

AGENDA

City of Aurora
PLANNING COMMISSION MEETING
Tuesday, August 05, 2014, 7:00 p.m.
Council Chambers
21420 Main Street N.E., Aurora, Oregon

1. **Call to Order of Planning Commission Meeting:**
2. **City Recorder Calls Roll**

Chairman, Schaefer
Commissioner, Willman,
Commissioner, Gibson
Commissioner, Graham,
Commissioner, Fawcett,
Commissioner, Weidman
Commissioner, Rhoden-Feely

3. **Consent Agenda**

All matters listed within the Consent Agenda have been distributed to each member of the Aurora Planning Commission for reading and study, are considered to be routine, and will be enacted by one motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the consent Agenda and placed on the Regular Agenda by request.

Minutes

- I. Aurora Planning Commission Meeting –July 01, 2014
- II. City Council Minutes – June, 2014
- III. Historic Review Board Minutes – Not ready at this time.

Correspondence

- I. **League of Oregon Cities Article on Medical Marijuana.**

4. **Visitor**

Anyone wishing to address the 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 Council could look into the matter and provide some response in the future.

5. **New Business**

- A. **Discussion and or Action on Interpretation INT-14-03**
- B. **Discussion and or Action on Main Street Program**
- C. **Discussion and or Action on Memo from HRB**

6. Old Business

A. Discussion and or Action regarding Medical Marijuana.

7. Commission Action/Discussion

A. City Planning Activity (not in Your Packets) Status of Development Projects within the City.

8. Adjourn,

Minutes
Aurora Planning Commission Meeting
Tuesday, July 01, 2014 at 7:00 P.M.
Aurora Commons Room, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

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

STAFF ABSENT: NONE

VISITORS PRESENT:

1. Call to Order of Planning Commission Meeting

The meeting was called to order by Planning Chair Joseph Schaefer at 7:00 p.m.

2. City Recorder Did Roll Call

Chairman, Schaefer -	Present
Commissioner, Willman	Present
Commissioner, Gibson	Present
Commissioner, Graham	Absent
Commissioner, Fawcett	Absent
Commissioner, Weidman	Present
Commissioner, Rhoden-Feely	Present

3. Consent Agenda

Minutes

- I.** Aurora Planning Commission Meeting –June 03, 2014
- II.** City Council Minutes – May, 2014
- III.** Historic Review Board Minutes – Not ready at this time.

A motion is made by Commissioner Willman to approve the consent agenda as presented and seconded by Commissioner Weidman. Motion Approved by all.

Correspondence

- I. League of Oregon Cities Legal Overview on Medical Marijuana Article.**
Chair Schaefer requests that this topic be on the August agenda for discussion again.

4. Visitor

Anyone wishing to address the 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 Planning Commission could look into the matter and provide some response in the future.

No one spoke during this section

5. New Business

A. None

6. Old Business

A. Discussion and or Action regarding Manufacturing in Commercial zone and other Potential Text Amendments to the Code. Did we want to hold off on amendments because of cost and or do we need to move forward.

- There is a brief discussion regarding whether or not to expand the code regarding food carts to include other areas of town. It is suggested to do some research but for now give it a year as is.
- Next month agenda items discussion regarding check lists and procedure for various applications such as, temp uses, variances, lot line adjustments ect.

7. Commission Action/Discussion

A. City Planning Activity (in Your Packets)
Status of Development Projects within the City.

- Memo from City Planner outlining other potential text amendments to the code.
- Asks PC about non remonstrance agreements for sidewalks.
- Carports Garages loosen the rule or do it on a case by case basis, Consensus case by case.
- Tents and canopies, I think this is really an HRB thing. Lead the charge and get input and thoughts.
- Move forward with text amendment for Manufacturing in the commercial zone.

8. Adjourn

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Chairman Schaefer adjourned the July 1, 2014 meeting at 7:33 pm

Chairman, Schaefer

ATTEST:

Kelly Richardson, City Recorder

Minutes
Aurora City Council Meeting
Tuesday, June 10, 2014, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Kelly Richardson, City Recorder
Pete Marcellais, Marion County Deputy
Mary Lambert, Finance
Darrel Lockard, Public Works Superintendent
Dennis Koho, City Attorney

STAFF ABSENT: None

VISITORS PRESENT: Tom Potter, Aurora
Bill Simon, Aurora

1. Call to Order of the City Council Meeting

The meeting was called to order by Mayor Bill Graupp at 7:00 p.m.

2. City Recorder does roll call

Mayor Graupp – present
Councilor Sallee- came in late at 7:27
Councilor Brotherton -present
Councilor Sahlin – present
Councilor Vlcek – present

3. Consent Agenda

- I. City Council Meeting Minutes – May 13, 2014
Councilor Brotherton, points out that regarding the discussion on pg 5 that it happened earlier in the meeting as it was bumped up to the front of the line. Also he would like to see the OLCC license renewals listed on the agenda.
- II. Planning Commission Meeting Minutes –May 2014
- III. Historic Review Board Minutes –April 2014

Correspondence

I. None

Motion to approve the consent agenda with the corrections stated was made by Councilor Vlcek and is seconded by Councilor Brotherton. Motion Approved by all.

4. Visitors

Anyone wishing to address the 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 City Council could look into the matter and provide some response in the future.

No one spoke....

5. Mayor's Report,

A. Mayor Graupp I just wanted to inform Council that there is an offer on the Eddy's property and apparently it has been accepted with conditions. It was also discovered that the foundation is not adequate. The concept for the new business would be an 1800 to 1900 Hispanic Cultural History of the Migrant Workers.

Also wanted to get you thinking about the possibility of a food cart business license that would better reflect what is needed based on the Planning Commission meeting last week we might want to think about it for the future.

During the discussion regarding food carts it is the consensus of the Council to revisit the food cart language to possibly expand the area involved because there is such a lack of food establishments in Aurora.

- ❖ At this time we will take a moment of silence for the Reynolds school shooting victims that took place earlier today. I would also like to acknowledge and thank our Marion County Deputy Pete Marcellais and the sheriff's office for their participation in our local schools regarding safety.

6. Public Hearing Opens at 7:28 pm

A. Discussion and or Adoption of 2014/2015 Budget as Proposed by the Aurora Budget Committee.

No comments for the budget in the audience at this time we will move on to the staff report.

Councilor Sallee requests a copy of draft budget minutes.

Staff report has a few minor changes,

- pg 2 line 36 General Operating fund capital outlay remove \$100 for response in this area as we took it out of the other two areas it was in.
- Pg 12 line 22 General fund actual number that got left off during the changes. There are no changes to pg 2 line 33 as the total number did not change because it was a hard number, not a part of a formula.
- Pg 1 Geo bond the actual number on line 3 changed during the process. The total number did not change because it was a hard number, not a part of the formula.
- Discussion on pg 2 at during the budget discussion it was determined that it was not needed, so Mayor states that if we don't need it then let's make it clean and remove it as previously discussed.

Tom Potter, do we do any budget review for Deputy Pete each year Mayor explains that we do that each year at contract renewal time.

Mayor Graupp hearing no further comments closes the hearing at 7:38 PM.

Council discussion, regarding the budget Councilor Sallee asks clarification on the step increases as to when they go into affect Mayor Graupp explains that 1.5% goes into effect in July and 1.5% in January.

Mayor Graupp closes discussion.

Clarification for taxes 2.34% it is a fixed rate. It is the maximum tax rate the state allows us to pay. We receive the number from assessor's office.

No more questions at this time....

7. **Discussion with Parks Committee**, no RFP at this point. TTT is still mowing at this point until we let him know. Councilor Vlcek asks about mole control. Consensus is to let him (TTT)do it.

8. **Discussion with Traffic Safety Commission, NA**

9. **Reports**

A. Marion County Deputy Report – (not included in your packet)

- 3 kids involved in the recent thefts have all been handled.
- Potter was there damage to a truck yes.
- Bike Rodeo signs are up is there any more events coming up.
- 30th of the month I will be meeting with traffic safety people to focus on crosswalks.

Councilor Sallee, can we get the speed board placed on Liberty Street across from the church.

B. Finance Officer's Report – Financials (included in your packets)

1. Revenue & Expense Report
2. Discussion on Audit Report

No discussion on audit it was a typo,

- I put this in an items list format until I know what you are looking for. The opening number messes it up so look down the report it's more accurate. Every quarter on % spent It will be a month behind because not everything is entered in time.

Councilor Vlcek, on quarterly report if there is any expenditure that is let's say 5 to 10% percent over spent just flag those items and bring it to our attention so we are not caught off guard.

C. Public Works Department's Report – (included in your packet)

1. Monthly Status Report (Storm Water)
 2. Monthly Status Report (Water)
 3. Parks Report, OSU Tree Report
 4. Sewer Dept Report
- 3 new pumps have been installed
 - Consumer Confidence Report (CCR) has been completed and given to Kelly for distribution.
 - Filbert Street graveling has been completed we did have some grading issues.
 - Waiting on Sayre we have a hydraulic break in our lines.
 - Street light on Albers Way yesterday they called for locates so should be complete.
 - I have a recommendation for part time staff later on.
 - The list of yearly projects on the bottom of my report is what Councilor Sallee asked for.
 - Liberty Street leaks will be done very soon.
 - Clean bill of health according to DEQ

There is a brief discussion regarding the wastewater drying beds I think if we dry it out we can haul and dump so there will not be as much cost involved. What is the smell factor (Darrel I really don't think it will smell.) Councilor Vlcek I just don't want to save a dollar and then have a smell factor to worry about.

Councilor Brotherton, we are working on a plan and we will bring the issues before council before we act on them.

We can go look at other facilities to see what others are doing and if they smell or not.

