AGENDA
Aurora Planning Commission Meeting
Tuesday, October 4, 2016, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main Street NE, Aurora, OR 97002

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1. **CALL TO ORDER OF THE AURORA PLANNING COMMISSION MEETING**

2. **CITY RECORDER DOES ROLL CALL**

3. **CONSENT AGENDA**
   a) Planning Commission – September, 2016
   b) City Council Minutes – August, 2016
   c) Historic Review Board Meeting Minutes – NA

4. **CORRESPONDENCE –**
   a) FEMA NFIP_ESA_Consultation in Oregon

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.

6. **PUBLIC HEARING**

   a) Discussion and or Action on Legislative Amendment LA-16-01 Application for Lavena Green Farms.

7. **NEW BUSINESS**

   a) NA

8. **OLD BUSINESS**

   a) Discussion Regarding Code Revisions List.

9. **Commission Action/Discussion**

   a) City Planning Activity (In Your Packets) Status of Development Projects within the City.

10. **ADJOURN**

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

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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 impaction 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 leiu 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 statue 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

Minutes
Aurora City Council Meeting
Tuesday, August 09, 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
Dennis Koho, Koho Law

STAFF ABSENT: NA

VISITORS PRESENT: Chris Green, 14643 Ottaway Building C
Scott Ross, Aurora
Kris Sallee, Aurora

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1. **CALL TO ORDER OF THE CITY COUNCIL MEETING**

   Meeting was called to order by Mayor Bill Graupp at 7:11 pm

2. **CITY RECORDER DOES ROLL CALL**
   Mayor William Graupp- Present
   Councilor Jason Sahlin - Absent
   Councilor Kris Sallee-Present
   Councilor Robert Southard-Present
   Councilor Tom Heitmanek - Present

3. **CONSENT AGENDA**
   a) City Council Meeting Minutes – July, 2016, City Recorder Richardson informs council there were a few sentence structure items that have been corrected.
   b) Planning Commission – NA
   c) Historic Review Board Meeting – June, 2016

   ACTION ITEM: NA

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

4. **CORRESPONDENCE –**
   a) NA.

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.

- Scott Ross, 21200 Hwy 99E. I brought a matter to the council last month regarding a possible tort claim I would like a status. City Attorney Koho informs Mr. Ross the city is taking its insurance advice as there is no case and we have no intention to settle and if you want go ahead and file.

- Chris Green, 14643 Ottaway Rd building C, I received a cease and desist letter from the city regarding not having a business license. I currently lease the building from John Smets and I am not currently doing business however I would like an extension to apply for a code text amendment to remove the buffer zone or two make a deal with the other business to buy us out. Mr. Green states they submitted a letter to Joseph Schaefer today were beginning the process. Richardson informs council that this is the business that she was directed to send out the violation letter regarding the lack of permits and no site development review being approved for the lease of the building. Council consensus is to give Mr. Green until the next council meeting and discuss this issue again.

- Kris Sallee, addresses the council as a citizen who received a bill for services provided to her per the sign application that was applied for. Sallee has concerns regarding the bill and how it was handled. 1. Why am I receiving this so long after the fact? 2. Why is the attached showing my name and others I don't really care for other people seeing what I am doing, is this normal? 3. Due date was wrong. 4. Question regarding her check and the amount due.

6. REPORTS

a) Mayor Bill Graupp, informs council that he attended the Mayors conference and received some good information regarding public meetings laws and because of what he learned feels we need to look at our email practices. City County insurance is working hard to address the recreational immunity law. CIS is offering a service to inspect playgrounds and I would encourage staff to take advantage of this service.

Council discussed. NA

ACTION ITEM: NA

b) Planning, August meeting was cancelled.

ACTION ITEM: NA

c) Public Safety, Officer Mike Bell our new deputy gives a bit of background and experience. He presents his report and informs council that currently approximately 90% of the citizens treat the stop sign on Liberty as a yield sign and soon he will be issuing cites. Currently were getting ready for the Colony Days events. Councilor Sallee asks for a yearend report. Mayor Graupp asks for deputy Bells reaction to the free lunch trailer in the park and deputy Bells think it's a great idea. There have been no issues in the park during the concerts either.

Council discussed, NA

ACTION ITEM: Yearend Report

d) Finance,
- Everything is going great does council have any questions.

Council discussed, NA

ACTION ITEM: NA

e) Public Works
- Presents his report and is happy to be in the new budget cycle as some areas were operating thin near the end.
- The water leak at 21383 has been addressed and the leak was as earlier reported on the customer's side of the meter.
- Yukon water leak has been addressed as well along with Bobs and Liberty.
- We have cut back water usage in the park.
- Working on the water rate study items.
- Councilor Sallee ask about how many meters can be done in a day and Lockard states approximately 3-5.

