditions of approval in this report.

Staff finds the proposed addition and site improvements can meet the requirements of AMC Title 16 and Title 17- Historic Preservation, with conditions.

- B. Buildings shall be located to preserve topography and natural drainage and shall be located outside areas subject to ground slumping or sliding;*

FINDINGS: Exhibit B provides a contour map of the property, as well as the location of the existing structure and proposed new construction. The contour map shows a slope change of approx. 12 feet from the east to west portions of the proposed new construction. The proposed construction does not propose grading and is proposed to be built into the existing grading/slope. Storm water and drainage are addressed under criteria N. below for public improvements in compliance with public works standards.

Staff finds this criterion is met.

- C. Privacy and noise;*

1. *Buildings shall be oriented in a manner which protects private spaces on adjoining residential properties from view and noise;*

2. *On site uses which create noise, lights, or glare shall be buffered from adjoining residential uses;*

FINDINGS: The subject property abuts the Historic Commercial Overlay (HCO) property to the north, south and Main Street to the east and abuts Martin Street and the urban growth boundary and city limits to the west. Staff finds this criterion does not apply.

D. Residential private outdoor areas:

FINDINGS: Staff finds this criterion does not apply.

E. Residential shared outdoor recreation areas:

FINDINGS: Staff finds this criterion does not apply.

F. Shared outdoor recreation space shall be readily observable for reasons of crime prevention and safety;

FINDINGS: The applicant proposes new sidewalks/pathways to connect the existing structure to the new construction and a propose connection to the property to the north. No other recreation/outdoor space is proposed. Staff finds this criterion does not apply.

H. Demarcation of public, semipublic, and private spaces;

FINDINGS: Staff finds this criterion does not apply as the space is private, commercial property.

I. Crime prevention and safety:

1. In residential developments, interior laundry and service areas shall be located in a way that they can be observed by others;

2. Mail boxes shall be located in lighted areas having vehicular or pedestrian traffic;

3. Exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime;

4. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be places at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person.

FINDINGS: Criteria I.1 and I.2 are related to residential development and found not to apply. 16.42.050.B. requires any lighting used to illuminate off-street parking areas to be arranged so as not to project light rays directly upon any adjoining residential property. While the property does not abut residential property, staff recommends a lighting plan in conformance with the above criteria be submitted for City review and approval prior to final occupancy permit approval. The lighting plan must also show that lighting shall not reflect onto surrounding properties. This is included as a recommended conditional of approval.

J. Access and circulation;

1. *The number of allowed access points for a development shall be as determined by the City Engineer in accordance with standard engineering practices for city rights-of-way, as determined by Marion County for county rights-of-way, and as determined by the Oregon Department of Transportation for access to Highway 99E.*
2. *All circulation patterns within a development shall be design to accommodate emergency vehicles.*

FINDINGS: At the time of this staff report, comments from the Aurora Rural Fire District had not been received. The property fronts on Main Street and a secondary access is proposed off of Martin Street, which is currently graveled. The Aurora Transportation System Plan (TSP) identifies Martin Street as a local street, requiring a pavement width of 34 feet. According to the applicant, the new structure will house two full-time employees who currently have office space at another location.

The proposed expansion is not expected to generate 25 or more peak hour trips or 250 or more daily trips and a Traffic Impact Analysis (TIA) was not required by the City Engineer.

A recommended condition of approval requires Aurora Rural Fire District review and approval of the structural permit application and access prior to final City of Aurora permit approval.

Staff finds this criterion can be met, with conditions.

K. Public transit;

FINDINGS: Access to the property is via Main Street. No transit stops abut or are adjacent to the subject property nor or any identified as needed. Staff finds this criterion does not apply.

L. All parking and loading requirements shall be design in accordance with the requirements set forth in Chapter 16.42.

FINDINGS: Parking shall be in conformance with the AMC 16.22 for the historic commercial overlay zone and Title 17-Historic Preservation. AMC 16.22.040.F. states, "Parking shall be in accordance with Chapter 16.42 except as specifically exempted by Chapter 16.28 and Title 17, and should be located to the rear of the building. AMC 17.40.020.A.4. and 17.40.110 states, "Additions to commercial structures are exempt from the parking requirements in Title 16". Staff finds parking is not required and the applicant does not provide for additional parking on-site.

No ADA parking is shown on the proposed site plan. Staff recommends the Planning Commission defer to the building inspector to determine whether ADA parking is required on site. If ADA parking is provided or required, it shall be constructed in accordance with the Oregon Structural Specialty Code, in conformance with AMC 16.42.100. This is included as a recommended condition of approval.

16.42.050.A. states, "All parking and maneuvering surfaces shall have a durable, hard and dustless surface such as asphalt, concrete, cobblestone, unit masonry, scored and colored concrete, grasscrete, compacted gravel, or combinations of the above". The applicant does provide a driveway access to the rear of the new structure, to provide access off of Martin Street to the open storage area via a garage door. In accordance with AMC 16.42.050.D., the proposed driveway access to the rear shall be required to

receive review and approval by the City Engineer and Public Works prior to occupancy permit approval. This is included as a recommended condition of approval.

Criteria under 16.42.050.B-I. contain requirements for service drives and/or residential developments and are found not to apply to the subject property and application.

Staff finds this criterion can be met, with conditions.

M. All landscaping shall be designed in accordance with the requirements set forth in Chapter 16.38.

FINDINGS: The Historic Commercial Overlay (HCO) zone requires compliance with 16.38 and Title 17. AMC 16.38.020.C.1 requires commercially zoned properties up to twenty thousand (20,000) square feet to have at least fifteen (15) percent of the total lot area landscaped. According to the site plan and application, the subject property shows approx. 3,650 sq. ft. or 34% landscaping upon completion of the proposed improvements. Staff finds this criterion is met.

AMC 16.38.50.D. requires refuse containers or disposal area and service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area, shall be screened from view by placement of a solid wood fence, masonry wall or evergreen hedge between five and eight feet in height. According to the applicant, the HVAC equipment will be screened with an evergreen hedge between 5'-8' at maturity. The applicant states garbage and recycling will be housed within the lower level building. Staff recommends inclusion of screening of refuse containers, disposal areas and service facilities be screened in compliance with 16.38.050.D be included as a condition of approval.

If landscaping improvements exceed \$2,500, review and approval by the Historic Review Board (HRB) is also required in conformance with AMC 17.04.050.B.2. This is included as a recommended condition of approval.

N. All public improvements shall be designed in accordance with the requirements of Chapter 16.34.

FINDINGS: The subject property is generally considered developed. Extension/sizing of water, sewer, or storm drainage improvements are required to comply with Chapter 16.34 and the City of Aurora public works design standards and City of Aurora and State of Oregon development, building and fire codes. This is included as a recommended condition of approval.

At the time of this staff report, staff did not have comments from the city engineer or city public works.

The Aurora Transportation System Plan (TSP) identifies Martin Street as a local street requiring 34 feet of paving. Due to the use of the proposed structure predominately for storage, staff does not recommend half-street improvement requirements for Martin Street along the rear frontage.

Rather, AMC section 16.34.030.A.2. states subject to approval by the Planning Commission, “the City may accept and record a non-remonstrance agreement in lieu of street improvements if the following conditions exist:

- a. A partial improvement creates a potential safety hazard to motorists or pedestrians; or
- b. Due to the nature of existing development on adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity”.

Staff finds that Martin Street, running one block in total length and serving 6 or fewer properties, would not serve a significant improvement to the safety, capacity or service to the subject property were half-street improvements required.

However, AMC section 16.34.030.A.3. states, subject to approval by the Planning Commission, “the City may accept a payment in lieu of street improvements. To propose a payment in lieu of street improvements, the applicant shall prepare an engineering estimate for the costs of engineer, design and construction of the required frontage improvements. City staff will review and approve the engineering cost estimate and calculate the payment in lieu of street improvements. The payment in lieu of street improvements will generally be set at two-thirds of the estimated cost. Payment in lieu of street improvement funds collected by the City will be used to pay for improvements within public rights of way within the Aurora city limits”.

As it is unlikely that a non-remonstrance agreement will ever be called upon by the City or in the creation of a local improvement district for Martin Street, staff recommends the Planning Commission require payment in lieu of half street improvements as permitted under AMC 16.34.030.3. This is included as a recommended condition of approval.

Additional right-of-way dedication is not required by the TSP.

Staff does not believe the subject Site Development Review application will require completion of a Traffic Impact Analysis (TIA) as the proposed application is not determined by staff to result in more than 25 peak hour trips or 250 or more vehicle trips per day as specified in the TSP. At the time of writing of this staff report, the City did not have comments from the city engineer on the subject application. The subject property is exempt from parking requirements in compliance with AMC 17.40.020.A.4. and 17.40.110.

Staff finds this criterion can be met, with conditions.

In compliance with 16.34.080.A and B., sanitary sewers shall be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth by the City’s public works design standards and the adopted policies of the comprehensive plan. The City Engineer

shall approve all sanitary sewer plans and proposed systems prior to issuance of development permits involving sewer service. This is included as a recommended condition of approval.

In compliance with 16.34.090.A., the City Engineer and Public Works Director shall issue permits only where adequate provisions for storm water and floodwater runoff have been made. All storm water analysis and calculations shall be submitted for review and approval prior to structural permit approval. This is included as a recommended condition of approval.

In compliance with 16.34.100, the City Engineer and Public Works Director shall issue permits only where provisions for municipal water system extensions have been made. Any water system extension shall be designed in compliance with the comprehensive plan existing water system plans. This is included as a recommended condition of approval.

In compliance with 16.34.140, prior to beginning any construction, the applicant shall assure the completion and maintenance of improvements by securing a bond, or placing cash in escrow, an amount equal to one hundred twenty-five (125) percent of the estimated cost of the improvements. Further, the applicant shall execute an agreement with the City Attorney regarding the repair, at the applicant's expense, of any public facilities damaged during development.

O. All facilities for handicapped shall be designed in accordance with the requirements set forth in the ADA requirements;

FINDINGS: The subject application includes new construction which will be subject to Oregon Structural Specialty Code and all City of Aurora and State of Oregon ADA requirements. This is included as a recommended condition of approval. Staff finds this criterion can be met, with conditions.