Councilor Sallee, do we have plans for something in the newsletter to conserve water. No not at this time hopefully everyone remembers last year.

Tom Potter has a question regarding the east side of the street I notice a humming sound that cycles about every 30 minutes. I live at 21244 Liberty is it someone pulling water from puddling with a well maybe? Darrell I will be listening.

D. City Recorder's Report (included in your packet)

- No questions

E. City Attorney's Report – (not Included in your packet)

- Nothing to report,
- Sahlin ask him to review the park RFP on insurance.

10. Ordinances and Resolutions & Proclamations

- A. Discussion and or Action on Resolution Number 686 Resolution In Accordance with ORS 221.760

A motion is made to approve Resolution Number 686 by Councilor Vlcek and is seconded by Councilor Sallee. Passed by All.

- B. Discussion and or Action on Resolution Number 687 Resolution to Receive State Revenue Share Funds.

A motion is made to approve Resolution Number 687 by Councilor Brotherton and is seconded by Councilor Vlcek. Passed by All.

- C. Discussion and or Action on Resolution Number 688 Resolution to Adopt the 2014/2015 Budget.

A motion is made to approve Resolution Number 688 by Councilor Sallee and is seconded by Councilor Vlcek. Is not considered.

A motion is made to approve Resolution Number 688 by Councilor Brotherton and is seconded by Councilor Vlcek. Passed by All.

- D. Discussion and or Action on Resolution Number 689 Resolution to Levy Taxes.

A motion is made to approve Resolution Number 689 by Councilor Vlcek and is seconded by Councilor Sallee. Passed by All.

Mayor Graupp informs the group that the Bond went down to defeat.

11. New Business

- A. Discussion and or Action on Proposed Rate Increase for Wave Broadband.

A motion to accept the Wave Broadband rate increase is made by Councilor Brotherton and is seconded by Councilor Sallee. They do want to verify the 2.26% rate increase is within the allotted amount in the contract. Passed by All.

- B. Discussion and or Action on Recommendation from Planning Commission to Approve Extension of Previous Land Use Decision.

A motion to approve the recommendation from Planning Commission to approve the 1 year extension for the Bixler project is made by Councilor Sahlin and is seconded by Councilor Brotherton. Passed by all.

- C. Discussion and or Action on LOC Legislative Priorities Survey.

- Brownfield
- Natural Disasters

- Enhancing mental health services
 - Is the consensus of the Council.
- D. Discussion and or Action on Recommendation to Hire Part Time Public Works Assistant. Bill Simon.

Motion to approve recommendation of Public Works to hire Bill Simon as the part time public works assistant is made by Councilor Sahlin and is seconded by Councilor Brotherton. Passed by all.

- E. Discussion and or Action on Renewal of Contract with Mid-Willamette Valley Council of Governments.

Motion to approve COG contract renewal is made by Councilor Sahlin and is seconded by Councilor Sallee. Passed by all.

12. Old Business

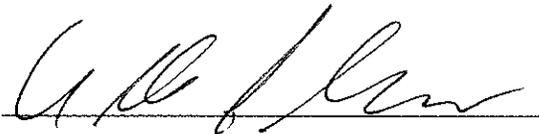
- A. Discussion and or Action on ACVA Grant Fund Request for Island Maintenance.

Last time we used the Marion County inmate work crew so let's do that again until the RFP comes back and someone is identified.

It is the consensus of the Council to not approve ACVA request at this time.

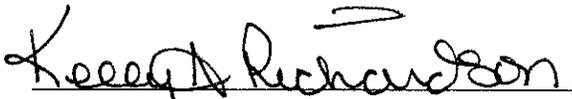
13. Adjourn

Mayor Graupp adjourns the June 10, 2014 Council meeting at 8:58 pm.



Bill Graupp, Mayor

ATTEST:



Kelly Richardson, CMC City Recorder

An Overview of Oregon's Medical Marijuana Program

By Sean O'Day, LOC General Counsel

On November 3, 1998, Oregon voters approved Ballot Measure 67 allowing the medical use of marijuana in Oregon within specified limits. Codified at ORS 475.300-475.346 and known as the Oregon Medical Marijuana Act (OMMA), the law protects medical marijuana users who comply with its requirements from state criminal prosecution. Although the Oregon Legislature has made some modifications to the act, the program remains largely the same as it did when the voters adopted it almost 15 years ago.

In the beginning, the program existed in relative obscurity. During its first year, from May 1, 1999, to May 1, 2000, the program served approximately 600 registered patients. By July 2010, it reached more than 45,000 registered patients. Today, there are nearly 60,000 registered patients, and more than 30,000 registered caregivers. The increase in the number of people participating in the program, along with the emergence of medical marijuana dispensaries, has brought the program and related issues to the forefront of public policy discussions in city halls all across the state.

To aid local elected officials in those discussions, this article provides an overview of the Oregon Medical Marijuana Program (OMMP), including the development and recent enactment of legislation relating to dispensaries. The article also explores the roles and functions of local government with respect to the OMMP, including that of a regulator and discusses the current state of the law with respect to local control.

The Purpose and Evolution of the Oregon Medical Marijuana Program

The Oregon Medical Marijuana Program began with the adoption of the OMMA by the voters in 1998. Since that time, the Legislature amended the OMMA in 1999, 2005, 2007, and most recently in 2013. Other than the development of a dispensary program, the basic structure and purpose of the OMMA has largely remained the same since its initial adoption. The goal of the OMMA is to permit, without fear of prosecution, small amounts of marijuana for patients with debilitating medical conditions when a doctor has concluded that the use of marijuana can help with those conditions.

The Contours of the OMMA

To accomplish its goals, the OMMA requires the Oregon Health Authority to establish a registration process for medical marijuana patients, their primary caregivers and

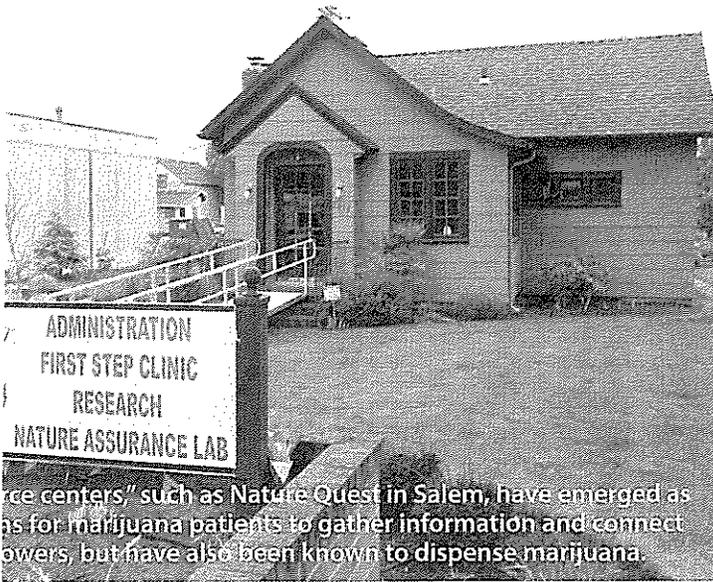
their growers. The OMMA exempts individuals holding a registry identification card from state criminal penalties, so long as the individuals act in accordance with the limits set out in the act. Individuals need not be a cardholder in order to enjoy the benefits of the act, however. The OMMA also provides as a defense to a criminal charge of possession or production of marijuana that the person is engaging in the medical use of marijuana with the limits set out in the act under the recommendation of a physician.

To either obtain a registry card, or be eligible to assert an affirmative defense, patients must have a "qualifying medical condition" diagnosed by an Oregon licensed physician who agrees that the use of medical marijuana could help mitigate the patient's symptoms after conducting a thorough physical exam and reviewing the patient's medical records. The Oregon Health Authority maintains the list of qualifying medical conditions.

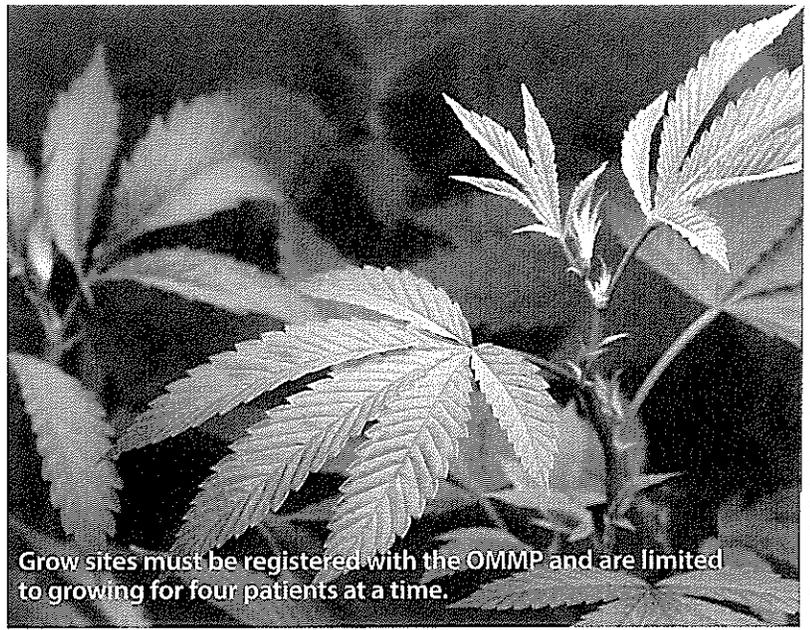
Once registered, patients are issued a medical marijuana card. Patients are required to carry with them their current OMMP Registry ID cards when possessing medical marijuana away from home or their grow site. Patients are not allowed to cultivate or consume medical marijuana in public view, drive under the influence of medical marijuana, share medical marijuana with anyone who is not currently registered with the OMMP, sell medical marijuana or give it to a minor.