Council discussed, various items regarding Colony Days.

ACTION ITEM: Get completed and updated contract.

f) Parks Committee
- Mayor states that there has been a lot of good feedback from Aurora Colony Days committee regarding the addition of the farmers market.

ACTION ITEM: Web payment portal.

g) City Recorder, gives her report and informs council 3violations went out last month and there are no questions from council.

h) City Attorney
- During this time Councilor Sallee informs the group she contacted Tamara Jones the pre-loss attorney at the League of Oregon Cities and spoke to her about the Employee Manual. Staff informs Councilor Sallee that the Employee Manual originated from there and was adapted towards Aurora and went through the review process from City

County Insurance Services and the League of Oregon Cities that last time is was updated.

Council discussed, NA

ACTION ITEM: NA

7. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS

a) Resolution Number 713 A Resolution to Validate in Writing Heitmanek Appointment,

Motion to approve Resolution Number 713 and Validate Heitmanek Appointment is made by Councilor Sallee and is seconded by Councilor Southard. Passed by All.

b) Resolution Number 714 A Resolution to Purchase a 2017 Ram Truck for Public Works Department as budgeted. , There is a brief discussion regarding what to do with the old trucks.

A motion is made by Councilor Heitmanek to approve Resolution Number 714 to purchase 2017 Truck for Public Works and is seconded by Councilor Southard. Passed by All.

8. NEW BUSINESS

a) NA

9. OLD BUSINESS

a) Discussion and or Action on Ordinance Violations/Nuisance Declared Property Location 21367 Hwy 99E Richard Reneau. Council discussion the safety issue at this property and various options. It is the consensus of the council to think about where they want to go with this and table until next month.

ACTION ITEM; Public Works needs to get a bid for cleaning up the lot.

b) Discussion and or Action /Review of Council Procedures, leave as ongoing.
c) Discussion and or Action/Review of Employee Manual. Leave as ongoing.

10. FUTURE TOPICS

a) **IGA List**
b) **Chapter 8 Noxious Vegetation**

11. ADJOURN,

Mayor Graupp adjourned the August 09, 2016 Council Meeting at 8:29 PM.

Bill Graupp, Mayor

ATTEST:

Kelly Richardson, CMC
City Recorder

FEMA’s NFIP ESA Consultation in Oregon

Overall Objective of ESA Compliance

- **Under the ESA, Section 7, all federal agencies are required to consult with NMFS to ensure that any action that is authorized, funded or carried out by that agency does not jeopardize the continued existence of endangered species or result in the destruction or adverse modification of the critical habitat of such species.**

Terms and Acronyms

- **NMFS: National Marine Fisheries Service is a division of NOAA Fisheries, responsible for the stewardship and management of the nation's living marine resources and their habitat**
- **NFIP: National Flood insurance Program**
- **BO/BiOp: Biological Opinion on the NFIP issued by NMFS**
- **RPA: Reasonable and Prudent Alternative that NMFS believes necessary to achieve ESA (Endangered Species Act) compliance**

NFIP in Oregon- ESA History

- **2009 – Lawsuit filed by Audubon Society of Portland et al, for FEMA's Failure to Consult.**
- **2010 - Settlement agreement reached**
  - **Require that habitat impacts be avoided or mitigated as a condition of processing CLOMR-Fs**
- **2011 – FEMA requested informal consultation with NMFS**
- **2012 – FEMA began formal consultation with NMFS requiring Program Level Biological Assessment (BA)**
- **2013 – BA last amended – NMFS produced draft BiOp with Jeopardy Determination and draft RPA**
- **2013 - April 14, 2016 – Oregon BiOp issued - Jeopardy/Adverse Modification with RPA – after extensive negotiations between NMFS and FEMA staff.**

Conditional Letter of Map Revisions (CLOMR-F)

- **The requestor must submit written documentation with *analysis* showing ESA compliance**
- **Take (harm and harass) cannot occur**

Oregon RPA

RPA	Summary	Timeframe
1. Notification	Notice, education, and outreach to NFIP communities in Oregon regarding the outcome of FEMA's consultation with NMFS on the implementation of the NFIP in Oregon.	60 days (June 14, 2016) for letter, and September 15, 2016 for everything else
2. Interim Measures	Interim measures that FEMA and its NFIP participating communities must promptly implement to mitigate the impacts of floodplain development on natural floodplain functions needed to support listed species. These interim measures, which include extensive reporting requirements, are to be implemented prior to the implementation of the permanent elements of the RPA.	March 15, 2018
3. Mapping Criteria	Required use of more extensive and expensive mapping protocols and methodologies for the stated purpose of improving the identification of special hazard areas. Mapping a number of new areas including the future conditions floodplain through 2100, erosion zones, and channel migration zones (the RPA also requires FEMA to regulate to these new and expanded zones as well).	3A & 3E March 15, 2018 3B, 3C, 3D, 3F & 3G are due September 15, 2019