P. All of the provisions and regulations of the underlying zone shall apply.

FINDINGS: Staff finds the applicant can meet the zone criteria under the HCO and can meet the criteria for Site Development Review approval, with recommended conditions of approval. The application meets the side and rear yard setbacks and meets the height limitation of 35 feet. While the application does not meet the zero front yard setback, the applicant is proposing new construction to be complementary and subordinate to the existing historic structure. Staff finds the uses proposed are listed as permitted uses in the zone.

Staff finds this criterion is met.

V. CONCLUSIONS AND RECOMMENDATIONS

Based on the findings in the staff report, staff recommends that the Planning Commission **APPROVE** the for Site Development Review (SDR-2016-03) with the following conditions:

- 1) Develop the subject property in accordance with plans approved by the city.
- 2) Comply with City of Aurora and State of Oregon development, building and fire codes in effect at the time of *building permit application*, including AMC 16.34 for extension/sizing of water, sewer, or storm drainage improvements.
- 3) As recommended by the Aurora Historic Review Board, railings for the proposed development shall be made of wood or wrought iron; roofing materials shall be review and approved by the HRB prior to structural permit application; a landscape plan shall be reviewed and approved by the HRB prior to occupancy permit approvals; and prior to any demolition permit approvals, structures proposed for demolition shall be dated and documented in writing and submitted to the HRB for records retention.
- 4) A lighting plan in conformance with AMC 16.58.100.C.2. and 16.58.100.I.3-4. shall be submitted for City review and approval prior to building permit approval. The lighting plan shall also show that lighting will not reflect onto surrounding properties. The approved lighting plan shall be installed *prior to final occupancy permit approval*.
- 5) Aurora Rural Fire District review and approval of the structural permit application and access shall be required *prior to final City of Aurora structural permit approval*.
- 6) If ADA parking is provided or required, it shall be constructed in accordance with the Oregon Structural Specialty Code, in conformance with AMC 16.42.100.
- 7) In accordance with AMC 16.42.050.D., the proposed driveway access to the rear shall be required to receive review and approval by the City Engineer and Public Works *prior to occupancy permit approval*.
- 8) Screening of refuse containers, disposal areas and service facilities shall be screened in compliance with 16.38.050.D., *prior to occupancy permit approval*.
- 9) If landscaping improvements exceed \$2,500, review and approval by the Historic Review Board (HRB) is also required in conformance with AMC 17.04.050.B.2.
- 10) In compliance with AMC 16.34.030.A.3, the City shall require payment in lieu of half street improvements to Martin Street along the frontage of the subject property.
- 11) In compliance with 16.34.080.A and B., sanitary sewers shall be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth by the City's public works design standards and the adopted policies of the comprehensive plan. The City Engineer shall approve all sanitary sewer plans and proposed systems *prior to issuance of development permits* involving sewer service.
- 12) In compliance with 16.34.090.A., the City Engineer and Public Works Director shall issue permits only where adequate provisions for storm water and floodwater runoff have been made.

All storm water analysis and calculations shall be submitted for review and approval *prior to structural permit approval.*

- 13) In compliance with 16.34.100, the City Engineer and Public Works Director shall issue permits only where provisions for municipal water system extensions have been made. Any water system extension shall be designed in compliance with the comprehensive plan existing water system plans.
- 14) In compliance with 16.34.140, *prior to beginning any construction*, the applicant shall assure the completion and maintenance of improvements by securing a bond, or placing cash in escrow, an amount equal to one hundred twenty-five (125) percent of the estimated cost of the improvements. Further, the applicant shall execute an agreement with the City Attorney regarding the repair, at the applicant's expense, of any public facilities damaged during development.

VI. PLANNING COMMISSION ACTION

- A. Approve the site development review application (SDR 2016-03) for new construction of an approx. 5,773 sq. ft. two-story structure to the rear of the existing structure and on-site improvements including paved walkways and a secondary access/driveway off of Martin Street:
 1. As recommended by staff, or
 2. As determined by the Planning Commission stating how the application satisfies all the required criteria, and any revisions to the recommended conditions of approval, or
- B. Deny the request for site development review approval for SDR 2016-03 stating how the application does not meet the applicable approval criteria.
- C. Continue the hearing to a time certain or indefinitely (considering the 120-day limit on applications).

Fire will need to do review prior to permit issuance since we had no comments prior to this meeting. Planner Wakeley recommends not to require half street improvements along the frontage. Later under recommendation would be payment instead of improvements the payment would be 2/3 of the estimated cost. Exempt from parking requirements criteria L. Criteria M Landscaping is met however on pg 6 the code does state that anything over 2500.00 in landscaping would require approval of the Historic Review Board. Criteria N Wakeley has submitted a revised staff report to include City Engineers comments regarding underground injection for storm drain run off. Commissioner Fawcett asks as to who maintains them and that would be the property owner. Wakeley states this is a 5,000 square foot structure and although the impact is minimal we don't know what it could be used for in the future. Wakeley also clarifies that in her original report she had stated additional right away was not required however that is not correct so I want to correct that.

Chair Schaefer asks if there are any Doland Findings? Making a financial determination based on use. Wakeley and Schaefer discuss proposed use and want the financial determination is per Doland findings. Wakeley states again this is a 5,000 square foot structure and we don't know what it could be used for in the future. Wakeley no there are no Doland findings in the staff report. Wakeley summarizes the Doland findings. There is a discussion regarding nexus and Schaefer is concerned that we charge too much. Schaefer states that Federal Law is clear and this impactation is just not there. He asks if everyone can agree on this and no one says anything except staff states no comment. Staff and applicant acknowledge that there will be trips to the site and will be an impact. Wakeley still

recommends a fee instead of improvements. I (Wakeley) also do not recommend a right away dedication. (For a full recap of the conversation please refer to the recording) Staff continues recap of the staff report.

Guy Sperb, Vice Chair Aurora Colony Society, thanks the Planning Commission approximately 10 years ago we began the strategic plan to build a facility to take care of our history all of which require climatic control to care for our artifacts. This site will not be open to the public it will only house our artifacts. Once the facility is filled up and running really there won't be a lot of people coming and going. We have contracted with Iselin Architect and Jessica Iselin. We have gone through the Historic Review Board which I believe you have their comments regarding the project.

Schaefer asks the applicant what there take on the impacts would be for the site, would you prefer a fee or half street improvements. This is not going to be a money maker so as cost effectively as possible. We will be tasked with fundraising for the dollars to move forward. Staff was not aware this project wasn't ready to go and informs them they could apply for an extension otherwise it is good for 2 years and then staff can approve an extension for 2 years.

- Schaefer asks of the Octagon building will remain and the applicant states yes.
- Schaefer what did you think about our code update of title 17 and the applicant stated that they thought it was a good update.
- The applicant formally requests a waiver of fee and right away improvements.

PUBLIC HEARING CLOSES AT 8:05 PM

There is more of the same type of discussion points as previously mentioned in the minutes regarding impact and use. Staff's recommendation remains the same.

The following are the proposed changes. As moved by Commissioner Rhoden Feeley and is seconded by Commissioner Fawcett. Motion Passes.

- a) Adopted the additional comments from John Ashley, City Engineer, on proposed condition of approval #2 regarding the approval of a potential Underground Injection Control (UIC) system, and
- b) Removed condition #10 for payment in lieu of street improvements.

7. NEW BUSINESS

- a) Discussion and or Action on Code Revisions List. Not really a discussion just look at the items there could be a text amendment next month and I don't want to confuse the issues together.
 - Airport Overlay Concerns- Remove definitions of what the airport overlay and how to define it; 16.24.050.B.
 - Discussion on vacation of portions of 2nd Street near Christ Lutheran Church- ROW is approximately 90 feet wide, no longer complies with TSP, and is wider than will be developed in the future.
 - Storm water (AMC 16.34) – Discussion on storm water ponds and PC concerns regarding ongoing maintenance. Feedback from public works and city engineer required to update public works design standards as well. Require underground storm water detention and/or city owned larger ponds?

- AMC 16.82.010 Enforcement. It shall be the duty of the City Recorder, or other designee of the City Council, to enforce this title. All city and county staff vested with the duty or authority to issue permits shall conform to the provisions of this title and shall issue no permit, certificate or license for any use, building, property or purpose (unless you apply for everything to bring the property into compliance), which violates or fails to comply with conditions or standards imposed by this title or conditions of approval adopted in compliance with this title. Any permit, certificate or license issued in conflict with the provisions of this title, intentionally or otherwise, shall be void.

OR

- require an application completeness provision in code sections: Application submission requirements- for SDR, SUB, etc. add, "If there are any unauthorized activities occurring on the property, any land use application must be accompanied by all land use applications necessary to bring property into compliance for all existing and proposed uses on the property."
- AMC 16.72.060 "Application submission requirements--Final plat. Unless otherwise provided in Section 16.72.020, the applicant shall submit final plat and two copies to the planning director within two years which complies with the approved tentative plan". Make sure this means conditions of approval of the tentative subdivision plat approval need to be met within those two years. 16.78.150B. states, "The approval for a property line adjustment, partition or subdivision shall lapse if:1.A property line adjustment map or final plat has not been signed and recorded with the County within a two-year period"
- AMC 16.62.050.A. Discontinuance states, "Except for single-family residential uses which shall be continued by right, if a nonconforming use involving a structure is discontinued from active use for a period of one year, further use of the property or structure shall be a conforming use, except as provided in subsection C of this section".
- Add language on expedited land divisions in partition and subdivision sections in compliance with new Oregon Revised Statute 197.360.
- AMC 16.44 – remove references to "off-premise" signage in compliance Oregon LUBA cases.
- AMC 16.58.020.G. remove reference to, "Any proposed development which has a valid conditional use approved through the conditional use permit application process" shall not be required to under Site Development Review.

There were various discussion points on the above list and it was decided to continue the discussion next month. Main item that Schaefer wanted added to the list is annexation processes to line up with State law.

8. OLD BUSINESS

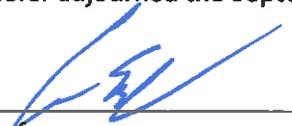
- a) Discussion Regarding Zoning Practices for Tiny Houses. Schaefer this is an article regarding tiny houses and how they fit into the zoning rule.
- b) Discussion Regarding additional information from FEMA Notice of Federal Land Use Change for Biological Opinion. Nothing new at this point.
- c) Hydraulic project approval opinion from Washington and the fish and wildlife how close to water do you have to get before you go through the hydraulic process, does the statute regulate, attorney general 9.5 pages opinion, authority is limited to activity at or below high water line. You can limit PG 10 for rest of the opinion.