When they register, patients may also register a primary caregiver. Patients may have only one primary caregiver at any time. A primary caregiver may possess marijuana for his or her patient and assist the patient with the use of the medical marijuana.

Patients registered with the OMMP are allowed to create a grow site at only one address. Patients may grow for themselves or designate a grower. A patient's grow site must be registered with the OMMP. The registration must include the address of the site and the name of the person responsible for the site. If patients elect to have someone other than themselves grow marijuana, the patients or their designated primary caregivers may reimburse the person responsible for their grow sites for the costs of supplies and utilities associated with the production of marijuana. No other costs associated with the production of marijuana, including the cost of labor, may be reimbursed. A person responsible for a grow site may produce marijuana for no more than four patients at a time. All grow sites must display a grow site registration card for each patient for whom marijuana is being produced.



“Resource centers” such as Nature Quest in Salem, have emerged as places for marijuana patients to gather information and connect with growers, but have also been known to dispense marijuana.



Grow sites must be registered with the OMMP and are limited to growing for four patients at a time.

The OMMA legalizes the possession and delivery of medical marijuana for a registered patient, the patient's primary caregiver, and/or an individual designated by the patient to grow medical marijuana for the patient. There are, however, limits on how many plants and how much usable medical marijuana each patient is allowed. The OMMA places the following limitations on possession:

- **Patient:** Six mature marijuana plants, 18 seedlings and 24 ounces of usable marijuana.
- **Registered grow site:** Six mature marijuana plants and 24 ounces of usable marijuana for each patient or caregiver for whom the marijuana is being produced. Limited to growing for four patients at any given time.

The Emergence of Dispensaries and HB 3460

With the growth in participation, over time facilities began to emerge where medical marijuana patients gathered to obtain information and connect with potential growers. Often termed “resource centers,” these facilities also were known to dispense marijuana. Because the original act did not contemplate these types of facilities, the legality of their operations was suspect. Wanting to develop a program that would identify where these types of facilities were and could be located, and to ensure safe access, in 2013 the Legislature adopted HB 3460 (codified at ORS 475.314).

Among its provisions, HB 3460 directed the Oregon Health Authority to establish a registration system for medical marijuana facilities (commonly referred to as dispensaries). HB 3460 grants criminal immunity to persons working for a registered medical marijuana facility. The bill also restricts the location of a medical marijuana facility to property that is zoned either commercial, industrial, mixed use or agricultural, and provides that a facility cannot be at the same location as a grow site, or within 1,000 feet of a school (elementary, secondary or career attended primarily by minors) or within 1,000 feet of another medical marijuana facility.

Unlike the original OMMA, which prevented the purchase of marijuana beyond the reimbursement of certain expenses, HB 3460 allows a dispensary operator to reimburse a grower for the normal and customary costs of doing business, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage. Similarly, a dispensary is permitted to seek reimbursement for immature plants and medical marijuana products based on its normal and customary costs of doing business.

The Role of the Federal Government

The use of medical marijuana is still illegal under federal law. The Controlled Substances Act (CSA) classifies marijuana as a Schedule I drug, making it illegal under federal law to manufacture, distribute or dispense. The Schedule I classification means the federal government has concluded that the drug has a high potential for abuse (undefined term in the act), has no currently accepted medical use in treatment, and lacks accepted safety protocols for use of the drug under medical supervision. Thus, the OMMA neither protects marijuana plants from seizure nor individuals from prosecution if the federal government chooses to take action against patients, primary caregivers or growers under the Controlled Substances Act.

Notwithstanding the federal ban, as of the date of this article, 20 states and the District of Columbia have legalized certain marijuana-related activity. In light of those developments, U.S. Department of Justice (DOJ) Deputy Attorney General James M. Cole issued a memorandum (the “Cole Memo”) to all United States Attorneys providing updated guidance to federal prosecutors concerning marijuana enforcement under the CSA. The Cole Memo guidance applies to all of DOJ's federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

(continued on page 18)

Medical Marijuana Overview

continued from page 17

The guidance makes it clear that DOJ is committed to prosecuting enforcement of the CSA, but that, as a general matter, federal resources in states with medical marijuana laws should not be focused on individuals who are “in clear and unambiguous compliance with existing state laws providing for the medical use of marijuana.” The memo further states, however, that federal resources should be focused on:

- 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.

The Role of Local Government

Local governments interact with the OMMA in three general capacities: as an employer; as law enforcement; and as a regulatory body.

As an employer, a local government might have employees who are patients registered with the OMMP. There are a myriad of issues that might arise if an employee is a registered OMMP patient. As such, cities should consult their attorney before inquiring whether an employee is an OMMP patient or taking any other action related to an employee’s use of medical marijuana. Nonetheless, cities should understand that the OMMA expressly provides that nothing in the law shall be construed to require an employer to accommodate the medical use of marijuana in any workplace. In addition, the Oregon Supreme Court held in the case *Emerald Steel Fabricators, Inc. v. Bureau of Labor and Industries* that Oregon employers do not have to accommodate an employee’s use of medical marijuana under Oregon’s disability and discrimination laws.

A local government also interacts with the OMMA in its capacity as a law enforcement body. Local law enforcement personnel may take any action they believe is necessary to enforce the criminal laws of the state, including violations of the OMMA or the state’s criminal laws relating to use and possession of marijuana. As part of this process, local law enforcement personnel may verify with the Oregon Health Authority at any time whether a particular patient, designated primary caregiver, person responsible for a grow site, or grow site location is registered with OMMP by calling the 24-hour LEDES (Law Enforcement Data System). In addition, the OMMA expressly states that possession of a medical marijuana identification card or a primary caregiver card does not alone constitute probable cause to search the person or property of the cardholder.

Further, the OMMA provides that usable marijuana and paraphernalia used to administer marijuana that is seized shall be returned immediately upon a determination by the district attorney in whose county the property was seized that the person from whom the property was seized is entitled to the protections found in the OMMA. However, law



Marijuana patients must have a “qualifying medical condition” diagnosed by an Oregon licensed physician who agrees that the use of medical marijuana could help mitigate the patient’s symptoms.

enforcement officials who return usable marijuana are at risk of prosecution under the CSA. In the case of *State v. Ehrensing*, the Oregon Court of Appeals concluded that seized marijuana need not be returned to a cardholder whose case was dismissed for lack of speedy trial because: the OMMA's provision did not allow return under that type of circumstance, and return would have violated federal law. Similarly, in a publicly shared opinion, the attorney general has advised the Oregon State Police to seek an appeal of any court order requiring the return of seized marijuana to a cardholder on the grounds that the return provisions of the OMMA are preempted by federal law. It stands to reason that such advice is equally applicable to local law enforcement.

Finally, local governments interact with the OMMA as a regulatory body. While some jurisdictions are allowing dispensaries and grow sites to operate under the terms of HB 3460 (2013), others are considering or have imposed additional regulations up to and including a ban on such activities. Medical marijuana advocates have taken issue with such regulations and argue that HB 3460 (2013) prevents local governments from enacting restrictions on medical marijuana facilities. In addition, they argue that SB 863, passed in the 2013 special session and intended to preempt local regulation of genetically-modified organisms, also preempts local regulation of medical marijuana.

Partially to address those arguments and to provide time to study these issues, the Legislature adopted SB 1531 during the 2014 short session. This bill does essentially two things. First, it reaffirms a city's authority to adopt reasonable time, place and manner restrictions on medical marijuana activities. Second, SB 1531 removes criminal immunity from any person operating a medical marijuana facility in a jurisdiction that has adopted a moratorium on medical marijuana facilities, provided the moratorium was adopted prior to May 1, 2014 (with an end date not to exceed May 1, 2015).

Applying home rule principles, the League believes that in addition to the options set out in SB 1531, cities have the authority to further regulate dispensaries through business licenses, zoning laws and development permits, and to enforce violations of those ordinances with civil penalties. Nonetheless, medical marijuana advocates maintain that cities are preempted from doing so. Consequently, cities should work closely with their attorneys to fully understand the extent the city may regulate issues related to medical marijuana and to assess the risk of having to defend its authority to adopt local regulations.

Editor's Note: *Because of the complexities and nuances of the OMMA and its interaction with federal law and other state laws, this article is necessarily general and is not intended to provide legal advice. This article should not serve as a substitute for competent legal counsel. City officials should consult with their city attorney in accordance with their city's policies for doing so, to ensure that you fully understand these laws.* ■

Marijuana Tourism



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Enforcement Options: A Roadmap for Cities

SB 1531 established a May 1 deadline to adopt a one-year moratorium on medical marijuana dispensaries, and 145 cities have officially done so. Even though the moratorium period has begun, there are still several actions any city can take with regard to the dispensaries. At the League's Marijuana Workshop last month in Portland, Eugene City Attorney Glenn Klein outlined five current options that arguably exist for cities. Not all attorneys agree that these options are available, and the city charters or city codes in some cities would not authorize some of these options. Consequently, it is critical that a city discuss with its city attorney whether an option may be available and what the potential legal risks are of proceeding with that option.

Ban

Cities can simply take formal action to ban the existence of medical marijuana dispensaries. According to Klein, SB 1531 "did not preempt a city's home rule power to enact a ban." However, he also noted that there are "many out there who disagree" with his interpretation of the bill, and as a result, a city enacting a ban is risking a legal challenge and the potential for substantial costs.

"If someone sues the city over a ban and succeeds, then the city might have to pick up their legal costs too," Klein noted.

There is a banning option that carries slightly less risk, Klein says. "A city could ban any business which necessarily violates federal or state law," he said. In addition, cities with a business license program can adopt an ordinance stating it will not issue a license to any business that operates in violation of federal or state law.