Oregon RPA

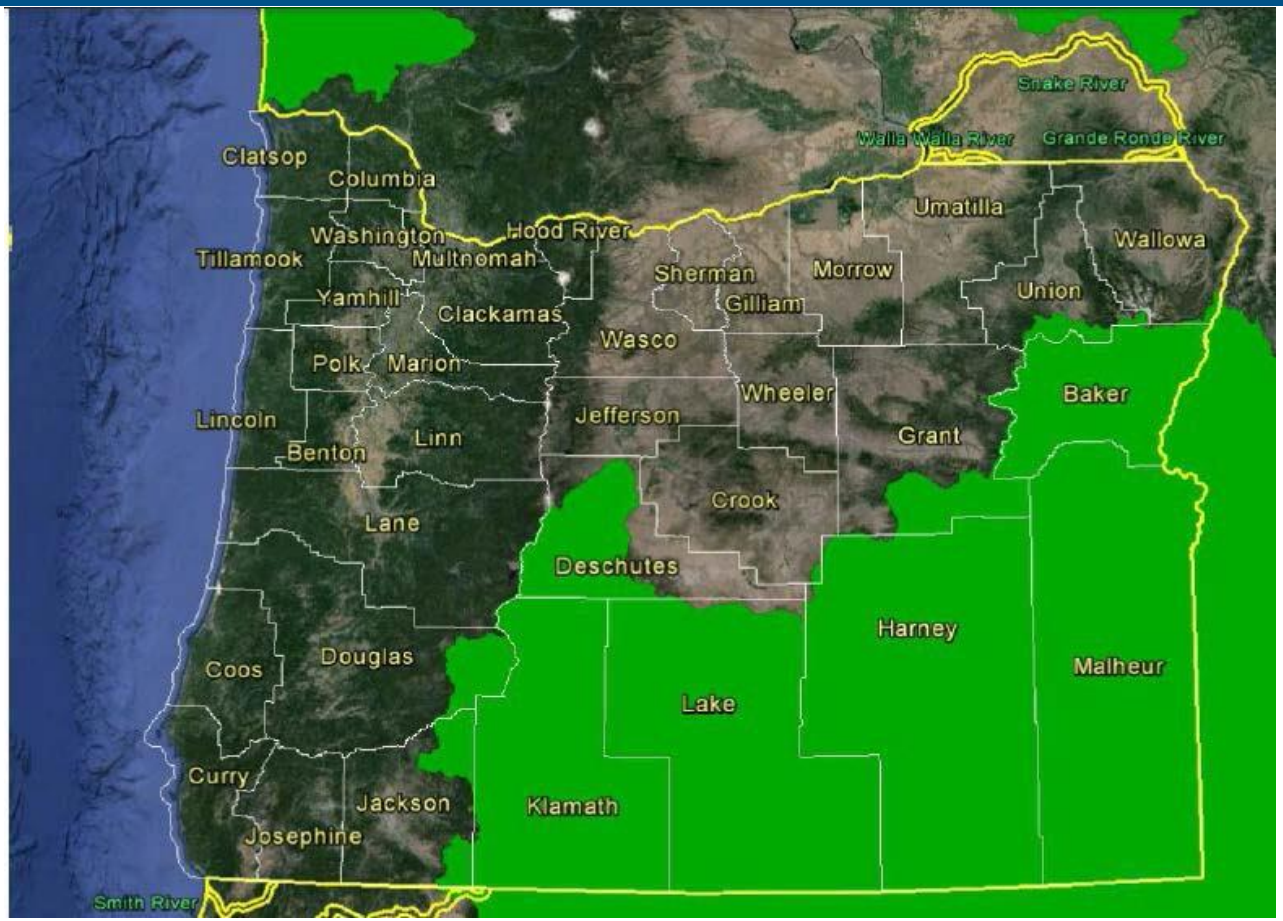
RPA	Summary	Timeframe
4. Revised Floodplain Management Criteria	**Revised floodplain management criteria to:** • **Include a generally applicable ESA performance standard;** • **Prohibit almost all development in an area known as the High Hazard Area - HHA (floodway, V-Zone, LiMWA, erosion zone);** • **Prevent the re-drawing floodway to accommodate floodplain development (will drastically limit development in floodway);** • **Require a 60 year erosion setback area with very limited uses (agricultural, open space, temporary structures);** • **Expand definition of SFHA to include future conditions floodplain; and** • **Significantly restrict subdivisions of lots.** **There are extensive and prescriptive compensatory mitigation requirements that apply in the entire SFHA, including the future conditions floodplain.**	**January 1, 2019 for components that FEMA determines do not need a regulation change**