9. COMMISSION/DISCUSSION

- a) City Planning Activity (in your packets) Status of Development Projects within the City.
- **Discussion regarding the potential 2nd marijuana business within the 1000 foot buffer zone. City Council gave them a month to submit its application for text amendment.**

10. ADJOURN

Chair Schaefer adjourned the September 6, 2016 Aurora Planning Commission Meeting at 9:03 P.M.



Chair Schaefer

ATTEST:



Kelly Richardson, CMC
City Recorder



September 14, 2016

City of Aurora
Kelly Richardson
21420 Main St
Aurora, OR 97002

RE: WaveDivision Holdings, LLC (“Wave Broadband”); Rate Adjustment Notice

We are providing the following details in compliance with the 30-day advanced notification of an adjustment to rates under the applicable FCC regulations and the requirements of our franchise with the City of Aurora. Wave Broadband will be adjusting the retail price of some of its video services starting October 17th, 2016.

The monthly rates for the following services will be adjusted: Expanded Content (also known as Basic Cable), and any packages including that service, will increase by \$5.11. Digital Channel Tiers including Digital Favorites and Digital Sports will increase by \$1.00 and \$1.75 respectively. Also, premium channel tiers will increase as follows: HBO by \$2.00, Cinemax by \$1.50, SHOWTIME by \$1.00 and STARZ by \$1.00. Our Digital Paquete (if available in your area) will increase by \$2.00. These rate changes are exclusive of franchise fees, regulatory fees, and other governmentally imposed charges.

This rate adjustment is the direct result of annual programming cost increases from TV networks owned by A&E Networks, AMC Networks, CBS Corporation, Discovery Communications, Disney/ESPN, FOX Cable Networks, HBO, NBCUniversal, Scripps Networks Interactive, SHOWTIME, Turner Networks, Viacom, regional sports programmers and independent channel providers.

Additionally, the local TV Stations’ fee will be adjusted to reflect the increasing fee local broadcast stations charge Wave for the right to carry their signals. The local TV Stations’ fee will increase by \$1.46.

These rate changes are exclusive of franchise fees, regulatory fees, and other governmentally-imposed charges. Customers will receive detailed information covering the rate changes with their billing statement.

At Wave Broadband, we work hard to establish the best channel selection for our customers and communities while balancing rapidly increasing programming costs. We will continue to invest in our network to bring customers the latest technologies, enhancing their service experience, at very competitive prices.

Please contact me directly with any questions.

Sincerely,

EVP Broadband Services





Eleanor C. Beatty
Linda P. Kendrick *
Weisha R. Mize

*Licensed in OR and WA

September 20, 2016

To our valued clients,

We are excited to inform you of the recent changes that have taken place in our office. As I'm sure many of you are aware, Dennis Koho has retired from the practice of law. We are sorry to see him go, but wish him the best in the future. As a result of his retirement, we have changed our name to Keizer Law, P.C. We are still in the same location; we have the same contact information, and the same great staff, with one new addition.

Linda Kendrick has passed the Oregon Bar Exam and will continue to serve clients in the areas of government law, small business advising, disability, and administrative law in Oregon and Washington. Linda assisted Dennis for the past three years and is eager and able to manage those cases independently going forward. As an existing client, you have the choice of staying with this firm and continuing to work with Linda, or finding new representation. If you choose to seek alternate representation, we will either return your original documents and any money in trust to you or forward them to your new attorney.

Weisha Mize has joined our office as a partner after 34 years of public service including serving the State as an Administrative Law Judge for water law and special education cases, and as an agency representative for construction contractor cases. She plans on expanding her practice areas to include LGBT issues, family law, and government law. We are thrilled that Weisha has joined our team and look forward to working with her for many years to come.

We look forward to continuing to serve our clients in the Willamette Valley in a wide variety of legal areas. If you have any questions or concerns regarding these changes, please do not hesitate to contact us.

Sincerely,

Keizer Law, P.C.
Attorneys at Law

PETER A. DeFAZIO
4TH DISTRICT, OREGON

TRANSPORTATION AND
INFRASTRUCTURE
RANKING MEMBER



Congress of the United States House of Representatives

September 15, 2016

PLEASE RESPOND TO:

- 2134 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3704
(202) 225-6416
- 405 EAST 8TH AVENUE, #2030
EUGENE, OR 97401
(541) 465-6732
1-800-944-9603
- 125 CENTRAL AVENUE, #350
COOS BAY, OR 97420
(541) 269-2609
- 612 SE JACKSON STREET, #9
ROSEBURG, OR 97470
(541) 440-3523
- defazio.house.gov

Barry Thom, Administrator
West Coast Region National Marine Fisheries Service
7600 Sand Point Way NE Bldg 1
Seattle WA 98115-0070

Dear Mr. Thom:

Several communities in Southwestern Oregon are having difficulty getting environmental work approved by the National Marine Fisheries Service (NMFS) office in Roseburg. According to my constituents, the Roseburg NMFS office is applying stringent standards with excessive requirements for routine approvals of projects funded with federal grants and loans, and the Roseburg office is not coordinating with state agencies. These hurdles have slowed the review process and added significant time and costs to numerous projects. I am concerned that communities in my Congressional District are being asked to adhere to standards that are more stringent than the standards required in other parts of the state.

The formal review process instituted by the Roseburg NMFS office is derailing some projects and delaying others. For example, the City of Brookings was ranked number one in the state to receive a Clean Water State Revolving Fund (CWSRF) loan in 2015, but declined to pursue the project. The decision not to move forward was based, in part, on questions raised by NMFS about direct storm water impacts from construction and the potential future impacts if the project led to growth in the city. Similarly, the City of Coos Bay's wastewater treatment plant consultation over a CWSRF loan stretched to a full year and accrued additional costs when NMFS requested Coos Bay adopt a city-wide storm water management plan that the city did not think was appropriate. NMFS ultimately withdrew this request, but the lengthy delay was expensive.

Community Development Block Grant (CDBG) recipients and recipients of U.S. Department of Agriculture Rural Development grants have raised similar concerns about NMFS requirements to make a determination on whether a project is "Likely" or "Not Likely to Adversely Affect" endangered species.

In Reedsport, much needed safety upgrades for a boat ramp were delayed for two years and additional costs incurred because of the considerable time it took for NMFS to approve a mitigation site for the minimal impacts of the project. Initial estimates for the mitigation costs exceeded that of the project itself.

In Brookings, a vital Head Start project has been delayed by a year and continues to incur costs because project sponsors were forced to hire an engineer with hydrological expertise to fill out NMFS forms related to stormwater impact. The engineer went through three revisions with NMFS staff. The project still faces uncertainty as potential NMFS requirements would push the project cost beyond the amount secured through a Community Development Block Grant.

When NMFS got involved with the City of Drain long after the city had set aside adequate funding for environmental work, an additional \$20,232 in studies was required. The city had to pay for the studies with critical funds already earmarked for other priorities, and these studies ultimately did not change the project in any way. The city is also being forced to complete additional testing for zinc and copper on possible inflow and infiltration runoff and to design a bio-swale and stormwater plan for site runoff of their proposed wastewater treatment plant. These requirements are contrary to the phased-in schedule determined to be appropriate by the Environmental Protection Agency (EPA) and the State of Oregon's Department of Environmental Quality (DEQ) for requiring National Pollution Discharge Elimination System (NPDES) permits for stormwater projects. The bio-swale and testing will create additional costs that must be absorbed by the city because they are not covered by the CDBG funds. The added costs and the delay of one year before construction can take place will be detrimental to this small rural city.

The DEQ and EPA phased in the NPDES requirements to allow small cities more time to determine how best to approach the requirements currently applied to larger urban areas. Communities that need to access federal funds to make much needed improvements should not be held to standards stronger than the DEQ and EPA recommendations.

The Roseburg NMFS office's involvement in numerous projects in my district has driven up costs and caused unacceptable project delays in several communities. If communities do not upgrade their wastewater treatment facilities for fear of unexpected cost overruns due to NMFS involvement, untreated wastewater and stormwater will continue to flow into rivers. This will have a negative impact on endangered salmon, and NMFS will fail in its primary goal to protect them. Meanwhile, DEQ will be forced to fine communities for failing to make upgrades because NMFS derailed infrastructure projects needed to protect endangered species and the health and safety of rural communities. Delaying and/or derailing these key projects also jeopardizes the economic health of rural communities in my district.

I urge your office to undertake an immediate critical review of these restrictive policies to ensure the infrastructure needs of small, rural communities can be met while protecting endangered species.

Sincerely,



PETER DeFAZIO
Member of Congress

PAD:DW

Memorandum

MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

105 HIGH STREET S. E. SALEM, OREGON 97301-3667

TELEPHONE: (503)588-6177

FAX: (503)588-6094

TO: Aurora City Commission
FROM: Renata Wakeley, City Planner
RE: Legislative Amendment 2016-01 (LA-16-01)
DATE: October 5, 2016

REQUESTED ACTION

The City Council's options for taking action on Legislative Amendment 16-01 include the following:

- A. Adopt the findings in the staff report and adopt Legislative Amendment 16-01:
 1. As presented by staff and recommended by the Planning Commission; or
 2. As amended by the City Council (stating revisions).
- B. Take no action on Legislative Amendment 16-01.
- C. Continue the public hearing:
 1. To a time-certain, or
 2. Indefinitely.

BACKGROUND

In January 2016, the Aurora City Council adopted Ordinance 480 amending the Commercial and Industrial zone codes to adopt reasonable time, place, and manner restrictions on marijuana related businesses, including a restriction on marijuana grow sites and/or processing sites requiring a 1000-foot buffer between other marijuana businesses (established at the time of initial permit application).

The public hearings and staff reports related to the adoption of Ordinance 480 can be found in file #LA-2015-01.

On August 18, 2016, the City of Aurora received an application to amend the Industrial zone code (Section 16.16) to remove the 1,000-foot buffer requirement between marijuana businesses (See Exhibit B).

The following sections of the Aurora Municipal Code (AMC) are proposed for amendment:

- 16.16 Industrial

Legislative Amendment 16-01 includes the draft code amendments to the Aurora Municipal Code. The revisions are attached in a **bold** and ~~striketrough~~ format for review purposes (see Exhibit A).