License

Most cities have the ability to license or adopt a licensing program. Therefore, as part of an existing licensure program, a city could require a license for a medical marijuana dispensary. Alternatively, cities that do not have a formal licensing program could adopt a business license requirement specifically for dispensaries. By adopting a license

requirement, a city can more easily employ certain regulations such as background checks.

On the other hand, this option does carry its share of risk for cities.

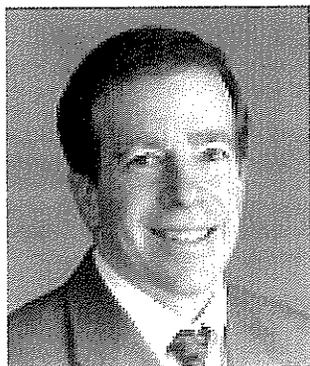
Klein says that by granting a license, a city would "give a business permission to conduct an operation that violates federal law." Could this potentially lead to federal prosecution? Klein says that's unknown, but not out of the realm of possibility. Another consideration is that in just two years a new president will occupy the White House, and federal policies could change. Still further risk involves the potential loss of federal funding for grants. Klein notes that many federal grants typically have several pages of conditions that must be met, including the requirement that a recipient is compliant with federal law.

Regulate

Klein says it is "absolutely clear" that cities are not preempted from adopting "reasonable regulations" with regard to medical marijuana dispensaries. "Some tried to argue that SB 1531 only allows cities to adopt regulations by May 1, but the bill is clear; the May 1 deadline only applies to outright bans."

But what are reasonable regulations? Klein says eventually this could be decided in the courts. But in the meantime, there are statewide examples of cities adopting analogous regulations such as geographic limits, specific hours of operation, and prohibition on the types of products dispensaries can sell.

In addition, a city has the option to exclude dispensaries in certain zones as defined by its zoning code. According to Klein, the city of Eugene's code treats a dispensary as a "specialty retail" business, which is authorized only in commercial zones, and not in industrial zones. So in this case, even though state law would allow a dispensary in an industrial zone, local zoning code would not. Eugene also requires a conditional use permit in some of its commercial zones.



"The worst thing a city can do in this case is adopt regulations without having first figured how they will be enforced."

– Glenn Klein, Eugene City Attorney

Another option would be for a city to expand the existing 1,000-foot buffer that further defines where a dispensary can locate. "A city could apply the buffer to include areas where children may congregate, such as a day care center, a library or a transit center," Klein said.

A city can also enforce regulations on the dispensaries' hours of operation. Klein cites the example of jurisdictions which have copied the Oregon Liquor Control Commission's guidelines for liquor store operations: 10:00 a.m. to 7:00 p.m. "These jurisdictions decided, 'If it's reasonable for liquor stores, it's reasonable for dispensaries,' so they adopted that limitation."

Klein says cities face two main risks if they choose to pursue regulations on dispensaries, one legal and the other operational. "The first is litigation over whether they are reasonable," he said. The bigger risk, depending on the nature of regulations adopted, is that enforcement may be an "administrative nightmare."

"I've seen city councils elsewhere in the state adopt regulations that sounded really good, but were nearly impossible to enforce. The worst thing a city can do in this case is adopt regulations without having first figured how they will be enforced."

Tax

Klein says he's not aware of any jurisdiction that has adopted a gross receipts tax on dollars received by a medical marijuana dispensary. "But nothing I'm aware of prohibits a jurisdiction from doing this," he notes. "Cities have home rule authority, and I think they can."



Wait and See

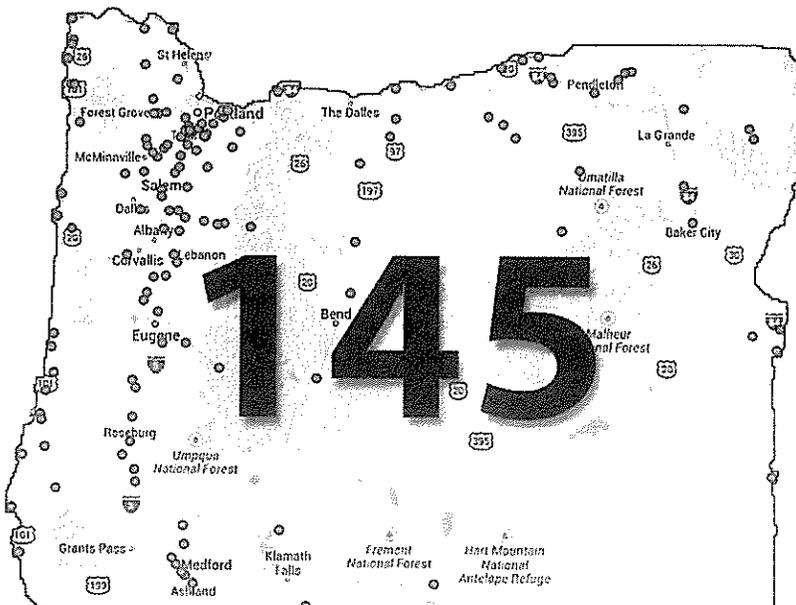
For cities like Eugene, which did not formally adopt a ban, Klein says this option boils down to waiting to see if problems develop, then presenting those problems to the city council, along with some options for how to resolve them.

He says that for cities taking this approach, the best course of action for city councils is to have staff "monitor the situation for problems and know its okay to come to you with potential solutions."

Final Caution – Consult City Attorney

During his remarks at the League workshop, Klein implored cities to talk to their city attorney before pursuing any course of action. He cited two very important reasons:

"First, there are a lot of grey areas here, and you as policy makers need to be aware of the risks. Your city attorney can help you assess those risks and decide whether to move forward. The other reason is that your charters are different, and therefore your city codes may be different. One city may be able to do something that another city can't." ■



SB 1531 allowed cities and counties to adopt a one-year moratorium on medical marijuana dispensaries and 145 cities have done so. In addition, five cities have instituted a ban on moratoriums:

- Jacksonville
- Hermiston
- Medford
- Oakridge
- Tualatin

For a list of cities with moratoriums, visit the League's medical marijuana webpage at www.orcities.org/marijuana.

Marijuana Q & A

What advice would you have for Oregon local governments as they are looking at various trends going forward, with respect to medical marijuana, and if it comes to pass, recreational?



Chris McKenzie, Executive Director, League of California Cities

My most cogent advice is that you want to get the medical marijuana part done right. Doing that, you will learn a lot in the event retail or recreational use comes along. That means if you haven't taken the steps to do the moratorium,

invest time in thinking about what local regulations you want to have. The experience you have there is going to be helpful if your voters approve full retail activity.



Kevin Bommer, Deputy Director, Colorado Municipal League

Oregon is a strong local control state. That has to be enshrined in anything you do going forward. You have to get the house in order regarding medical marijuana, especially if you are going to link medical and recreational together like we did here in Colorado.

Medical might be the logical ones to apply. That helps on the regulatory side because these are known entities, to state and local regulatory and law enforcement agencies. They know who these operators and employees are. To the extent that medical works, if retail is going to happen it has a better chance if medical is not a mess.

What are the impacts on cities regarding marijuana tourism?

Bommer – If you Google “Colorado Marijuana Tourism” you’ll be surprised at what you see. It’s not surprising that it happened, just that more people weren’t aware of it. There are entrepreneurs who have opened businesses since Colorado doesn’t exclude out-of-state residents from purchasing, only limiting the amount they can purchase (.25 ounces) at a retail store.

Here in Colorado, there are companies that will pick up tourists at the airport, take them on a tour of retail centers and grow facilities, and along the way the tourists can purchase the product if they like. The buses are pretty fancy, and they all have blacked-out windows. This is a growing economy with no particular regulation, other than having to abide by the existing laws and regulations that apply to businesses and individuals.

What does the League see happening next with the Legislature?



Scott Winkels, Intergovernmental Relations Associate, League of Oregon Cities

With regard to the dispensaries and where I think the Legislature will go in 2015, there’s some enthusiasm behind cleaning up the land use regulation language in HB 3460, ultimately making it something that resembles the

land use code. The Legislature has said they don’t want dispensaries in residential areas, and I think that’s certainly achievable. I also think the Legislature is going to look at the federal (Cole) memo regarding a robust and vigorous enforcement and regulatory structure. One thing they may do there is require background checks for people who work in the dispensaries.

Another issue is to make sure that police officers have access to a dispensary. This would be the same as we have with a liquor establishment: a police officer would be able to enter a dispensary and conduct an inspection. This is currently not in the state statutes.

Also, the Legislature is going to have to address the conflict between federal law and language in HB 3460 that prevents a dispensary within 1,000 feet of a school. There is a federal law against locating a dispensary within 1,000 feet of “places where minors congregate.” This is a significant language discrepancy, and it’s my understanding that U.S. attorneys in other states have forced dispensaries to move, even those that are sanctioned, if they were located in proximity to a preschool. For the applicant, local governments, kids and schools, truing up that requirement needs to happen.

How do cities participate in conversations about legalization of marijuana without appearing to be in support of approving legalization?

McKenzie – As we’ve been working on legislation, we’ve actually begun to build relationships with people in the marijuana industry. The people we could probably cut a deal with are those who would like to have a well-regulated, responsible business. But there’s another dynamic. There’s nothing as valuable as having an idea that the public is passionate about. I’ve been telling my board we need to do some polling about the viability of retaining our local authority, specifically to decide whether to opt-in or to add on regulations. If Californians find out there is a stealth retail measure that preempts local control, and we can get that

message out, then we can take some of the ground away from the other side. If we do our polling early enough and it verifies what we think it will say, we can start having some advanced public dialogue with the other side. Not because we want to help draft their measure. I want to send the message that we're open to that conversation, but if they cross the local control line we will do everything we can to obstruct their success. So you have to do it from a collaborative position, but also one of strength, so that you can be a much better non-opponent. Their goal is to keep us out of that election. They'll do that by making sure our members get to decide if the activity happens in their city.