Oregon RPA

RPA	Summary	Timeframe
5. Data Collection and Reporting	**Data collection and reporting requirements needed to accurately track floodplain development impacts and RPA implementation.**	**March 15, 2018**
6. Compliance and Enforcement	**Compliance and enforcement strategies to ensure that effects of floodplain development pursuant to the NFIP are avoided or reduced throughout the action area.**	**March 15, 2019**

Timeframe Note: Components of the RPA that require regulatory revisions – January 1, 2021

Oregon Affected Communities



Affects 251 of 271 Oregon Communities

All river sub-basins in Oregon that contain ESA listed Salmon, Steelhead & Eulachon fish (excludes shaded green area)

Summary of Oregon RPA

- **All 251 Affected Communities will be remapped based on higher standards**
- **All communities will be required to revise/adopt local regulations with these more restrictive standards for development in the Floodplain**
- **If communities fail to comply with the RPA, FEMA will have no choice but to apply existing NFIP enforcement actions**

FEMA's View on Oregon RPA

- **FEMA will work toward implementation of the RPA requirements within our legal authority**
- **Or we will search for alternative methods of implementation to meet the overall goal of the RPA – working with the State, communities, Tribal Nations, and stakeholders**

Path Forward (Year 1 - planning)

Strategic and programmatic partnership with Oregon DLCD

- DLCD will receive funding through our CAP-SSSE Grant for FY16 for technical assistance and to serve an advisory role to FEMA
- Inclusive of state goals and land use principals
- Conduct outreach/workshops
- Provide information to local floodplain administrators and biological consultants
- Coordinate work groups
- Provide clarification and help develop guidance materials/tools/data

Path Forward (Year 2 Implementation)

- **FEMA will create implementation plan based on Tribal, State and local government input**
- **Model ordinance, guidance and other tools**
- **Offer technical assistance**
- **Communities adopt new ordinances**

Summary : The Next 2 years

Tribal and Local Government can expect:

- **A seat at the table and input to the process**
- **By approximately April 2018, the NFIP in Oregon will look different than it does today**

Workshops

First Series – more workshops and workgroups to follow

- **Please visit DLCD's website for up-to-date schedule at http://www.oregon.gov/LCD/Pages/NFIP_BiOp.aspx**
- **Below schedule as of July 12, 2016**

Albany	June 27, 1:00 - 4:00 p.m.	Albany City Hall, 333 Broadalbin St SW
North Bend	June 28, 1:00 - 4:00 p.m.	North Bend Library, 1800 Sherman Ave
White City	June 29, 1:30 - 4:30 p.m.	Jackson County Roads, 200 Antelope Rd
Tillamook	July 14, 1:00 - 4:00 p.m.	Oregon Department of Forestry, 5005 Third St
Oregon City	July 15, 9:00 a.m. - noon	Clackamas County Development Services Building, 150 Beavercreek Road
Portland	July 25, 1:00 - 4:00 p.m.	Bureau of Planning and Sustainability, 1900 SW 4th Ave
Salem	July 26, 9:00 a.m. - noon	Marion County Public Works, 5155 Silverton Rd NE
Springfield	July 26, 2:00 – 5:00pm	Springfield Justice center, 2nd floor, 230 4th street, Springfield OR
The Dalles	July 27, 2:00 - 4:30 p.m.	Columbia Gorge Community College
La Grande	July 28, 9:00 a.m. - noon	Eastern Oregon University, One University Boulevard