FINDING OF FACT AND CONCLUSIONS

Staff and the Aurora Planning Commission, after careful consideration of the testimony and evidence in the record, adopted the following Findings of Fact and Conclusions:

1. In accordance with the post-acknowledgement plan amendment process set forth in Oregon Revised Statute 197.610(1), the City Planner submitted the draft proposed amendments to the Oregon Department of Land Conservation and Development on September 12, 2016, 23-days prior to the first evidentiary hearing and 30-days prior to the City Council hearing tentatively scheduled for October 11, 2016.
2. Amendments to the Aurora Municipal Code, Comprehensive Plan, and/or Maps are considered Legislative Amendments subject to 16.80.20. Staff finds the application is subject to section 16.80.020 as a Legislative Amendment as the applicant proposes a change to the Industrial zone code for all industrial properties within the City of Aurora that applies to a broad class of people and a variety of factual situations and any change would be an expression of local government policy rather than a closely circumscribed factual situation or a relatively small number of impacted parties. As such, legislative amendment application shall be processed in accordance with the procedures and standards set forth in AMC 16.74-Procedures for Decision Making-Legislative. A legislative application may be approved or denied.
3. AMC 16.74.030 outlines notice requirements. At least ten days prior to the first public hearing, the City shall publish notice in a newspaper of general circulation. The notice of the planning commission and city council hearings was published in the Canby Herald on September 21, 2016, at least 10 days prior to the scheduled October 4, 2016 Planning Commission hearing. In addition, owners of industrially zoned properties within the Aurora urban growth boundary were mailed notice of the pending application on September 21, 2016.
4. Proposed amendments for consideration of legislative changes to the provisions of the Comprehensive Plan, implementing ordinances and maps are a legislative action. Section 16.74 calls for amendments to the Development Code to be processed as a recommendation by the Planning Commission and the decision by the City Council.
5. AMC 16.74.060 includes the standards for decision of Legislative Amendments as outlined under FINDINGS below.
6. The Planning Commission reviewed the proposed legislative amendments at their October 4, 2016 public hearing and recommended the City Council adopt LA-2016-01 after their October 11, 2016 public hearing via a vote of 5-1.

FINDINGS

In accordance with 16.74.060.A., the recommendation by the Planning Commission and the decision by the Council shall be based on consideration of the following factors:

1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes (ORS) Chapter 197;

FINDINGS: Goal 1, Citizen Involvement: A public hearing on the proposed amendments is scheduled before the Planning Commission on October 4, 2016 and a second hearing is scheduled before the City Council on October 11, 2016. Notice was posted at City Hall and published in the Canby Herald. Owners of industrially zoned properties within the Aurora urban growth boundary were mailed notice of the pending application on September 21, 2016. The staff report was available for review one week prior to the Planning Commission and City Council hearings. This is consistent with City procedures. Staff and the Planning Commission found Goal 1 is met.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the acknowledged AMC for processing of legislative amendment applications to the zoning ordinance. Goal 2 generally supports clear and thorough local procedures. Staff and the Planning Commission found Goal 2 is met.

Goal 3, Agricultural Lands and Goal 4, Forest lands are found not to be applicable.

Goal 5, Open Spaces, Natural Resources, and Historic Areas: The proposed amendments do not affect regulations within the Aurora Historic District nor does it affect open spaces or natural resources. Goal 5 does not apply.

Goal 6, Air, Water and Land Resource Quality: Goal 6 is not applicable. The proposal does not address Goal 6 resources.

Goal 7, Natural Hazards: Goal 7 is not applicable. The proposal does not address Goal 7 resources.

Goal 8, Recreational Needs: Goal 8 is not applicable. The proposal does not address Goal 8 resources.

Goal 9, Economic Development: The draft code amendments responds to an application received from a tenant on an industrially zoned property. According to the applicant, the removal of the 1000-foot buffer from other marijuana related businesses would benefit the City's economic development by increasing potential city revenue via increased business and potential taxation and would promote employment and business opportunities in the industry. Staff and the Planning Commission found Goal 9 is met.

Goal 10, Housing: Goal 10 is not applicable. The proposal does not address Goal 10 resources.

Goal 11, Public Facilities and Services: Goal 11 is not applicable. The proposal does not address Goal 11 issues.

Goal 12, Transportation: Goal 12 is not applicable. The proposal does not address Goal 12 issues.

Goal 13, Energy Conservation: Goal 13 is not applicable as the code amendments address permitted uses under State law on properties already zoned for industrial development. The proposal does not address Goal 13 resources.

Goal 14, Urbanization: Goal 14 is not applicable. The proposal does not address Goal 14 issues as the proposed code amendment applies to existing industrially zoned properties within the City limits and permissible uses within these zones.

ORS 197 does not include specific notice requirements for legislative processes but the City met all noticing requirements under AMC for Legislative Amendments. ORS 227.186, more commonly known as Measure 56 notice, does not apply as the proposed amendment does not reduce permissible uses of properties in the affected zones. Owners of industrially zoned properties within the Aurora urban growth boundary were mailed notice of the pending application on September 21, 2016.

2. Any federal or state statutes or rules found applicable;

FINDINGS: Staff finds the adoption actions are consistent with Oregon Revised Statute 197.610(1) for notice to the Department of Land Conservation and Development. Measure 56 notice was not required as the proposed amendments do not reduce permissible uses on industrial lands. Notice of the proposed code amendment was mailed to all industrial zoned property within the urban growth boundary.

Beyond the State-imposed and regulated standards for marijuana related facilities, jurisdictions are permitted to adopt reasonable time, place and manner restrictions to meet the intent of their development code and comprehensive plans. Proposed amendments to address these new regulations and to further clarify the locations of specific facilities were adopted via Ordinance 480 and include buffers from schools and daycares; prohibiting marijuana related businesses from being adjacent to residential zones, parks or churches; limiting hours of operation; and requiring a conditional use permit application and approval.

According to the applicant, the additional requirement for a 1000-foot buffer between marijuana related businesses is unnecessary as it does not provide additional protections against security threats nor does it maintain higher livability standards for residents. The applicant also states the AMC already contains fair and thoughtful provisions to safeguard the City's livability and limits the marijuana industries footprint upon the City via other conditional use permit criteria and because of the State of Oregon's existing security standards, the AMC buffer requirement is unnecessary.

Staff and the Planning Commission found the City may amend the Industrial zone code to remove the 1000-foot buffer requirement and still meet applicable state statutes related to marijuana grow and processing sites and this criterion is met.

3. The applicable comprehensive plan policies and map; and

The applicable Aurora Comprehensive Plan Goals align with the Statewide Planning Goals and associated policies as outlined under FINDINGS, subsection A.1 above. Staff and the Planning Commission found the proposed amendment to the industrial zone code can meet this criteria, as outlined under subsection A.1 above.

4. The applicable provisions of the implementing ordinances.

FINDINGS: The draft code amendment responds to request from a property owner and tenant of industrially zoned property. The proposed code amendment is not found to deter employment or business opportunity but rather to clarify locations of a permitted conditional use in the industrial zone and allow for greater economic uses of industrial properties while maintaining the permitted and conditional uses in the zone, and the zone development and design standards.

Staff and the Planning Commission found the proposed code amendment can be adopted in compliance with the implementing ordinances as the proposed code amendment does not proposed to amend the development or design standards of the applicable zone or other requirements of the Aurora Municipal Code. Staff and the Planning Commission found this criterion is met.

In accordance with 16.74.060.B., consideration may also be given to proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.

FINDINGS: Staff and the Planning Commission found there was no change in circumstance, mistake or inconsistency in the comprehensive plan or implementing ordinances. Rather, the proposed code amendment is a result of an application for zone text amendment from Lovena Green Farms. In accordance with AMC 16.74.020.A.5, an owner of property or contract purchaser may apply for a zone code text amendment. The application is signed by the property owner of record. Staff and the Planning Commission found this criterion does not apply.

EXHIBIT A Aurora Municipal Code (AMC) section 16.16- Industrial zone code proposed amendments

EXHIBIT B Zoning Ordinance Amendment application

Chapter 16.16

I INDUSTRIAL ZONE

Sections:

- 16.16.010 Purpose.
- 16.16.020 Permitted uses.
- 16.16.030 Conditional uses.
- 16.16.040 Development standards.

16.16.010 Purpose.

The land designated as industrial is the only area capable of accommodating anticipated economic development activities that are non-retail in nature. With its excellent transportation access, this area provides the opportunity for land-intensive commercial business, such as lumber yards or equipment sales and service, as well as lumber yards or equipment sales and service, as well as manufacturing. (Ord. 415 § 7.65.010, 2002)

16.16.020 Permitted uses.

In the I zone, all uses are subject to site development review, Chapter 16.58. Only the following uses and their accessory uses are permitted:

- A. Agricultural supplies;
- B. Nurseries, greenhouses, and landscaping supplies requiring outside storage including wholesale or retail;
- C. Cabinet or carpentry shop;
- D. Research services;
- E. Retail facilities on sites greater than one hundred thousand (100,000) square feet;
- F. Manufacturing of finished products excluding all processes involving the refining or rendering of fats or oils;
- G. Manufacturing of components for use in finished products excluding all processes involving the refining or rendering of fats or oils;
- H. Packaging of previously processed materials;
- I. Participation sports and recreation: indoor and outdoors;
- J. Processing and packing of food products excluding all processes involving the refining or rendering of fats or oils;
- K. Processing of previously processed materials for use in components or finished products excluding all processes involving the refining or rendering of fats or oils;
- L. Processing of materials for use in any construction or building trades;
- M. Public support facilities;
- N. Tire retreading or vulcanizing;
- O. Major impact utilities including telecommunications facilities subject to Chapter 16.50;
- P. Warehouse and wholesale distribution and sales;
- Q. Welding, sheet metal or machine shop;

- R. Eating or drinking establishments;
- S. Parking structure or lot or storage garage;
- T. Printing or publishing plant;
- U. Veterinary office or animal hospital;
- V. Service station, car wash, motor vehicle, farm implement, boat or trailer rental, sales or services including body repairs;
- W. Machinery repair;
- X. Transportation terminals and storage yards;
- Y. Participation sports and recreation, indoor and outdoor. (Ord. 415 § 7.65.020, 2002)

16.16.030 Conditional uses.

The following uses and their accessory uses may be permitted when authorized by the planning commission in accordance with the requirements of Chapter 16.60, other relevant sections of this title and any conditions imposed by the planning commission:

- A. Child day care facility, licensed by the state;
- B. Junkyard or wrecking yard screened from adjacent streets;
- C. Commercial amusement facilities including bowling alleys, video arcades, and movie theaters other than adult motion picture theaters;
- D. Home occupations (Type II) subject to Chapter 16.46;
- E. Recycle stations, provided that a ten (10) foot perimeter setback containing both externally visible landscaping meeting buffering standards and solid screening surrounds the property, all operations are conducted entirely within buildings, and all building setbacks shall be a minimum of thirty (30) feet from any property line. (Ord. 415 § 7.65.030, 2002)

F. Marijuana grow site and/or marijuana processing site subject to the following standards:

1. Buffers which shall only be measured at the initial land use application and not subsequent annual renewals:
 - a. Elementary, middle or high school, public or private: 1000 feet
 - b. Day care: 1000 feet
 - ~~c. Other marijuana businesses: 1000 feet~~
 - d. ~~c.~~ May not be adjacent to a residential zone, a public park, or a church.
2. The use must be located within a permanent, enclosed structure.
3. The use may not be allowed as a home occupation.
4. Applicant and all employees must pass a criminal background check.
5. The term of a conditional use approval may not exceed one year.
6. Waste materials containing any amount of marijuana or by products must be locked in a secure container on-site.
7. Hours of operation are limited to 10 am to 5 pm.
8. Drive through windows are prohibited.