Candice Bock, Government Relations Advocate, Association of Washington Cities

This has been a big challenge, and it prompted us to actually create a legislative policy position we called "actively neutral." With 281 cities, we had representation on both sides of the issue. Some cities were feeling like they should be able to

say they wanted nothing to do with marijuana, while some said the system only works if everyone is allowed their fair share. So we worked with our board and legislative committee on a policy direction that preserved our number one goal: maintain local control and existing regulatory authority over anything, not just marijuana.

As an association of cities, we don't get involved in initiatives or political campaigns, so we don't typically engage with groups that are putting together initiatives. We couldn't be involved in a formal fashion, but we wanted to have input on how these groups can work best with local governments.

In terms of long-term effects of marijuana – THC levels are going up. Do you see issues with potency of the product?



Tom Burns, Director of Pharmaceutical Purchasing, Oregon Health Authority

Certainly the potency has gone up over the years. But this is not an OHA issue. We will label it, and the patient will know the potency. But that's something the market will develop and bear. Unfortunately, there's been no testing, so

we don't know if a THC of 51 or 21 produces effects the same way the product affects a disease in the body. This might be something the FDA takes up someday.

(continued on page 24)

Illegal? Yes.

Scott Kerin leads the drug unit in the U.S. Attorney's office in Oregon. He says he regularly fields questions from Oregon local governments regarding the legality of medical marijuana dispensaries.



Scott Kerin from the U.S. Attorney's office speaks at the League's Marijuana Workshop.

"I have been asked repeatedly: 'If we allow dispensaries to set up, are we aiding and abetting a federal crime?'" Kerin noted during his presentation at the League's Marijuana Workshop.

"Technically, yes."

Kerin added that what he wanted local governments to take away from his remarks was that marijuana is "still illegal under federal law." He said cities need to know if they engage in any activity that is in violation of federal law, there could be consequences.

"There's a risk that a district attorney's office or the federal government will take an interest, and someone will be subject to prosecution," he said.

To provide some guidance for local governments as they make decisions about dispensaries, Kerin outlined the "enforcement priorities" of the U.S. Department of Justice, which help determine how his office allocates resources for enforcement and prosecution. Specifically, he cited eight priorities that are outlined in a memorandum issued by the Department of Justice on August 29, 2013, commonly referred to as the Cole Memo (*see OMMA article, page 16*). These priorities are where the department is currently focusing its efforts.

Kerin noted that there is always the possibility these priorities and related policies could be subject to change "as elections occur and new administrations take office."

He encouraged attendees to not only consider the Cole Memo, but to make sure any regulatory structure enacted is robust and vigorous, and that it has an enforcement mechanism behind it.

"If that happens, you're less likely to draw the attention of law enforcement," he said.

Marijuana Q&A

continued from page 23

Looking at reasonable limitations, what about 1,000 feet within a park? Is this reasonable under time, place and manner restrictions?

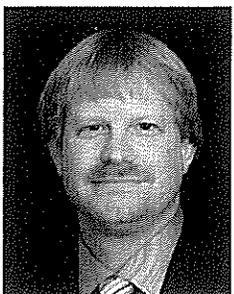


Sean O'Day, General Counsel, League of Oregon Cities

Given children congregate in a park, that's a reasonable regulation. Keep in mind, however, that's something you'd be adopting at the local level and you'd be using civil enforcement as your way of enforcing that should a dispensary get a license and begin operating. If that, coupled with

the existing 1,000-foot rules in state law, result in effectively a ban, then you have two types of legal issues. First, is this reasonable? The second is preemption, and do you have the authority to impose this ban? Understand that a dispensary which violates these 1,000-foot rules loses its criminal immunity. So you have different types of enforcement depending on the rules you enforce locally and how the dispensary complies with state law.

No public consumption, including growing, is allowed in public. Is a backyard considered public? What about a greenhouse?



Rob Bovett, Legal Counsel, Association of Oregon Counties

Oregon law says it can't be seen from a public vantage point. Someone could be growing or using marijuana in their backyard as long as where they're doing it is not visible from a public vantage point. In that way Oregon is different from other states.

With respect to dispensaries, why not just do it through pharmacies?

Bovett – The federal Controlled Substances Act. Oregon, like other medical marijuana programs, doesn't provide for physicians to prescribe marijuana. They only issue recommendations. The reason is the federal Controlled Substances Act. Every prescriber is licensed by the Drug Enforcement Agency (DEA) to prescribe. If they actually issued a prescription for marijuana, which is a Schedule 1 controlled substance, they would have their ticket pulled and they would no longer be able to prescribe anything. The same is true for pharmacies—all are DEA-licensed facilities. If they dispense a Schedule 1 controlled substance, they would lose their license. That's not to say using pharmacies wouldn't be a good model. If we could get the feds to change their policy, it makes practical sense to have pharmacies dispense Schedule 2 or 3 controlled substances, but until Congress approves that statutory change we can't go there.

As the OHA is sending inspectors out, how are you going to deal with the vastness with respect to population?

Burns – We'll go where the dispensaries are. If a local jurisdiction has a large number of dispensaries, we'll have a lot of inspectors there. It has nothing to do with population. It has everything to do with where the dispensaries are located.

Can a jurisdiction adopt local taxes on sales of marijuana?

O'Day – I think so. Cities should consult with their city attorney though. Right now there's no preemption on that, as we heard earlier from Glenn Klein.

What about a city's ability to cap the number of dispensaries within a jurisdiction, say as low as one or two?

O'Day – Applying a home rule/preemption analysis, I think you can cap it down to zero. Whether or not a cap is reasonable under SB 1531, I think you're probably looking at having to litigate. If a city sets a low cap, and someone thinks it's unreasonable, a city could face a lawsuit. That's why it's so important for city leaders to talk to their city attorney. When you are considering these issues and any form of restriction or regulation you might look at putting out there, it's important to have a candid conversation with your city attorney. Even though they may not be able to give you a clear yes or no about what a court might rule, they can at least help you assess the legal risk and the cost of defending that decision. ■

Online Resources

Visit www.orcities.org/marijuana for:

- Presentations from the League's Marijuana Workshop
- A list of cities with moratoriums on medical marijuana dispensaries
- Information on the Oregon Medical Marijuana Act
- OHA rules set out in SB 1531
- Federal guidance regarding marijuana enforcement

Working with the Oregon Health Authority



Tom Burns, Director of Pharmaceutical Purchasing, Oregon Health Authority

The Oregon Health Authority (OHA) was tasked by the Legislature to provide regulatory oversight of the state's medical marijuana dispensary licensing program. OHA Director of Pharmaceutical Purchasing Tom Burns will oversee the dispensary licensing and oversight program, and presented an overview at the League's Marijuana Workshop of the OHA's role and how local governments can work with the OHA in dealing with dispensaries.

Dispensary Oversight

OHA's ability to regulate dispensaries was narrowly written in HB 3460 and requires OHA to provide a license to any applicant who can meet specific basic criteria. However, Governor Kitzhaber also included three guidelines for OHA's regulations in a signing letter: assure public safety, assure patient safety, and enforce rules vigorously. As a result, OHA worked with a rules advisory committee, held over 17 hours of meetings, and published temporary rules to start the licensing program.

Currently, the OHA must grant a license if an application shows a proposed dispensary:

- Is not within 1,000 feet of a school or another dispensary;
- Is in an area zoned for industrial, commercial, agricultural or mixed use;
- Has a security system; and
- Is testing for health hazards.

However, the OHA cannot reject an application if local ordinances ban dispensaries or if zoning codes prevent locating a dispensary at the designated site. As Burns stated: "I may well, as the health authority, issue a license. It's up to you guys to decide if that license is any good in your jurisdiction."

OHA and Your City

In addition to licensing, the OHA is required to inspect dispensaries yearly, and is planning on conducting sting operations when they hear of facilities that are operating improperly. So they need local officials and enforcement agencies to inform them of sites that are violating the licensing rule. For example, if the police notice that the security system is not operational, citizens notice that marijuana is packaged in a way that is enticing to children, or if there is evidence of on-site use of the marijuana, OHA needs cities to inform them.

But, OHA cannot ensure shops are shut down if their license is revoked. OHA may only impose civil penalties; they cannot bring criminal charges. So, they need assistance from local law

enforcement and prosecutors. OHA was not given authority to shut the physical doors at a facility that loses its license and, therefore, must work with law enforcement agencies to shut these facilities down. Burns recommended that local governments remain in contact with his office to monitor the dispensaries within your city saying, "We want desperately to work with local law enforcement. We cannot do this ourselves."

Future Rulemaking

Currently, OHA is working on making permanent rules regarding dispensary licensing under HB 3460. They intend to complete this process by July 31. In addition, they are working on finalizing rules relating to edible marijuana products and marketing restrictions required under SB 1531. Copies of all these proposed rules and schedules for submitting testimony can be found at www.oregon.gov/oha/mmj. Burns also pointed out that as the program moves forward, the OHA will likely revisit these rules.

As cities look at the various tools available to regulate dispensaries within city limits, working as a partner to OHA in insuring the facility is following the licensing rules should be top of the list. As Burns said: "If they are not following these rules, we will close them down." ■

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**CITY OF AURORA
PLANNING COMMISSION**

STAFF REPORT: Interpretation 2014-03 [INT-14-03]
DATE: July 28, 2014

APPLICANT/OWNER: Charles Clark

REQUEST: Interpretation of the Aurora Municipal Code (AMC) by the Planning Commission in regards to approval of a non-remonstrance agreement for sidewalks in lieu of installation.