Examples of Region X WA Guidance

National Flood Insurance Program
Community Rating System

CRS Credit for Habitat Protection

2010

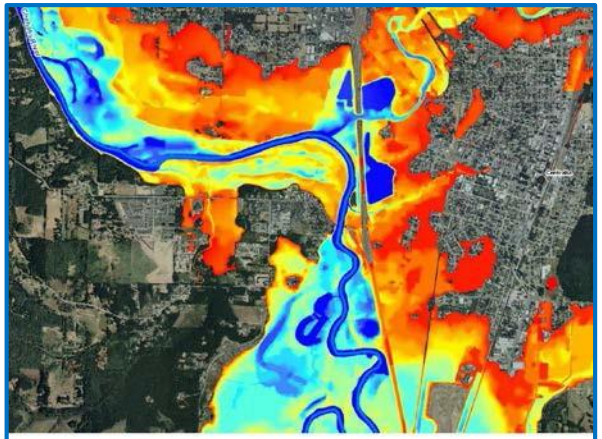
FEMA

Floodplain Habitat Assessment and Mitigation

Regional Guidance for the Puget Sound Basin

2013

FEMA Region 10



Regional Guidance for Hydrologic and Hydraulic Studies

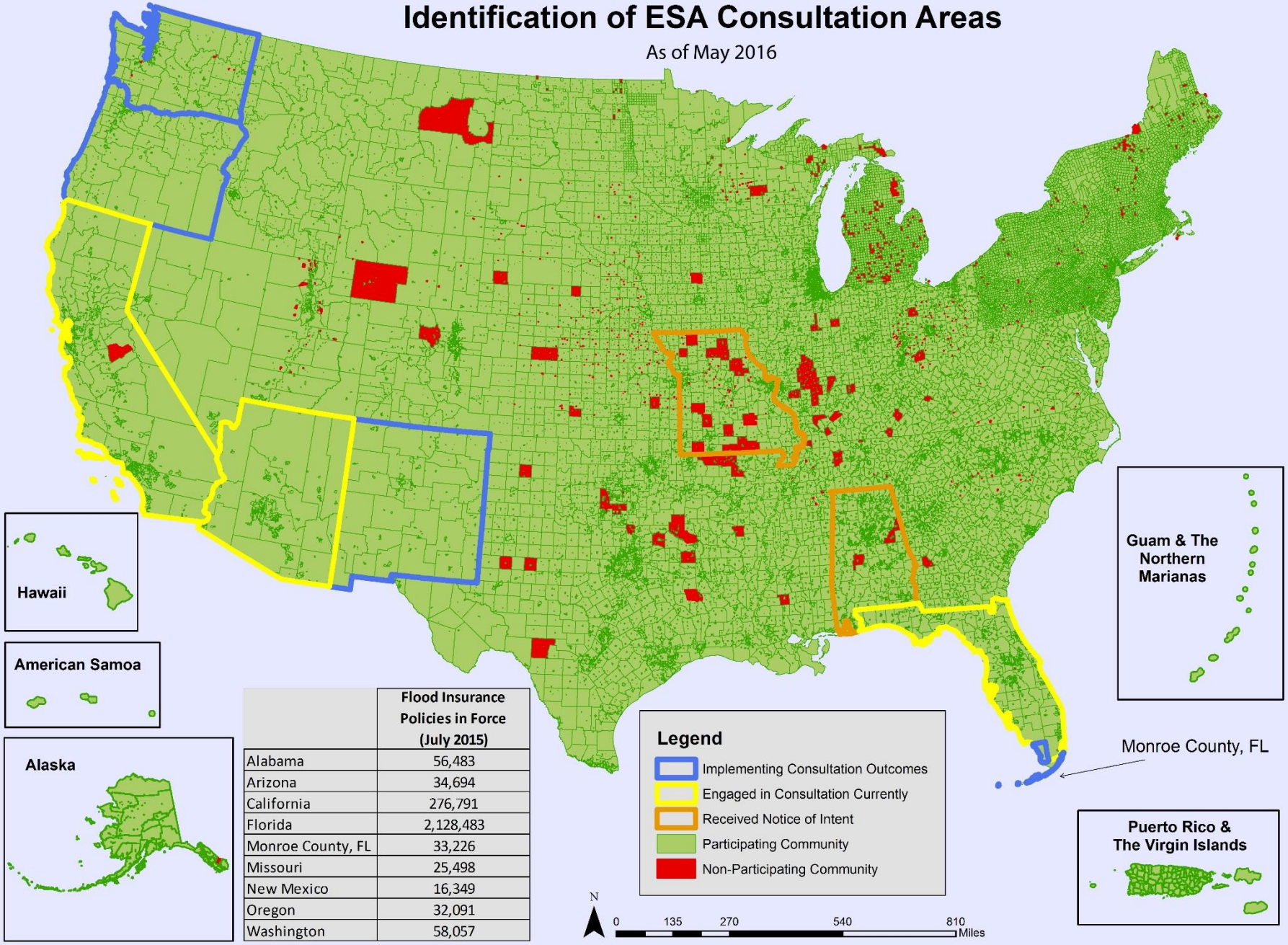
In support of the Model Ordinance for Floodplain Management and the Endangered Species Act