16.16.040 Development standards.

A. There is no minimum size for lots or parcels served by municipal sewer. Minimum sizes for lots or parcels without municipal sewer shall be as determined by the county sanitarian.

- B. There is no minimum lot width or depth.
- C. Unless otherwise specified, the minimum setback requirements are as follows:
 - 1. There is no minimum front yard setback except as required for buffering of off street parking in accordance with Section 16.38.050.
 - 2. On corner lots, the minimum setback for the side facing the street shall be ten (10) feet.
 - 3. No additional side or rear yard setback shall be required except fifty (50) feet screened and buffered in accordance with Chapter 16.38 shall be required where abutting a residential zoning district.
- D. No building shall exceed fifty (50) feet in height. Within one hundred (100) feet of a residential zone, no building shall exceed thirty-five (35) feet in height. All buildings greater than thirty-five (35) feet in height are subject to Chapter 16.24.
- E. Landscaping shall be in accordance with Chapter 16.38. All outside storage areas require buffering and screening as defined in Chapter 16.38.
- F. Parking shall be in accordance with Chapter 16.42.
- G. All properties located outside the designated historic commercial overlay and the historic residential overlay and adjacent to Highway 99 or Ehlen Road shall be collectively referenced as "gateway properties." The standards of Chapter 16.56 shall apply to all aspects of the site including, but not limited to, structural facade, yard and landscaping that are immediately adjacent to and visible from Highway 99 or Ehlen Road.
- H. Additional requirements shall include any applicable section of this title. (Ord. 415 § 7.65.040, 2002)

August 16, 2016



Aurora City Hall
City Recorder
Kelly Richardson
21420 Main St. NE
Aurora, OR 97002

Re: Request for Zoning Ordinance Text Amendment

Dear Kelly:

This office represents Lovena Green Farms ("Lovena"), the tenant at property located at 14633 Ottaway Road NE, Building C in the City of Aurora. On behalf of Lovena, enclosed please find our application for an amendment to the text of Aurora Development Code Section 16.16.030(F)(1)(c). The proposed zoning ordinance text amendment would remove the 1,000-foot buffer requirement between marijuana production facilities. Please also find enclosed our check #1481 in the amount of \$3,000.00 for the application fee deposit.

Please process this application, and please let me know if you have any questions or require additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. Celko".

Corinne S. Celko
Attorney

City of Aurora Planning/Development Application

(Check appropriate box)

- | | |
|--|---|
| <input type="checkbox"/> SITE DEVELOPMENT REVIEW (AMC 16.58)
<input type="checkbox"/> FLOOD PLAN DEV PERMIT (AMC 16.18)
<input type="checkbox"/> HISTORIC OVERLAY DISTRICT (AMC 16.20-16.22)
<input type="checkbox"/> Certificate of Appropriateness
<input type="checkbox"/> Demolition Permit
<input type="checkbox"/> Sign Review
<input type="checkbox"/> MANUFACTURED HOME PARK (AMC 16.36)
<input type="checkbox"/> COMPREHENSIVE PLAN AMENDMENT (AMC 16.80)
<input type="checkbox"/> Text <input type="checkbox"/> Map
<input checked="" type="checkbox"/> ZONING ORDINANCE AMENDMENT (AMC 16.80)
<input checked="" type="checkbox"/> Text <input type="checkbox"/> Map | <input type="checkbox"/> CONDITIONAL USE (AMC 16.60)
<input type="checkbox"/> VARIANCE (AMC 16.64)
<input type="checkbox"/> HOME OCCUPATION (AMC 16.46)
<input type="checkbox"/> Type I <input type="checkbox"/> Type II
<input type="checkbox"/> NON-CONFORMING USE (AMC 16.62)
<input type="checkbox"/> LAND DIVISION
<input type="checkbox"/> Subdivision (AMC 16.72)
<input type="checkbox"/> Partition (AMC 16.70)
<input type="checkbox"/> Property Line Adjustment (AMC 16.68)
<input type="checkbox"/> APPEAL TO _____ (AMC 16.74-16.78)
<input type="checkbox"/> OTHER _____ |
|--|---|

APPLICANT GENERAL INFORMATION

Applicant LOVENS Green Farms Phone (503) 915-6535
 Mailing Address 1317 SE 14th AVE CANBY, OR 97013
 Property Owner Stems Properties Phone 503 702 7713
 Mailing Address PO Box 560 Aurora OR 97002
 Contact person if different than applicant Urrant Killo Phone (503) 467-0396
 Mailing Address 605 SW Broadway, Suite 2400 Portland, OR 97205

PROPERTY DESCRIPTION

Address 19633 Offaway Rd. NE Clatsop Tax Map # 4-1W-13B Tax Lot # 1700 & 1702
 Legal Description (attach add'l sheet if necessary) see attached sheet

Total Acres or Sq. Ft. 4.14 Existing Land Use Warehouse
 Existing Zoning Industrial Proposed Zoning (if applicable) N/A
 Proposed use Manufacturing Production Facility

ACTION REQUESTED: (use additional sheets as needed) See attached sheet. Letter dated August 9, 2016

Remove 1,000 sq ft of existing structure between manufacturing production facilities

ATTACHMENTS:

- A. Plot plan of subject property- show scale, north arrow, location of all existing and proposed structures, road access to property, names of owners of each property, etc. Plot plans can be submitted on tax assessor maps which can be obtained from the tax assessor's office in the Marion County Courthouse, Salem OR
 B. Legal description of the property as it appears on the deed (metes and bounds) This can be obtained at the Marion County Clerk's office in the Marion County Courthouse, Salem OR

ADDITIONAL INFORMATION

In order to expedite and complete the processing of this application, the City of Aurora requires that all pertinent material required for review of this application be submitted at the time application is made. If the application is found to be incomplete, review and processing of the application will not begin until the application is made complete. The submittal requirement relative to this application may be obtained from the specific sections of the Aurora Municipal Code pertaining to this application. If there are any questions as to submittal requirements, contact the City Hall prior to formal submission of the application.

In submitting this application, the applicant should be prepared to give evidence and information which will justify the request and satisfy all the required applicable criteria. The filing fee deposit must be paid at the time of submission. This fee in no way assures approval of the application and is refundable to the extent that the fee is not used to cover all actual costs of processing the application.

I certify that the statements made in this application are complete and true to the best of my knowledge. I understand that any false statements may result in denial of this application. I understand that the original fee paid is only a deposit and I agree to pay all additional actual costs of processing this application, including, but not limited to, all planning, engineering, City attorney and City administration fees & costs. I understand that no final development approval shall be given and/or building permit shall be issued until all actual costs for processing this application are paid in full.

Signature of Applicant [Signature] Date 8/15/16
 Signature of Property Owner Stems Properties [Signature] Date 8/15/16

Office Use Only: Received By <u>8/18/16 VR</u> Date: _____ Fee Paid \$ <u>3,000</u> # <u>1481</u>
Receipt # _____ Case File # _____ Planning Director Review _____ Date: _____
Last updated 6-14-2010

Legal Description for
14633 Offaway Road

A tract of land for public utilities and appurtenances over the following described portion of Parcel 2 of Partition Plat No. 1992-54, a duly recorded partition in the City of Aurora, Marion County, Oregon

Beginning at the northwest corner of said Parcel 2 of Partition Plat No. 1992-54, which corner lies on the easterly right of way line of the Union Pacific Railroad right of way and is the true point of beginning; Thence running along said westerly line of Parcel 2, South 35°, 00', 00" West 124.74 feet to an angle point; Thence continuing along said westerly line South 34°, 30', 00" West, 45.26 feet to a point which bears a total of 170.00 feet from the point of beginning; Thence leaving said westerly line and running South 55°, 30', 00" East, 15.00 feet to a point; Thence running parallel to the aforementioned westerly line North 34°, 30' 0" East, 45.26 feet to an angle point; Thence running parallel to said westerly line North 35°, 00' 00" East approximately 135 feet to a point on the north line of the aforementioned Parcel 2; Thence running along said north line North 89°, 19' 00" West approximately 18 feet to the aforementioned northwest corner of Parcel and the true point of beginning. Containing approximately 2.625 feet.