SITE LOCATION: 21022 Jenny Marie Lane, Aurora, OR 97002 (also known as Map 41W13AC Lot 5000)

SITE SIZE: Approximately 7,841 square feet, or 0.18 acres

DESIGNATION: Zoning: Moderate Density Residential (R2)

CRITERIA: Aurora Municipal Code (AMC) Chapter 16.34 Public Improvement and Utility Standards

ENCLOSURES: Exhibit A: Assessor Map
Exhibit B: Non-remonstrance Application
Exhibit C: Photos of Jenny Marie Lane

I. REQUEST

Approval of a non-remonstrance agreement in lieu of sidewalk improvements as part of building permit review under AMC 16.34.030.A.2.

II. PROCEDURE

Pursuant to 16.34.030.A.2. and subject to approval of the Planning Commission, the City may accept and record a non-remonstrance agreement in lieu of street improvements. AMC 16.78 requires Limited Land Use Decisions be processed as written notice of a decision to be provided to owners of adjacent property for which the application is made.

The application was received on July 10, 2014. The application was determined complete by Staff and placed on the next available Planning Commission agenda. Notice of the Planning Commission agenda was posted at City Hall on July 30, 2014. Pending a decision from the Planning Commission at the August 5, 2014 meeting, a Notice of Decision will be mailed to adjacent property owners. The City has until **November 3, 2014**, or 120 days from acceptance of the application to approve, modify and approve, or deny this proposal.

III. APPEAL

Appeals are governed by AMC 16.78.120. An appeal of the Commission's decision shall be made, in writing, to the City Council within 15 days of the Planning Commission's final written decision.

IV. CRITERIA AND FINDINGS

The applicable review criteria for non-remonstrance agreements are found in AMC Chapter 16.34 - Public Improvements and 16.78- Limited Land Use Decisions

16.34 Public Improvement and Utility Standards

16.34.030.A.2. Subject to AMC 16.78 and approval of 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

FINDING: The applicant is requesting that they not be required to install sidewalks along their frontage of Jenny Marie Lane as the remainder of Jenny Marie Lane does not have them. Staff finds installation of a sidewalk along the frontage of the subject property would result in an unconnected sidewalk along properties to the north. However, Ottaway Road does include sidewalks and a connection to these sidewalks could be made from the subject property (see Exhibit C). The property has approximately 153 feet of frontage on Jenny Marie Lane. Staff finds a connected sidewalk could be made and a safety hazard would not be created for pedestrian. Staff finds this criterion is not met.

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.

FINDING: The property is one of three remaining undeveloped parcels along Jenny Marie Lane. At the time of subdivision approval and development, sidewalk installation was not required although the Transportation System Plan does identify local streets as requiring sidewalks. It is unlikely developed properties along Jenny Marie Lane will undertake frontage improvements in the near future. Installation of improvements by the subject property and the other two remaining vacant parcels would not necessarily create a significant increase to safety or capacity on this dead end street and staff finds this criterion is met.

16.78 Limited Land Use Decision

16.78.090 Standards for the decision.

A. The decision shall be based on proof by the applicant that the application fully complies with:

1. The city comprehensive plan; and

FINDING: Staff finds the application meets the criteria under 16.34 for approval of a non-remonstrance agreement. The implementing ordinance of the comprehensive plan is included under Title 16- Land Development. A review of Title 16 is included below. Staff finds this criteria is met.

2. *The relevant approval standards found in the applicable chapter(s) of this title and other applicable implementing ordinances.*

FINDING: The property is zone Low Density Residential (R-1). Staff finds the property meets the size, width, and depth required under the zone. The applicant proposes construction of a single family residence on the property which is a permitted use under the zone and the building permit has been approved in compliance with height and setback requirements.

AMC section 16.34.060.A. states, "on public streets, sidewalks are required except as exempted by the Aurora Transportation System Plan (TSP) and shall be constructed, replaced or repaired in accordance with the City's public work design standards." While the City TSP does identify Jenny Marie Lane as requiring sidewalks, the AMC does allow the Planning Commission to accept a non-remonstrance agreement in lieu of improvements under certain conditions.

Staff finds the criteria under Title 16 can be met, with conditions.

V. CONCLUSIONS AND RECOMMENDATIONS

Based upon the findings outlined in the staff report, staff recommends Planning Commission action **VI.A.1** as outlined below for the Interpretation application (File No. INT-14-0) with the following conditions of approval:

1. The applicant execute and record a non-remonstrance agreement for sidewalks with Marion County. The non-remonstrance agreement shall be reviewed and approved by the City prior to recording.

VI. PLANNING COMMISSION SAMPLE MOTIONS

- A. Motion to adopt the findings in the staff report and approve Interpretation 14-03:
 1. As presented by staff, or
 2. As amended by the Planning Commission (stating revisions)

OR

- B. Motion to deny Interpretation 14-03 (stating how the application does not meet the required standards),

OR

- C. Continue the decision to a time certain or indefinite (considering the 120-day limit on applications) in order to collect additional information from the applicant or staff (stating the information required in order to make a decision)

4 1W 13AC
Cancelled
2801
2802
2803

SW 1/4 NE 1/4 SEC. 13 T4S R1W WM, MARION COUNTY

LYON 4 1W 13AC



LEGEND

- LINE TYPES**
- TAX LOT BOUNDARY
 - OLD PROPERTY LINE
 - ROAD RIGHT-OF-WAY
 - VACATED RIGHT-OF-WAY
 - RAILROAD
 - RAILROAD RIGHT-OF-WAY
 - STREAM LAKE, ETC.
 - NON-BOUNDARY TAX LOT BOUNDARY
 - SUPERVISOR BOUNDARY
 - PARTITION PLAT BKT.
 - TAX CODE BOUNDARY
 - BASEMENT

SYMBOL TYPES

- D.L.C.
- CONTROL POINTS
- SURVEY MONUMENTS
- C.L.A. CORNERS
- SECTION 1/4 SEC. 1/16 SEC. 1/32 SEC.
- 1/4 ONE
- 1/8 ONE
- 1/16 ONE

NUMBERS

TAX CODE NO.
000 00 00 0

ACREAGE - ALL ACREAGES EXCLUDE ANY PORTION THAT MAY BE WITHIN THE INDICATED PUBLIC RIGHT OF WAY.

TICK MARKS - WHEN A TICK MARK IS INDICATED ON THE EXTENSION OF A LINE, THEN THE DIMENSION GOES TO THE TICK MARK. GENERALLY THIS IS USED WHEN DIMENSIONS GO INTO PUBLIC RIGHT OF WAY.

ARROWS ARE USED WITH DIMENSIONS IN AREAS OF GREATER COMPLEXITY.

NOTICE: This map was created for Assessor's Office use ONLY.



SCALE 1" = 100'
or 1:1200

City of Aurora Building / Planning 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 type="checkbox"/> ZONING ORDINANCE AMENDMENT (AMC 16.80)
<input 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)
___ Type I ___ 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 Charles Clark Phone 503-803-7207
 Mailing Address PO. BOX 394 Oregon City OR 97045
 Property Owner _____ Phone _____
 Mailing Address Same as applicant
 Contact person if different than applicant _____ Phone _____
 Mailing Address _____

PROPERTY DESCRIPTION

Address 21022 Jenny Marie Tax Map # 5000 Tax Lot # 4
 Legal Description (attach add'l sheet if necessary) Lilac CT LOT 4
 Total Acres or Sq. Ft. 7,000 sqft Existing Land Use residential
 Existing Zoning _____ Proposed Zoning (if applicable) _____
 Proposed use _____

ACTION REQUESTED (use additional sheets as needed)

request that NO sidewalk or curb be required as there are no other houses on the street that have them

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 Charles Clark Date 7-10-14
 Signature of Property Owner _____ Date _____

Office Use Only: Received By: <u>KL</u> Date: <u>7-10-14</u> Fee Paid \$ <u>500.00</u>
Receipt # _____ Case File # _____ Planning Director Review _____ Date: _____