2010

FEMA Region 10

Status of Communities Participating in the NFIP and Identification of ESA Consultation Areas

As of May 2016



	Flood Insurance Policies in Force (July 2015)
Alabama	56,483
Arizona	34,694
California	276,791
Florida	2,128,483
Monroe County, FL	33,226
Missouri	25,498
New Mexico	16,349
Oregon	32,091
Washington	58,057

Questions

Resources

- DLCD website http://www.oregon.gov/LCD/Pages/NFIP_BiOp.aspx
- FEMA ESA comment email address

FEMA-R10-ESAcomments@fema.dhs.gov

Contact information

Scott D. Van Hoff, CFM
Mitigation Specialist
FEMA Region X
Office 425-487-4677
Cell 425-892-4152

Justin Craven
Mitigation Specialist
FEMA Region X
Desk: 425-487-4640

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 Planning Commission
FROM: Renata Wakeley, City Planner
RE: Legislative Amendment 2016-01 (LA-16-01)
DATE: September 27, 2016

REQUESTED ACTION

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

A. Adopt the findings in the staff report and recommend that the City Council adopt Legislative Amendment 16-01:
    1. As presented by staff; or
    2. As amended by the Planning Commission (stating revisions).

B. Recommend that the City Council 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 ~~strikethrough~~ format for review purposes (see Exhibit A).

FINDING OF FACT AND CONCLUSIONS

The Aurora Planning Commission, after careful consideration of the testimony and evidence in the record, adopts 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 tentative City Council hearing on 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 will review the proposed legislative amendments at a October 4, 2016 public hearing. If applicable, the City Council will hold a public hearing on the Planning Commission recommendation for LA-2016-01 at a tentatively scheduled hearing on October 11, 2016.

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 schedule 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 finds 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 finds 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. Staff finds 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 finds 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 finds 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 finds 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 finds 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 finds 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 does not find a 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 finds 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;

Exhibit A1

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.

Exhibit A2

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)

Exhibit A3

EMERGE
law group
805 SW Broadway, Suite 2400, Portland, OR 97205

CORINNE S. CELKO
Admitted in Oregon
(503) 467-0396
corinne@emergelawgroup.com

August 16, 2016

RECEIVED
AUG 18 2016
CITY OF AURORA

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,

Corinne S. Celko
Attorney

Exhibit B1

City of Aurora
Planning/Development Application
(Check appropriate box)

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

APPLICANT GENERAL INFORMATION

Applicant Lorene Green Farms Phone (503) 915-0535

Mailing Address 1317 SE 14th Ave Canby, OR 97013

Property Owner Stems properties Phone 503 702 2713

Mailing Address PO Box 560 Aurora OR 97002

Contact person if different than applicant Irvine Ceiko Phone (503) 467-0396

Mailing Address 805 SW Broadway, Suite 2400 Portland, OR 97205

PROPERTY DESCRIPTION

Address 19533 Ottaway Rd. NE Bldg. C 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 Marijuana production facility

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

Remove use-that-letter requirement between marijuana 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 — Date 8/15/16

Stems Properties — Signature of Property Owner — Date 8/15/16

Office Use Only: Received By 8/18/16 VR Date: _____ Fee Paid $ 3,000 #1481

Receipt # _____ Case File # _____ Planning Director Review _____ Date: _____

Last updated 6-14-2010

Exhibit B2

Legal Description for
14633 Ottaway Road

Exhibit B3

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.