*SMETCO, INC.
DESIGN REVIEW
VICINITY MAP*

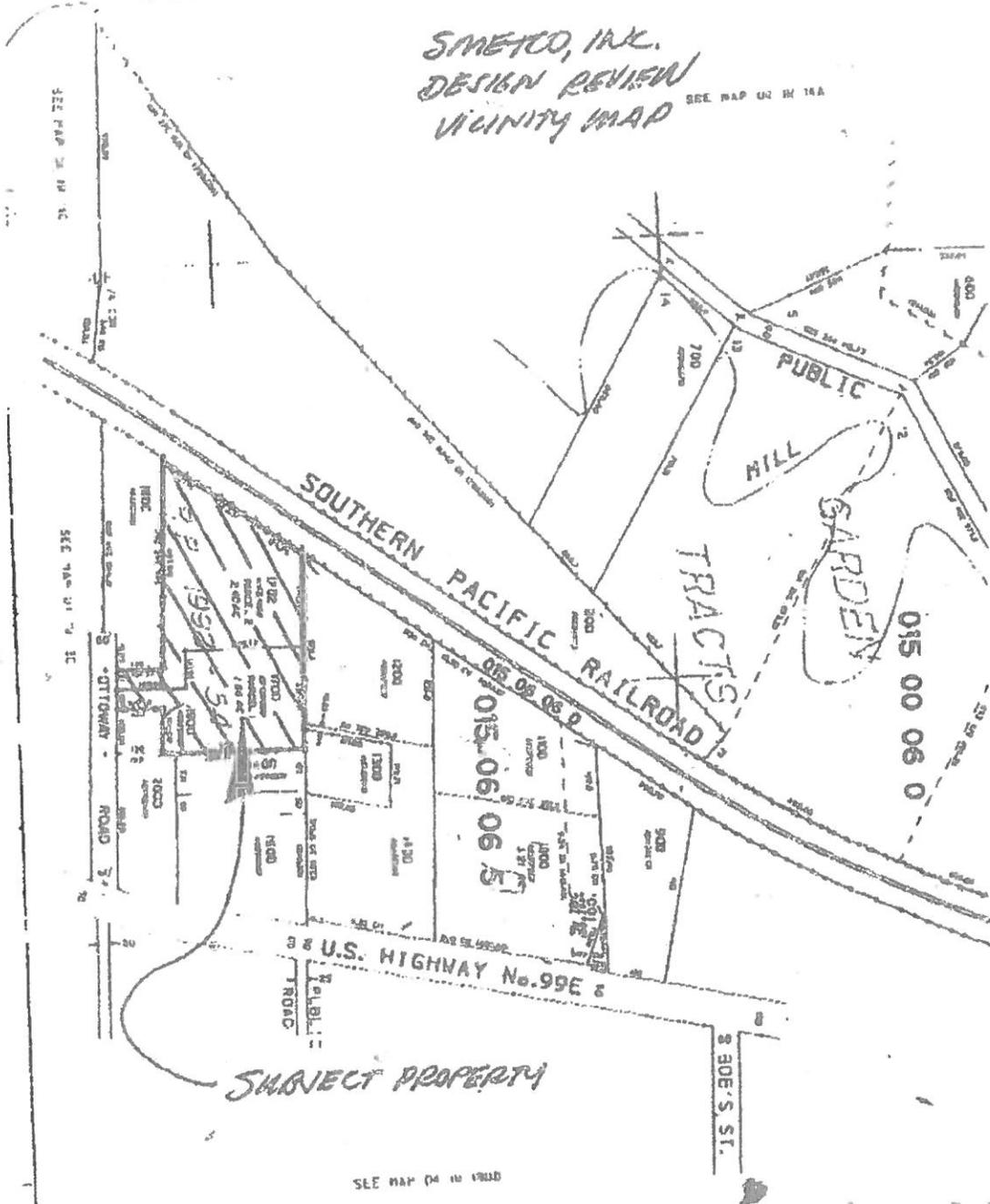


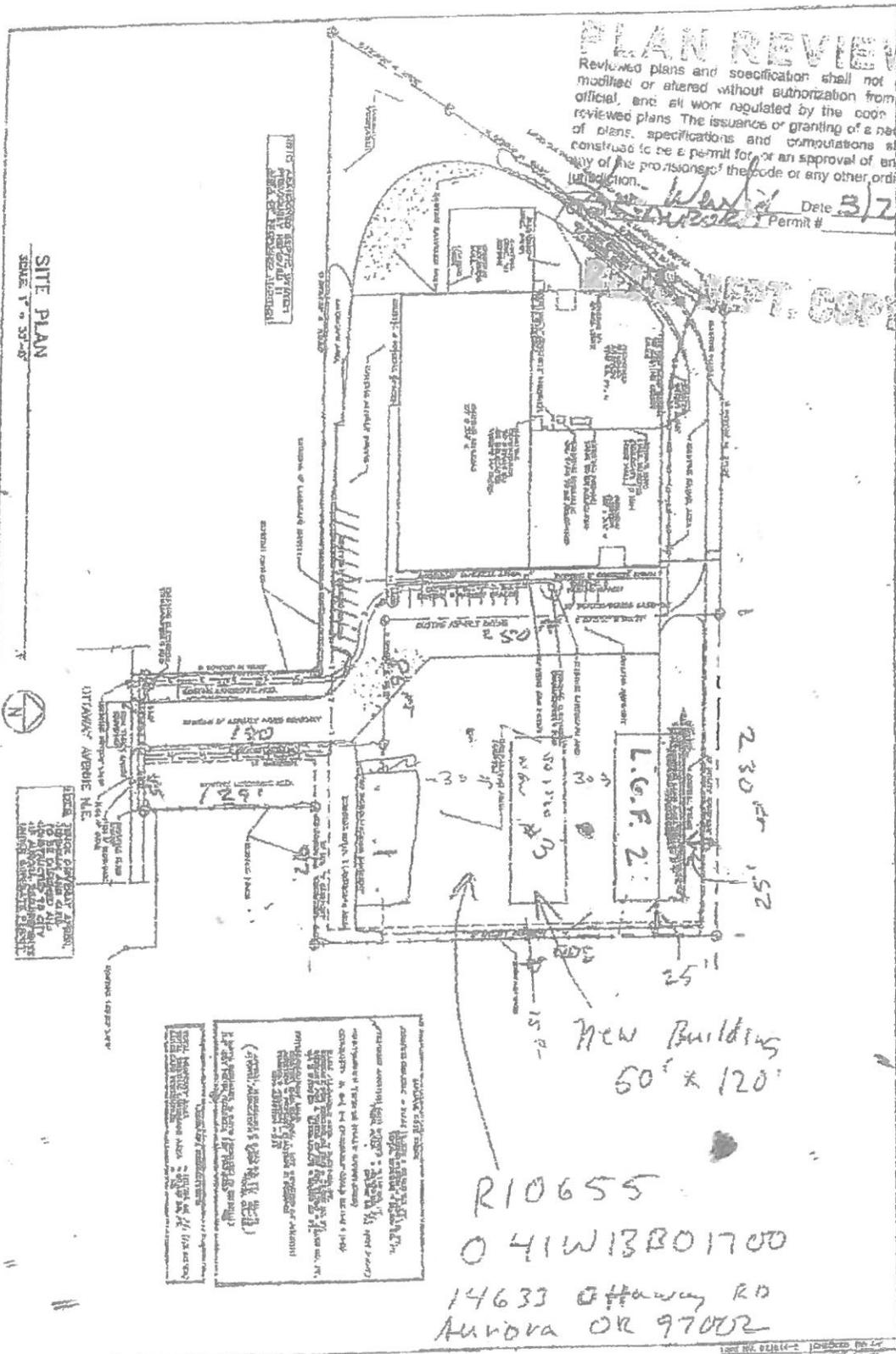
EXHIBIT A
PAGE 1 OF 11

Exhibit B4

PLAN REVIEWED

Reviewed plans and specification shall not be changed, modified or altered without authorization from the building official, and all work regulated by the code shall be in reviewed plans. The issuance or granting of a permit or review of plans, specifications and computations shall not be construed to be a permit for, or an approval of any violation of any of the provisions of the code or any other ordinance of the jurisdiction.

Worked Date 3/28/14
 Permit # 14633



SITE PLAN
 SCALE: 1" = 30'-0"



UTTAHWAY AVENUE N.E.
 14633 OTTAWAY AVENUE N.E.
 AURORA, OREGON 97002

NOTICE TO CONTRACTOR
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT AND OTHER AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT AND OTHER AGENCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT AND OTHER AGENCIES.

New Building
 50' x 120'
 R10655
 041W13B01700
 14633 Ottawa RD
 Aurora OR 97002

	SITE PLAN SNETCO NORTHWEST ADDITION 14633 OTTAWAY AVENUE N.E. AURORA, OREGON FOR: SNETCO, INC.		CHECKED BY: [Signature] DATE: [Date]
			DATE: [Date]

August 9, 2016

Bill Graupp, Mayor
City of Aurora
PO Box 100
Aurora, OR 97002

Re: Ordinance 480, City of Aurora Municipal Code 16.16.030(F)(1)(c)

Dear Mayor Graupp and City Councilors:

This office represents Lovena Green Farms LLC ("Lovena"). Lovena leases property at 14633 Ottaway Rd NE, Building C (the "Property"), which is zoned for industrial use. Lovena has applied for a recreational marijuana producer license from the Oregon Liquor Control Commission ("OLCC"). In support of its application, Lovena attempted to conform to recently adopted City Ordinance 480 by obtaining a conditional use permit in accordance with Aurora Municipal Code 16.16.030, but was thwarted from doing so when the neighboring property was leased to another marijuana grow operation. That operation's owner had already obtained a conditional use permit. Under Code 16.16.030(F)(1)(c), Lovena can no longer obtain a permit because of the City's 1000-foot buffer requirement between marijuana production facilities and all other marijuana businesses.

The 1000-foot buffer requirement is unnecessary because the State of Oregon already requires its marijuana business applicants to take stringent measures to protect against potential security threats and maintain high livability standards for nearby residents. Also, the buffer requirement inhibits Aurora's economic development contrary to Oregon's State Planning Goal 9 and prevents the City from maximizing its tax revenue under the State's marijuana tax regime. The purpose of this letter is to request that the City Council initiate a code amendment to repeal Code Subsection 16.16.030(F)(1)(c).

As you know, the City Council adopted Ordinance 480 on January 12, 2016. We understand that the Planning Commission issued a staff report upon which the Council based its decision to adopt the Ordinance. However, the staff report did not articulate any specific concerns about indoor marijuana production facilities that would be alleviated by 1,000-foot buffers from other marijuana businesses. Furthermore, as articulated below, the buffers are unnecessary to maintain security and livability within the City, and the requirement actually inhibits the City's economic development.

Notably, the State has already implemented a strong and effective regulatory system for marijuana businesses, with primary goals including security, and livability. Under State law, there are no distance requirements for marijuana producers (grow sites). The only distance requirements under State law are for marijuana dispensaries and retailers, which are considered more prone to access by minors and other security concerns. For this and the other reasons articulated below, we respectfully request that the City Council amends its Municipal Code to remove the buffer requirement for marijuana grow sites.