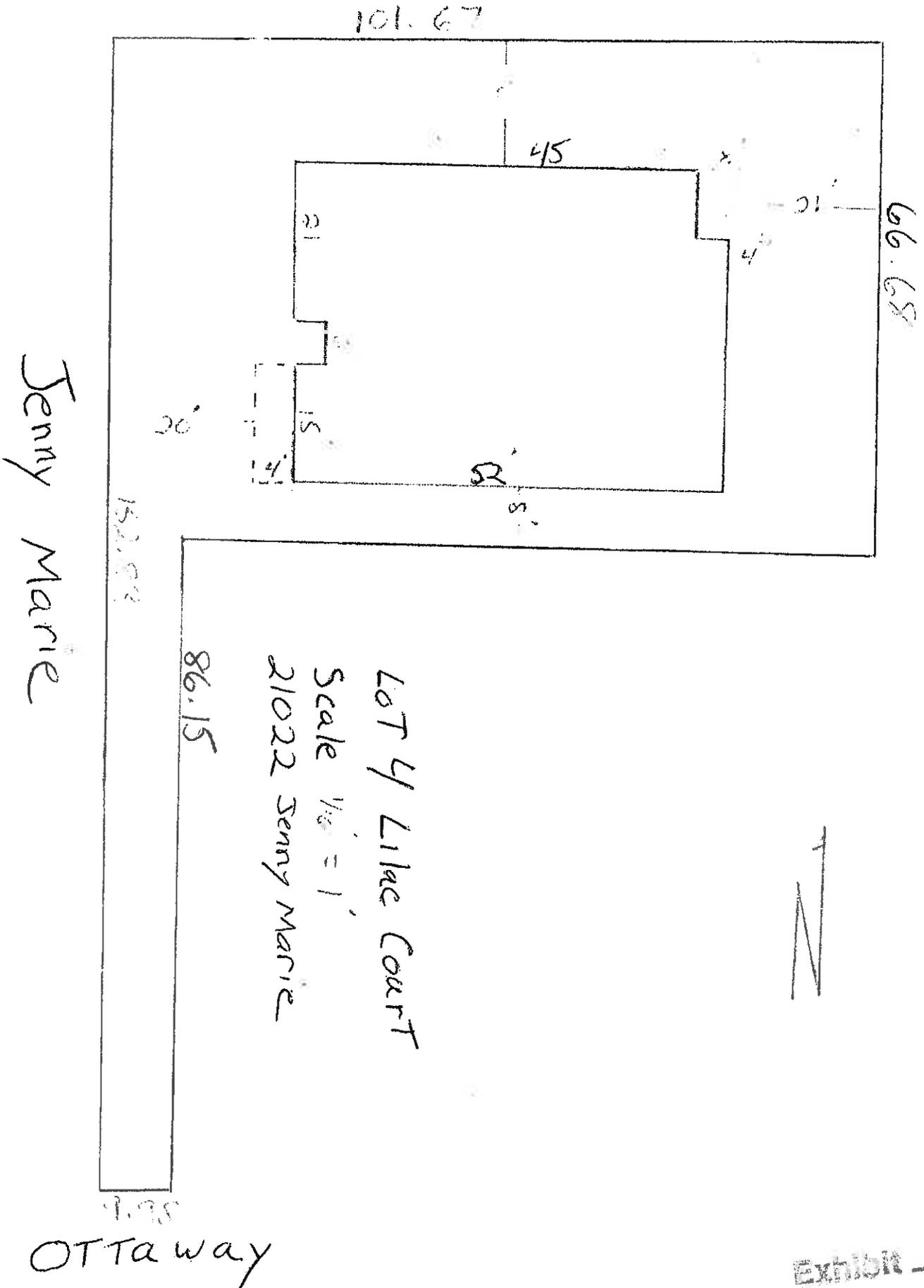


Exhibit B2



Google earth



Google earth



Exhibit 9.1





Google earth



Google earth

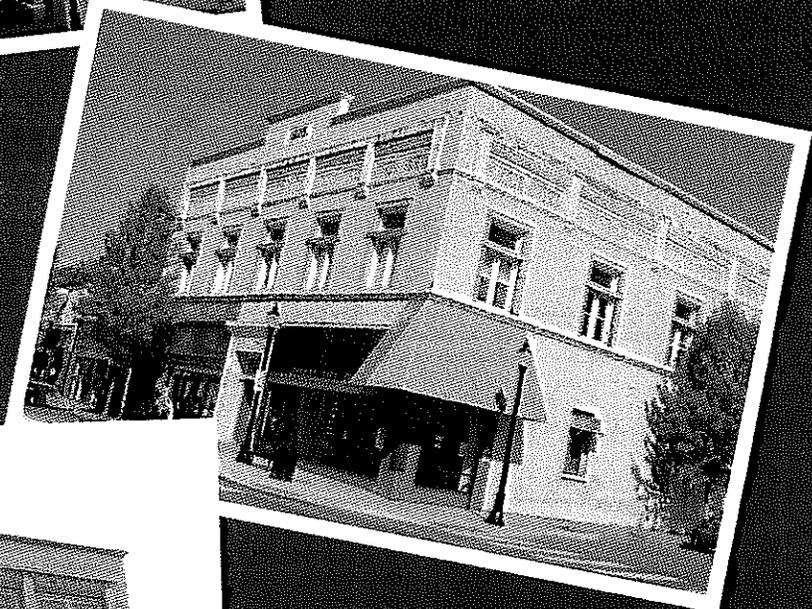


Exhibit C2



Google earth





OREGON MAIN STREET

Annual Report 2013

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Congratulations to Oregon Main Street on another successful year! Your programs' impressive track records – as this report highlights - speak volumes about Oregon Main Street's commitment to and perseverance in bringing people and prosperity to downtowns across the state.

Having launched as a nonprofit subsidiary of the National Trust for Historic Preservation in July 2013, we at the National Main Street Center are more excited than ever for Main Street's future. With a new strategic plan in place and an updated mission focusing on inspiring and enabling leaders to build strong communities through investments in their historic and distinctive places, we look forward to forming closer connections with state and local programs like yours. We want to equip you with the resources you need to achieve your next milestones, provide you with the tools to address your biggest challenges, and support you in your work to build strong communities.

As a Northwest native, I may be a little biased, but I believe Oregon Main Street serves as a terrific example of what distinguishes the Main Street Approach from other community revitalization strategies: its comprehensive, grassroots approach; its proven effectiveness as an economic revitalization tool; its commitment to preserving the distinctive character of historic commercial districts; and the passion of Main Streeters who are truly committed to creating stronger, healthier communities through renewing downtowns.

We at the National Main Street Center commend the great work going on in Main Streets across Oregon and look forward to seeing what the next year brings!

Best wishes,

Patrice Frey

President & CEO
National Main Street Center



2013 National Main Street Accreditation

Each year Oregon Main Street evaluates the Performing Main Street level communities based on ten performance standards established by the National Main Street Center and to recommend for National Accreditation those who meet the standards. Three Performing Main Street level communities achieved 2013 National Main Street Program Accreditation:

- * **Albany Downtown Association**
- * **McMinnville Downtown Association**
- * **Main Street Oregon City**

“We congratulate this year’s nationally accredited Main Street programs for meeting our established performance standards,” said Valecia Crisafulli, then acting director of the National Main Street Center. “Accredited Main Street programs are meeting the challenges of the downtown in the economy head on and are successfully using a focused, comprehensive revitalization strategy to keep their communities vibrant and sustainable.”

Evaluation criteria determines the programs and communities that are building comprehensive and sustainable revitalization efforts and include standards such as developing a mission, fostering strong public-private partnerships, securing an operating budget, tracking economic progress, and preserving historic buildings and places. These standards provide benchmarks and guidelines on the way an organization should be functioning and serve as incentives for improvement.

	Exploring Downtown	Transforming Downtown	Performing Main Street
Goal Setting	3	9	3
Board/Committee Training	--	4	--
Technical Assistance	--	1	1
Program Evaluations	--	1	4
Organizational Meeting	3	2	3
Design Assistance	1	1	1
Presentations	5	1	1
Historic Surveys	1	1	--
Manager Orientation	1	5	3
Totals	14	25	16

Technical Assistance
and Support Summary
(# of Communities Assisted)

The Main Street Four-Point Approach®

Oregon Main Street uses the successful Main Street® methodology developed by the National Trust for Historic Preservation as its foundation for assistance. This methodology is a proven approach to historic commercial district revitalization. The success of the Main Street Approach® is based on its comprehensive nature and emphasizes four critical areas of revitalization:

- * **Organization** helps everyone work towards the same goals and maximizes involvement of public and private leaders within the community.
- * **Promotion** brings people back downtown by helping to attract visitors, shoppers, and investors.
- * **Design** enhances a district's appearance and pedestrian amenities while preserving its historic features.
- * **Economic Restructuring** stimulates business development and helps strengthen the district's economic base.

By fully integrating the four points into a practical downtown revitalization effort, a local program will produce fundamental changes in a community's economy based on preservation strategies.

2013 Reinvestment Stats

Performing Main Street

Private reinvestment:	\$ 4,099,446
Public reinvestment:	\$3,457,128
Total private rehab projects:	69
Net business gain:	19
Net job gain:	171
Total volunteer hours:	9,361
Value of volunteer hours:	\$180,955

Transforming Downtown

Private reinvestment:	\$12,258,354
Public reinvestment:	\$11,546,933
Total private rehab projects:	81
Net business gain:	33
Net job gain:	108

2013 Total Reinvestment Stats

Private reinvestment:	\$16,357,800
Public reinvestment:	\$15,004,061
Total private rehab projects:	159
Net business gain:	52
Net job gain:	279

2010-13 Performing Main Street and Transforming Downtown

Private reinvestment:	\$38,944,266
Public reinvestment:	\$43,986,615
Total private rehab projects:	513
Net business gain:	212
Net job gain:	1,129

* Transforming Downtown data from 2011-13

Meeting the Needs of Oregon Communities

An important objective of the Oregon Main Street Program is to provide assistance to all communities in Oregon whether they are just beginning to explore options for their downtown or seeking national recognition as an accredited Main Street® town. To accomplish this, services are offered through a tiered system. The levels include:

- * **Affiliate** is for communities that do not wish to become a designated Main Street community or wish to apply the Main Street Approach® in a non-traditional commercial setting and want to receive notification of workshops and conferences sponsored by Oregon Main Street. Interested communities may join at anytime by completing a brief application form.
- * **Exploring Downtown** is for communities just starting a downtown revitalization effort and wish to learn more about using the Main Street Approach®. Interested communities may join at anytime by completing a brief application form.
- * **Transforming Downtown** is for communities who are committed to downtown revitalization using the Main Street Approach® but need technical assistance to take them to the next level. Participation at the Transforming Downtown level does not guarantee selection as a designated Main Street community, but it can help communities strengthen their revitalization efforts. Application rounds are held as resources permit
- * **Performing Main Street** is for those communities with independent nonprofit organizations using the Main Street Approach® as the basis for their downtown revitalization efforts. Application rounds are held as resources permit.



