

PUBLIC HEARING DECEMBER 2, 2015

DESCHUTES BOARD OF COUNTY COMMISSIONERS:

Tammy Baney, Tony DeBone, Alan Unger

Robert Pederson, 18925 Pinehurst Rd, Bend 97703

I am not anti-marijuana but I am pro agricultural communities. Implementing the current regulations and opting-out is the best decision for the residents of the county. There are several undeniable facts that support this view.

1. The majority of unincorporated voters, 53%, did not want marijuana legalized at the initial vote on Measure 5. Fifty-nine counties and cities in the state have opted out so far.
2. The Planning Commission has received over 100 letters in the last few weeks expressing concerns about the negative impacts of growing and processing recreational marijuana on our rural lands. There would have been far more if property owners would have been notified earlier.
3. Property values are dependent on the livability of the site you are about to buy. Would you buy next to a marijuana farm with multiple permit holders? Real estate values will drop except to pot growing buyers.
4. Although marijuana does not use as much water as alfalfa it is still a high water user. Several of the present grow sites are using wells permitted for domestic use. These are not monitored for amount pumped. There is a good chance that when this practice is investigated that an environmental impact assessment will curtail the idea of limitless water. A dropping aquifer will result in a lot of us drilling deeper wells. We are not going to have enough time to accomplish a hydrological study if you don't opt-out.
5. You can't dispute the fact that by opting-out and having more time any future planning can be improved. Placing industrial scale marijuana production in Industrial zoned sites may be the best plan of all, a solution that seeks the middle ground. That still hasn't even been fully discussed by the public or the planning commission. Having more time may not be to the advantage of this special interest group but why should their interests be more important than ours. Let's fine tune by opting-out.

Although the Planning Commission has worked hard on new regulations, some of the commissioners have been a bit misleading. As an example one of the planners said "I don't want to affect the medicinal marijuana growers because I haven't heard any complaints about those in particular that I know of. Have You? (27:18:00 on video of meeting on 11/23/15). During the two preceding meetings there were 17 different submittals from residents that had problems. There were several other misleading comments such as only one license per parcel rather than multiple licenses and another paraphrased from commissioner Kirby, If you read the measure you'd know marijuana is an agricultural crop. There is nothing about marijuana as an agricultural crop in all the pages of Measure 91. It was on HB 3400 months after everyone voted.

Segments of the planning commissions meetings have been most enlightening especially their discussion on opting out. Fortunately for all us the video of the final decision is available to the public. The opt-in vote discussion starts at 04:08:40 on the video for the meeting of November 23, 2015 available on the Deschutes County Planning Commission website. Planning commissioner Tunn hoped for an academic discussion on the broad reaching problems associated with marijuana as an agricultural crop. How unfair it would be to not let the people who are affected the most by a change in land use rules to not be able to have the extra time by

opting out. The subject of water use on residential wells for irrigation and its impact on the aquifers needs more attention. The disturbance on many levels to the surrounding neighbors near grow sights needs more attention. There is the unfairness to a farmer that has a thousand acres and is not being able to get a permit for a mobile home on the property for a worker while marijuana growers can have structures, homes, and guard houses all over the same type of land. Measure ⁹¹ had nothing in it about agriculture. When the state came in with HB 3400 they came in with a whole set of rules that few were aware of that allowed marijuana growers to do things other farmers can't do. It just isn't fair and better guidelines should correct that. This is not what Oregon land use laws look like, ours is original, it's not like anything that's come before, it's like it's come from another state. We need more time by opting-out to get this all right. Tom McCall said, "Protect our Oregon and beware of demands for quick profits from our natural resources at the expense of the preservation of our state." Commissioner Tun^o had far more to say about water and land use but my time here is limited.

The argument against this view by two of the other commissioners is based on the idea that opting out would mean that Deschutes County residents would have to vote again on the same issue that they had already cast their vote on Measure ⁹¹, but it is not the same issue? Many months after the Measure 91 was voted in new legislation was introduced by the state in the form of HB 3400. This is a totally different, never seen before in any form declaring marijuana to be an agricultural crop like hay or as some of the pot growers like to say, tomatoes. It is clearly a land use modification with far reaching implications. To call this making the same vote again is ludicrous at best even though one of the commissioners blamed voters that want to vote again for not reading Measure 36 carefully enough. That was the discussion. The vote then proceeded to a 2 to opt-out and 5 to opt-in. We can't vote on something we already voted on. That is how you got an opt-in recommendation.

This can't be much clearer. A vote for opting in is a vote for a well-funded special interest group to move into the county. A vote for opting out is a vote for what is best for Oregon and Deschutes County, a way to fine tune our marijuana laws and provide a vote for this new issue. It's what most of the County voters want.