Security

Under the U.S. Deputy Attorney General's memo to federal prosecutors, dated August 29, 2013

August 9, 2016

Page 2

(the "Cole Memo"), it was determined that jurisdictions which have enacted laws legalizing marijuana and which have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, should not be subject to federal enforcement efforts because such jurisdictions are less likely to threaten federal enforcement priorities. The Cole Memo is attached for your convenience.

In order to comply with the Cole Memo, the State of Oregon, through the OLCC, established rigorous standards for recreational marijuana producers. These standards require producers to secure their facilities through the use of comprehensive surveillance and alarm systems. The State requires that these systems consist of a combination of cameras, motion sensors, and alarms, which will ensure that any person inside or directly outside the facility is monitored and identified. The State also requires that commercial-grade locks are used on every external door to the facility. These security requirements were enacted to ensure that any unauthorized person may not enter the facility, even if they are license holders from nearby marijuana businesses. If individuals manage to access the facility illegally, the video and alarm systems will ensure that they are swiftly caught or identified for future apprehension.

Because of strong and effective security standards mandated by the State, the Municipal Code's buffer requirement is unnecessary.

Livability

We understand that the City may be concerned with marijuana grow sites' impact on livability for residents. However, the City may address these concerns through less onerous measures than the 1000-foot buffer requirement. Aurora's Municipal Code already contains fair and thoughtful provisions that safeguard the City's livability and limit the marijuana industry's footprint. As you know, the Code prohibits any grow site from locating adjacent to a residential zone. It also requires sites to locate within permanent, enclosed structures. The OLCC further reinforces these limitations by requiring all marijuana producers to completely shield their operations from public view and adhere to strict advertising restrictions. These measures strongly ensure that grow site operations, regardless of proximity to each other, stay out of public view.

As with any new commercial enterprise, the City may also be concerned about increases in traffic on nearby streets. But, in contrast to most industrial undertakings, marijuana grow sites require very little vehicular activity. Modern grow sites are largely automated and require only a few employees on hand at any given time, and marijuana grow sites do not allow any customers. Multiple grow sites within 1000 feet of each other would therefore pose slight, if any, increases in traffic.

Economic Development

If the City repeals the 1000-foot buffer rule, it will benefit the City's economic development by bringing its zoning plan more closely in line with Statewide Planning Goal 9 and increasing City revenue from the Oregon Marijuana Account.

Statewide Planning Goal 9

Oregon's Statewide Planning Goal 9: Economic Development ("the Goal" or "Goal 9"), OAR 660-015-0000(9), requires local plans and policies "provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens." An excerpt of the Goal is attached for your convenience. Under the Goal, plans for urban areas must "[p]rovide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies." Planning Guideline 4 for the Goal calls for plans to "strongly emphasize the

expansion of and increased productivity from existing industries and firms as a means to strengthen local and regional economic development.”

In its Legislative Amendment 2015-02 staff report, dated December 8, 2015, the Aurora Planning Commission found that the proposed code amendments (Ordinance 480) as they pertain to Goal 9 did not “deter employment or business opportunities,” but instead allowed “for greater economic uses on commercial and industrial properties . . .” The report also noted that the applicable Aurora Comprehensive Plan Goals align with the Statewide Planning Goals and associated polices outlined in its Findings.

By allowing marijuana production sites in Industrial-zoned areas generally, the City indeed promotes employment and business opportunities for this new growth industry. However, the inclusion of the 1000-foot buffer requirement inhibits Goal 9 because it unnecessarily limits the number of marijuana production facilities in Industrial-zoned areas without a demonstrated increase in security or livability. Should the Council pass an amendment repealing Subsection (F)(1)(c), the Municipal Code would comply more fully with Goal 9. Specifically, the City would provide a more adequate supply of sites for industrial marijuana production and more strongly emphasize the expansion of, and increased productivity from, the burgeoning recreational and medical marijuana industries.

Tax Benefits for the City

By allowing recreational marijuana grow sites to locate within 1000 feet of each other in Industrial-zoned areas, the City will increase its tax revenue from the recreational marijuana industry. Section 44, chapter 1, Oregon Laws 2015 provides for the establishment of the Oregon Marijuana Account (“the Account”), which is funded by the total collected statewide cannabis tax revenue. Please see the attached copy of the Note following ORS 475B.760. After January 1, 2017, 10 percent of the Account’s funds will be distributed to Oregon cities – half based on the proportion of recreational marijuana dispensaries in each city as compared to the total number of dispensaries statewide and half based likewise on the proportion of recreational producers, wholesalers, and processors located in each city. Therefore, by maximizing the number of recreational marijuana establishments within City limits, including production facilities, Aurora will maximize the amount of funds distributed to it from the Account. Conversely, by limiting the number of recreational marijuana producers (and other marijuana businesses) within City limits by virtue of the 1000-foot buffer rule, the City unnecessarily limits the funds it can receive from the Account.

Conclusion

Although we share the City’s concerns, for the reasons stated above, we believe that the State and City development standards encourage the City to permit marijuana production facilities in Industrial-zoned areas within 1000 feet of other marijuana businesses. The City will also benefit financially from the provision’s removal. We additionally believe that such an amendment will not inhibit security or livability within the City. Not only is the distance requirement unnecessary to support such needs, but it also creates a barrier to entry into this new industry and prevents well-suited industrial land, such as Lovena’s leased property, from being utilized for legal and beneficial marijuana production. Therefore, we respectfully request that you initiate a code amendment to repeal Municipal Code 16.16.030(F)(1)(c).

Sincerely,



Corinne S. Celko

Attachments
cc: Client

475B.760 Suspense account; payment of expenses; crediting balance to Oregon Marijuana Account. (1) All moneys received by the Department of Revenue under ORS 475B.700 to 475B.760 and section 21a, chapter 699, Oregon Laws 2015, shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for the administration and enforcement of ORS 475B.700 to 475B.760 and section 21a, chapter 699, Oregon Laws 2015, out of moneys received from the tax imposed under ORS 475B.705. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account.

(2) After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the department shall credit the balance of the moneys received by the department under this section to the Oregon Marijuana Account established under section 44, chapter 1, Oregon Laws 2015. [2015 c.699 §11]

Note: Section 44, chapter 1, Oregon Laws 2015, provides:

Sec. 44. (1) There is established the Oregon Marijuana Account, separate and distinct from the General Fund.

(2) The account shall consist of moneys transferred to the account under section 11 of this 2015 Act [475B.760].

(3) Subject to subsection (4) of this section, the Department of Revenue shall certify the amount of moneys available for distribution in the Oregon Marijuana Account and distribute the moneys as follows:

(a) Forty percent must be transferred to the Common School Fund;

(b) Twenty percent must be transferred to the Mental Health Alcoholism and Drug Services Account established under ORS 430.380;

(c) Fifteen percent must be transferred to the State Police Account established under ORS 181.175 [renumbered 181A.020];

(d) To assist local law enforcement in performing its duties under sections 3 to 70, chapter 1, Oregon Laws 2015 [475B.010 to 475B.395], 10 percent must be transferred to the cities of this state in the following shares:

(A) For all distributions made from the Oregon Marijuana Account before July 1, 2017, in such shares as the population of each city bears to the population of the cities of this state, as determined by Portland State University last preceding such apportionment, under ORS 190.510 to 190.610; and

(B) For all distributions made from the Oregon Marijuana Account on or after July 1, 2017:

(i) Fifty percent of the 10 percent must be transferred in such shares as the number of licenses issued by the commission under sections 19 to 21, chapter 1, Oregon Laws 2015 [475B.070, 475B.090 and 475B.100], during the calendar year preceding the date of the distribution for premises located in each city bears to the number of such licenses issued by the commission during such calendar year for all premises in this state; and

(ii) Fifty percent of the 10 percent must be transferred in such shares as the number of licenses issued by the commission under section 22, chapter 1, Oregon Laws 2015 [475B.110], during the calendar year preceding the date of the distribution for premises located in each city bears to the number of such licenses issued by the commission during such calendar year for all premises in this state;

(e) To assist local law enforcement in performing its duties under sections 3 to 70, chapter 1, Oregon Laws 2015, 10 percent must be transferred to counties in the following shares:

(A) For all distributions made from the Oregon Marijuana Account before July 1, 2017, in such shares as their respective populations bear to the total population of this state, as estimated from time to time by Portland State University; and

(B) For all distributions made from the Oregon Marijuana Account on or after July 1, 2017:

(i) Fifty percent of the 10 percent must be transferred in such shares as the number of licenses issued by the commission under sections 19 to 21, chapter 1, Oregon Laws 2015, during the calendar year preceding the date of the distribution for premises located in each county bears to the number of such licenses issued by the commission during such calendar year for all premises in this state; and

(ii) Fifty percent of the 10 percent must be transferred in such shares as the number of licenses issued by the commission under section 22, chapter 1, Oregon Laws 2015, during the calendar year preceding the date of the distribution for premises located in each county bears to the number of such licenses issued by the commission during such calendar year for all premises in this state; and

(f) Five percent must be transferred to the Oregon Health Authority to be used for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services.

(4) A city or county that adopts ordinances prohibiting the establishment of a premises for which a license is issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, or prohibiting the establishment of an entity for which registration is required under ORS 475.300 to 475.346 [renumbered 475B.400 to 475B.525], is not eligible to receive distributions under this section.

(5) It is the intent of the Legislative Assembly that the moneys distributed from the Oregon Marijuana Account to the persons listed in subsection (3) of this section are in addition to, and not in lieu of, any other moneys available to such persons. [2015 c.1 §44; 2015 c.699 §14; 2015 c.767 §219]

~~Exhibit~~ B10



The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole 
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation

Report from the Finance Officer
for October 11, 2016

- Revenue and expense report through August, the second month of fiscal year 2016-2017, is included. This report shows budgeted amounts and percent of budget received/spent.
- The ending bank balances at August 31, 2016 are:
 - Checking - \$ 105,504.90
 - LGIP - \$ 1,677,448.97
- I am currently preparing for the annual audit. The auditors will be in beginning October 18th.
- I will be attending the Oregon Government Finance Officers Association fall conference in Salem on October 24th, 25th, and 26th. They have several interesting sessions lined up including Governmental Accounting, Budgeting and Human Resources.
- Keeping current with payables and receivables.