Performing Main Street Communities

Albany



2013 was a breakthrough year for Historic Downtown Albany! Albany is a great place to enjoy art thanks in part to four new galleries. Gallery Calapooia representing the work of 19 artists, is located in the restored historic Flinn Block. The 19th century building has a beautiful cast iron facade and a spacious interior, making it a wonderful setting to view art. A the Tup Tim thai restaurant opened right next door to the gallery and a new neighbor, the Flinn Steakhouse will open in spring 2014. Albany is known regionally as the home to the Historic Carousel and Museum project, drawing thousands of visitors each month to watch a menagerie of carousel animals being carved and painted by hand. The carousel helped put Albany on the map nationally after Parade Magazine highlighted the project with a full page feature story in July. Albany Downtown Association (ADA) is proud to be a Performing Oregon Main Street community and appreciates the many committee volunteers as well as those who help with specific ADA events. These volunteers totaled more than 2,100 hours in 2013 in an effort to make Historic Downtown Albany a great place to live, work, shop and visit!

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Astoria



2013 was a very busy and exciting year for the Astoria Downtown Historic District Association (ADHDA). In early spring, we presented the fourth annual Jane Barnes Revue, our original fundraiser that has grown into an annual event. We also saw the completion of Phase II of "Building Blocks for a Successful Downtown," which engaged citizens, property and business owners in a strategic planning effort. The program gave us great project ideas for future growth. Oregon Main Street also provided a capacity assessment to help us strengthen our capacity so that we can hit the ground running with the recommendations from Building Blocks. With the support of the City of Astoria, its members, and special fundraising events, we hired a full-time Executive Director. We also organized the Pacific Northwest Brew Cup for a second year in a row. Although impeded by gale force winds, sideways rain, and lightning this year, the event prevailed through the efforts of the community – a great testament to the spirit and fortitude of the organization and their volunteers! ADHDA has many projects and plans in the works for 2014 and looks forward to strengthening our partnerships for continued success!

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Corvallis

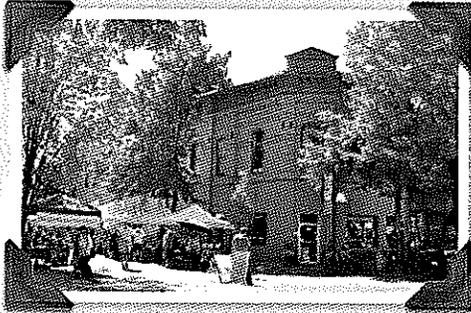


Downtown Corvallis Association (DCA) had another successful year of promotional activity for downtown. Events included Red, White and Blue; Rhapsody in the Vineyard; Crazy Days; Halloween; and Science Pub Corvallis. Rhapsody in the Vineyard drew over 2,000 people downtown alone. DCA also hosted a successful six-part free Brown Bag Workshop series. All speakers donated their time and the presentations were well attended. And the Downtown After Hours networking event continues to grow – all dates for 2014 were spoken for by November 2013! The monthly Downtown Red Carpet Welcomes, unique to Corvallis, are appreciated by new businesses and have enjoyed a growth in participation resulting in new members for DCA. They host an annual downtown cleanup in partnership with Oregon State University students, the City Parks and Recreation Department, and Master Gardeners. The event is an excellent relationship builder in addition to helping make downtown sparkle. The Mosaics Collaboration project was a really terrific project to enliven the district while engaging a wide variety of people. This signature project received an Excellence in Downtown Revitalization Award.

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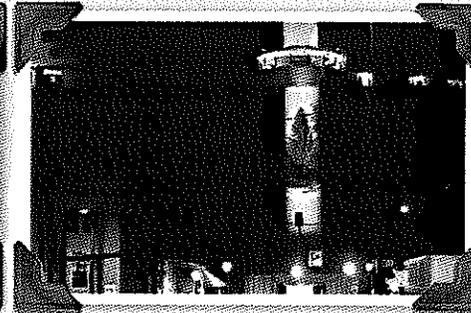
Performing continued ...

McMinnville



2013 was an eventful year for the McMinnville Downtown Association. The City of McMinnville invited our input and participation in two major pieces of local legislation: urban renewal and transient occupancy tax. Both ordinances were passed unanimously by the City Council. Urban renewal will include a large portion of our downtown infrastructure and going out into the neighboring Granary District and the Northeast Gateway. An estimated \$30 million is slated for investment over the next 25 years. The TOT went into effect Jan. 1, and will mean \$400,000 in tourism marketing resources for our community annually. In addition, we installed two new pieces of public art downtown. Pictured above is "La Solita" by M.J. Anderson in front of Oregon Mutual Insurance; the second piece, "Drift" by Lee Imonen, was installed at the McMinnville Fire Department.

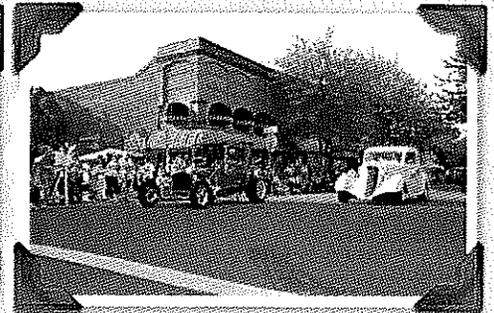
Oregon City



Downtown Oregon City continued to evolve with significant property improvements and new businesses in 2013. Hardly a day doesn't go by where a visitor isn't overheard claiming that they haven't been downtown in years – the momentum for reintroducing downtown to the community and region continues to grow. Several of signature events such as the Downtown Car Show and First City Celebration gained popularity. Also, Main Street Oregon City, Inc. (MSOC) laid the groundwork for new programs to cultivate a strong retail base including establishing the Retail Advisory Group. Our historic municipal elevator got a facelift and prepared for a yearlong video art installation. The installation will be a prominent feature downtown in 2014. 2013 was also an important year with the city sponsored Willamette Falls Legacy Project. Thousands participated in a vision and master plan to reimagine the vacant Blue Heron paper mill site. The resulting proposal re-establishes the city grid and extends Main Street to a park overlooking Willamette Falls. If approved and funded, the development will be a major catalyst for tourism and property investment for all of downtown.

Photo credit: Tiffany Carbonneau

Roseburg



Downtown Roseburg Association (DRA) work on the feasibility of a Town Square Plaza with the City. We advocated for a plaza to attract customers downtown and provide a higher quality to life for merchants and residents by restoring blighted property. The consulting group hired by the city found the location of the former Rite Aid building as its top choice. The consultant's report included several artistic renditions of mixed retail/office/living space and green space for downtown events. A public-private approach was suggested to help get funding for the project which led to the formation of the Roseburg Downtown Development, LLC. To demonstrate the potential for the project, DRA hosted a very successful "Flash Plaza" for a day creating an impromptu public space. We also hosted a clean-up day for downtown, bringing together businesses, property owners, and volunteers. We instituted a well-attended monthly social for downtown business owners to get to know each other. Other fun events we hosted in 2013 brought liveliness to the district including a Taste of Downtown, and our popular Graffiti event that had new vendors and over 630 different cars.

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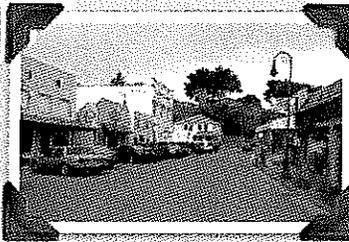
Transforming Downtown Communities

Baker City



2013 was a year of transition and transformation for Historic Baker City (HBC). Although transition can be difficult, we're looking ahead to 2014 with optimism and enthusiasm. One project that was successfully completed last year was the Restort Street Improvement Project funded by the Oregon Jobs and Transportation Act of 2009. This project was to repair, preserve, and modernize the downtown commercial corridor. The project included new sidewalks, street surface, and many amenities including artistic enclosures for garbage and recycling, benches, lighting, etc.

Bandon



Bandon continued its economic rebound in 2013 in a big way. A primary tourist attraction, a cheese factory, was resurrected when Face Rock Creamery opened. The Old Towne Marketplace, a farmers/artisan market, completed its first full year. The Washed Ashore Project opened in the heart of Old Town. And empty storefronts in Old Town Bandon have disappeared. Major accomplishments of Greater Bandon by the Sea Association (GBA) included: introducing new community events; introducing a series of community forums to promote greater collaboration among individuals, groups, and organizations; and generating facade improvements in Old Town Bandon. Events included "Alive After Five", a monthly combined wine, art, and merchant activity. We also reintroduced a community Christmas tree and tree lighting celebration. We'll continue to champion and be an active partner in the economic revitalization of the downtown business district in 2014 by encouraging participation in the City's facade program, continuing clean-up/fix-up campaigns, and providing one-on-one technical assistance to property and business owners on elements of good design.

Canby



Canby Main Street continues to make great strides! In 2013, we continued with our many successful events. The Downtown Canby Spooktacular Village included a parade and trick-or-treating on Halloween. Light Up The Night kicked off the holiday season with tree lighting, carols, and First Friday. The addition of the Kiss Summer Goodbye Party featured music and vendors in Wait Park, with performances by the Canby High School Dance Team and Allegro Dance Studio. The facade program continued to gain momentum and even encouraged facade work with businesses not participating in the program. In September, the Canby Main Street Manager, Economic Development Director and Chamber of Commerce formed a team to provide outreach and references for some businesses who asked for additional help. The team pared down the number of businesses who needed help and connected them with tools available within Canby and the Small Business Development Center. We formed a Historic Review Board and an Arts and Culture Committee to leverage some of the programs that the City has while engaging new volunteers.

Carlton



The Carlton Business Association (CBA) focused on organizational development in 2013 both by recruiting new board members and working on strengthening the committee structure. These efforts are already paying off. Through the efforts of the Organization Committee, CBA now has better work plans in place and a budget. A brand change is complete through Promotions and the 2nd Annual Carlton Crush made money. Design completed their first Flower Basket program, upgrades to an informational kiosk, and added Free Little Libraries to the community. Two major building renovations are in progress. CBA is fortunate to be in a community where there is a high level of volunteerism, energy, and enthusiasm!

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