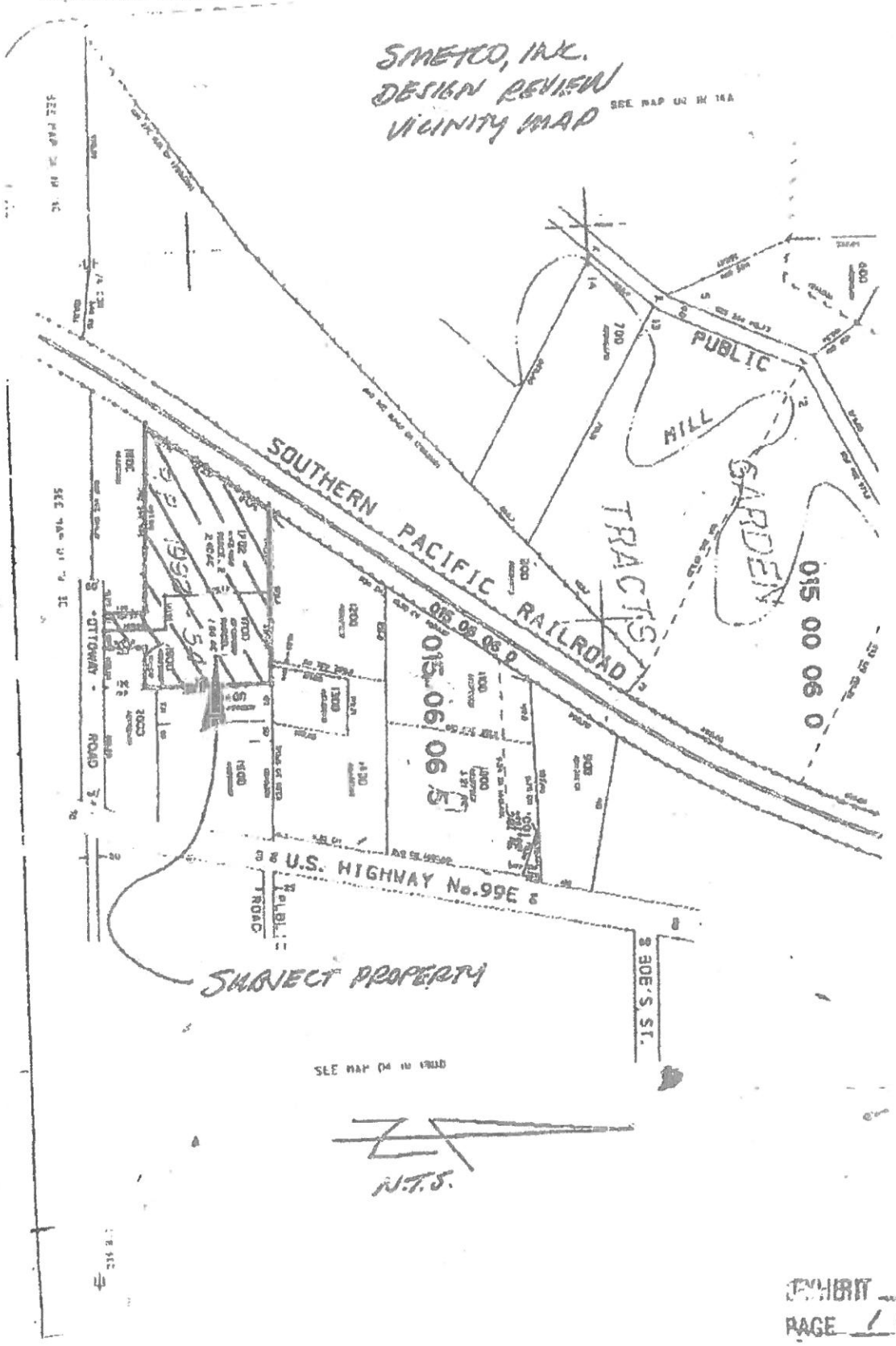


EXHIBIT A
PAGE 1 OF 1

Exhibit B4

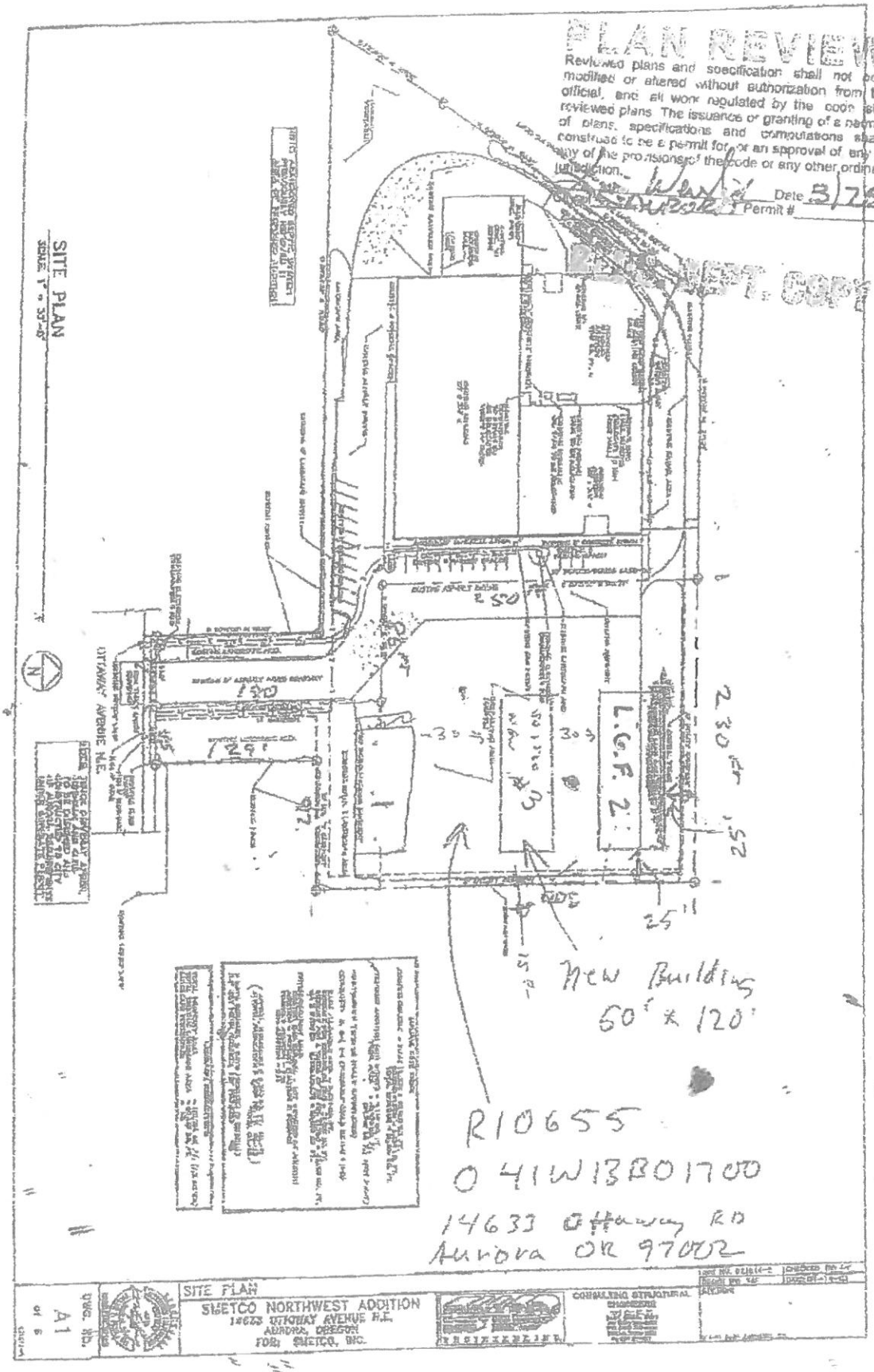

PLAN REVIEWED
Reviewed plans and specification shall not be changed, modified or altered without authorization from the building official, and all work regulated by the code shall be in reviewed plans. The issuance or granting of a permit or review of plans, specifications and computations shall not 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.
Date 3/28/14
Permit #
WEST COPY
SITE PLAN
SCALE 1" = 30'-0"
OTTAWAY AVENUE N.E.
L.G.F. 2
New Building
50' x 120'
R10655
041W13B01700
14633 Ottaway RD
Aurora OR 97002
SITE PLAN
SIGETCO NORTHWEST ADDITION
14633 OTTAWAY AVENUE N.E.
AURORA, OREGON
FOR: SIGETCO, INC.
CONSULTING STRUCTURAL ENGINEERS
DWG. NO. A1

Exhibit B5

EMERGE law group
805 SW Broadway, Suite 2400, Portland, OR 97205

CORINNE S. CELKO
Admitted in Oregon
(503) 467-0396
corinne@emergelawgroup.com

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 at14633 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

Exhibit B6

(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

Exhibit 38

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:

B9

(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

Proposed Code Update Discussion – 2016

- 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. Would still need a fire turnaround and comments from fire district on narrowing the street.

- 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 (tanks) and/or city owned larger ponds? Comments needed from City Engineer

- 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."

Morrow County Code Enforcement Ordinance provides the following: Impact on other Permits: No building permit, sanitation permit or other permit or license may be issued, or any work continued under such permits while a stop work or stop use order is in effect.

Multnomah County: § 37.0560 CODE COMPLIANCE AND APPLICATIONS. Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.
(A) A permit or other approval, including building permit applications, may be authorized if:
(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or
(2) It is necessary to protect public safety; or
(3) It is for work related to and within a valid easement over, on or under an affected property.
(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to

issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

- 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".

Comment [r1]: One negative of this is that you might find vacant structures as the commercial demand cannot be met.

- 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.

- Check annexation rules (charter amendment) for voter approved annexation and remove this requirement.

- 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.

- Establish procedures under 16.72, 16.74, and 16.76 to define/allow minor and major amendments to all land use actions. For example, under SDR 16.58.070: Minor modification(s) to approved plans or existing development.

- Remove the requirement for recording of development agreements after a Notice of Decision is filed? Does this add anything legally to the decision? Just seems like an extra step and expense to the applicant.