Respectfully,



Mary C. Lambert

CITY OF AURORA - TREASURER'S REPORT Ending August 31, 2016

FUND	BUDGET	BALANCE @ July 1, 2016	TOTAL REVENUES	% TO DATE	BUDGET less contingency	TOTAL EXPENSES	% TO DATE	END BALANCE August 31, 2016	Year to Date Gains / (Losses)
10 GENERAL	952,994.00	453,600.24	30,191.47	5.14%	560,407.00	70,770.75	12.63%	413,020.96	\$ (40,579.28)
15 CITY HALL BUILDING	148,300.00	133,305.79	13,327.82	47.43%	148,300.00	0.00	0.00%	146,633.61	\$ 13,327.82
20 AURORA COLONY DAYS	25,700.00	11,411.97	7,765.00	30.21%	19,768.00	8,446.00	42.73%	10,730.97	\$ (681.00)
25 PARK RESERVE	1,157.00	1,149.74	1.73	11.53%	1,157.00	0.00	0.00%	1,151.47	\$ 1.73
29 PARK SDCs	49,815.00	42,776.91	63.95	0.40%	49,815.00	0.00	0.00%	42,840.86	\$ 63.95
30 STREET/STORM	284,850.00	153,530.54	13,457.99	12.84%	187,395.00	19,007.19	10.14%	147,981.34	\$ (5,549.20)
35 ST/STORM RESERVE	95,150.00	82,359.12	2,398.76	5.56%	95,150.00	0.00	0.00%	84,757.88	\$ 2,398.76
39 ST/STORM SDCs	60,670.00	48,961.15	73.18	0.18%	60,670.00	0.00	0.00%	49,034.33	\$ 73.18
40 WATER OPERATING	559,200.00	256,943.77	70,225.29	20.80%	350,042.00	70,239.06	20.07%	256,930.00	\$ (13.77)
45 WATER RESERVE	107,550.00	107,048.65	160.01	0.26%	107,550.00	0.00	0.00%	107,208.66	\$ 160.01
49 WATER SDCs	144,312.00	112,798.58	168.60	0.19%	144,312.00	0.00	0.00%	112,967.18	\$ 168.60
50 SEWER OPERATING	505,600.00	228,906.02	47,753.35	19.21%	337,634.00	49,965.52	14.80%	226,693.85	\$ (2,212.17)
55 SEWER RESERVE	94,300.00	96,282.82	142.13	0.37%	94,300.00	2,436.00	2.58%	93,988.95	\$ (2,293.87)
57 G. O. DEBT SERVICE	344,375.00	22,291.67	3,889.37	1.20%	344,375.00	0.00	0.00%	26,181.04	\$ 3,889.37
59 SEWER SDCs	51,603.00	43,366.25	64.82	0.23%	51,603.00	0.00	0.00%	43,431.07	\$ 64.82
TOTALS	3,425,576.00	1,794,733.22	189,683.47	10.10%	2,552,478.00	220,864.52		1,763,552.17	\$ (31,181.05)
								1,763,552.17	

City Council
Public Works Activity Report
October 2016

Waste Water:

- Working on return line from pump station 6 to head works, isolating from influent meter. (on-going)
- Transferring sludge to tanks

Water: Routine operation and maintenance.

- Wells are running 9.5 hours daily producing an average 170,000 gal per day. Total water production 5,253,000 Gallons. Well 5 is on.
- 5 Water meters installed / replaced.
- Water Rate Study
- Plan for future water supply

Streets: Routine operation and maintenance.

- Marking out storm water lines for master plan 80% complete
- Monitoring street lights.
- Catch basins cleaning.
- Trees are an issue in the business area for height over curbs.(will address after the growing season Late Aug)

Park:

- Hazardous trees to be removed (more will be taken down after Aug.).
- Park sprinklers are off.

Notice for Council

Administration

Public Works scheduling and planning for staff.

Budget on track for current 2016-2017

Respectfully: Darrel Lockard PWS

Public works project list

Storm water master plan (in process).

Waste water irrigation system (summer) in process.

Wastewater Ras return line to be installed

Fix tennis net

Water meters replacement (ongoing)

Memo

To: City Council
From: Kelly Richardson
CC: None
Date: 10/5/2016
Re: Recorders Report Month of September 2016 report

Activities and ongoing projects are as follows:

- ❖ Ongoing secretarial duties for the City Council and Planning and Historic Review Board, along with attending the meetings once a month.
 - .
- ❖ Attending Conference Committee And Records Committee Meetings
- ❖ Records Request update
 - 0 pending request
- ❖ Ongoing needs of the City, discussion items.
- ❖ Working on various items requested from last month meeting
 - **Council Procedures samples**
 - **Employee manual**
 - **IGA List**
- ❖ Working on various code violations;
 - **0 Letters went out in September**
- ❖ Working on finalization of Election Documents.
- ❖ Updating of website pages
- ❖ Working on analyzing various procedures.

RESOLUTION NUMBER 716

A RESOLUTION TO APPROVE AN ADDENDUM TO THE INTERGOVERNMENTAL AGREEMENT FOR JUDICIAL SERVICES AND TO AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT AND AMMENDS RESOLUTION 691.

WHEREAS, the City of Aurora has secured the services of a Court Judge; and

WHEREAS, that same Judge provides services to other cities in the area; and

WHEREAS, the Council has made it clear it's intent to have the Judge serve the City on a contractual basis,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA THAT: the City Council adopts the attached Inter-Governmental Agreement

Addendum; and BE IT FURTHER RESOLVED that the Mayor is authorized to sign the Agreement/Addendum.

ADOPTED by the Aurora City Council at a City Council meeting held on Tuesday, October 11, 2016, and is effective upon passage.

Dated this: 11th day of October, 2016

ATTEST

Bill Graupp, Mayor

Kelly Richardson, CMC City Recorder

APPROVED AS TO FORM:

City Attorney

**ADDENDUM TO
INTERGOVERNMENTAL AGREEMENT FOR MUNICIPAL JUDGE**

This is an addendum to the Intergovernmental Agreement (IGA) for Municipal Judge that was entered into, by and between the City of Hubbard, the City of Aurora, the City of Silverton, and the City of Mt. Angel, all of which are municipal corporations (the “Parties” or “Cities”).

The purpose of this addendum is to amend only certain sections of the original IGA to include the City of Gervais.

In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to the amendments as set forth below.

WITNESSED

WHEREAS, the City of Hubbard, Aurora, Silverton, Mt. Angel and Gervais have appointed Lori Coukoulis as either Municipal Judge or Municipal Judge Pro-tem;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained, herein the parties agree as follows:

1. Lori Coukoulis shall perform the duties of either Municipal Judge or Municipal Court Judge Pro-Tem as an independent contractor for the cities of Hubbard, Aurora, Silverton, Mt. Angel and Gervais as long as each individual city desires her to do so. Any city may remove Lori Coukoulis from her position without affecting her position with the other cities or the remainder of this agreement.

The Agreement as hereby amended shall take effect when it is signed by two parties and shall remain in effect as long as at least two parties that have signed the Agreement retain Lori Coukoulis as Municipal Court Judge or Municipal Court Judge Pro-Tem. Except as expressly modified by this amendment, the terms, conditions, covenants and performances of the Agreement shall remain unchanged and are hereby ratified and confirmed as being in full force and effect.

IN WITNESS WHEREOF, the Cities have caused this amendment to the Intergovernmental Agreement for Municipal Judge be signed and executed. Signed by the City of Gervais this 6th day of October, 2016.

[SIGNATURES ON FOLLOWING PAGE]

City of Hubbard

Title

City of Aurora

Title

City of Gervais

Title

City of Mt. Angel

Title

City of Silverton

Title

8.08.120 Trees, shrubs and bushes.

A. No owner or person in charge of property shall permit trees, shrubs, bushes, or other vegetation on their property to interfere with street or sidewalk traffic or with overhead utility lines.

B. It shall be the duty of an owner or person in charge of property abutting the right-of-way of an opened public street or a sidewalk to:

1. Keep all trees and shrubs on the premises trimmed so that any overhanging portions are at least eight feet above the sidewalk if it exists, or at least twelve (12) feet above the vehicular travel surface;
2. Keep tree limbs from blocking stop signs, street signs, or other signs;
3. Keep shrubs from growing out over the sidewalk or curb; and
4. Keep all vegetation within the vision clearance area specified for traffic safety in the zoning ordinance, or by the city police department, no more than three feet above the street level.

C. No owner or person in charge of property shall allow a dead or decaying tree stand that is a hazard to the public or to persons or property on or near the site of the hazardous tree. It shall be the duty of an owner or person in charge of property that abuts upon a public right-of-way to contact the city public works department and follow the city's instructions prior to trimming or removal of any tree in the right-of-way adjacent to that property. (Ord. 396 § 12, 1999)

8.08.130 Noxious vegetation.

A. As used in this section, the term "noxious vegetation" means vegetation left unmanaged which creates traffic visibility problems at intersections or poses a threat of conflagration that may endanger the safety and welfare of the community. Noxious vegetation includes:

1. Poison oak, poison ivy, night shade, and tansy;
2. Blackberry bushes, except when maintained as prescribed in subsection B of this section;
3. Any vegetation, including grass and weeds that:
 - a. Poses a fire hazard because it is dry and more than ten (10) inches high; and within one hundred (100) feet of a structure or opened public right-of-way, or within thirty (30) feet of other types of combustibles,
 - b. Encroaches onto an opened public right-of-way or across a property line,
 - c. Poses a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous,
 - d. Creates an unsafe area to which children may be attracted,
 - e. Is used for habitation by trespassers, or
 - f. Harbors rodents or other animals that pose a health threat to humans.

B. The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop unless that vegetation is determined to be a health, fire, or traffic hazard as defined above.

C. It shall be the duty of the owner or person in charge of property to cut down or destroy any noxious vegetation as often as needed to prevent the health and safety hazards described above.

D. No owner or person in charge of property abutting the right-of-way of an opened street or public sidewalk (whether part of a street easement or right-of-way or located on public land) shall permit vegetation to interfere with adjacent street or sidewalk traffic. In addition, vegetation shall not be permitted to impair the view of a public thoroughfare, extend into the sight triangle at any intersection, or otherwise make use of a thoroughfare hazardous. It shall be the duty of an owner or person in charge of such property to keep all vegetation trimmed so that any overhanging portions are at least twelve (12) feet above the vehicular travel surface (roadway). No person shall maintain vegetation in an opened public right-of-way within five feet of the travel surface, which hinders pedestrian traffic adjacent to the roadway, provided that the trimming or removal of trees on public property, easements or rights-of-way shall be the responsibility of the city. (Ord. 396 § 13, 1999)