Planning Commission:

PlanningCommission@deschutes.org

Planning Department:

Community Development Director: Nick Lelack Associate Planner: Matt Martin

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Oregrown



TO: Chair De Bone, Commissioners Baney & Unger
FR: Aviv Hadar, Oregrown Industries Inc.
DA: December 2, 2015
RE: Deschutes County marijuana business regulations

Chair DeBone, Member of the Deschutes County Commission, my name is Aviv Hadar and I am the co-founder of Oregrown Industries, Inc. I am also an active member of the Oregon Cannabis Association, which is comprised of local cannabis farmers, processors and edible makers, licensed dispensary owners and other allies of Deschutes County's legal cannabis business community. **I am here to testify in support of the Commission adopting common sense regulation of legal, adult-use cannabis for Deschutes County.**

I want to thank you for providing us with such a transparent process over the last few months. We value our local neighborhoods and we care about making sure our business community is well regulated and respectful of one of the most beautiful and unique spots on earth and our home, Central Oregon.

My wife and I are uniquely positioned as a small landowner next to a larger production tract. We live on ten acres in Tumalo, directly adjacent to an 84-acre piece of property that Oregrown recently purchased for our OLCC production facilities (the old Tumalo Goat Farm). Together, we live and oversee 94 acres of land in beautiful Tumalo. We strive to be good neighbors and have worked hard to develop great relationships those around us.

We share some of the concerns expressed at earlier hearing because we know firsthand what it is like to live near a farm with a greenhouses that lights up at night. Like others who have come to the area, we moved here because we love living in the country and the beauty of a night sky lit up by stars that comes with country living.

Since we will be living on the same EFU zoning where our company production headquarters will be located, we are taking every step to make sure there won't be light leaks, odor leaks or other issues that could potentially disturb neighbors around us. Our goal will be to have our facility blend into the landscape, and be even less invasive than the goat farm that was here before us. Our commitment to low impact practices has won the full support our neighbors.

We respectfully request that the Board of County Commissioners continue to support licensed and well-regulated cannabis farming and other businesses in our county. We advocate you move to:

- ✓ Support the licensed and regulated businesses, which are the key to public safety and job creation in rural Deschutes County. **Please adopt responsible business regulations for adult use and medical cannabis businesses.**
- ✓ Recognize HB 3400 was passed by the Legislature and signed into law by the Governor, with the intention of **cannabis cultivation be considered a farm use and it should be allowed on land zoned for exclusive farm use.**
- ✓ **Adopt the original draft of the County's proposed rules regarding zoning and land use**, allowing farming on all EFU land, and on MUA and RR-10 land on a case-by-case basis for parcels over 5 acres that meet conditional use permit (CUP) and setback requirements.
- ✓ **Water regulation should be addressed on at the state level to avoid a patchwork quilt of regulations** at the local level. Please take no further action on water regulation.

Sensible regulation and oversight supports public safety in our rural communities and brings jobs and economic opportunity to our county.

- Creating viable and lasting economic growth for the county
- Ending the illegal market by building a strong legal one
- Creating new living wage jobs for the residents of Deschutes county
- Consistent land-use regulations that are easy to enforce
- Allowing the already operating business who are invested in the success of the county, as well as new ones, to thrive

The Oregon Cannabis Association and other cannabis industry members thank you for the time and energy that has gone into this process. We urge you to stay the course on adopting a sensible regulatory framework. We look forward to being good neighbors, strong economic drivers and active participants in the civic process. Thank you for allowing me to testify.

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TO: Chair DeBone, Commissioner Baney and Commissioner Unger
FR: Dusty Hutchins, Piece of Mind Glass
DA: December 2, 2015
RE: Deschutes County responsible and fair regulation of adult-use cannabis

Chair DeBone, Members of the Commission, thank you for the opportunity to speak today, my name is Dusty Hutchins, and I am a managing partner of Piece of Mind glass gallery and smoke shop located in downtown Bend. **I ask you to adopt a reasonable and fair approach to cannabis regulation in Deschutes County** and to support the economic opportunities associated with the cannabis business community.

Piece of Mind is a retailer of functional glass art, smoking accessories, and related goods. Our success is closely tied to the success of a thriving recreational marijuana market in Deschutes County.

My wife and I started our small business over two and a half years ago, and have grown to nearly half million in yearly sales. Our business pays substantial local and state taxes and employs six full time staff.

We place an emphasis and priority on sourcing the vast majority of our products from local artisans and manufacturers to help ensure that we contribute to our local central Oregon economy. Last year alone we sourced products from nearly 50 Deschutes county glassblowers and artisans.

I want you as our elected leaders to understand and know about our business philosophy in order to highlight the great number of local small businesses that benefit from Deschutes County standing strong in adopting a responsible and fair regulatory framework for adult-use cannabis.

In support of ensuring a lasting and flourishing small business cannabis community in Central Oregon, we ask the Commission to enact:

- **Responsible business regulations for adult use and medical cannabis businesses.** Licensed and regulated businesses are the key to public safety and job creation in rural Deschutes County.



- **Adopt the original draft of proposed rules regarding zoning and land use, allowing farming all EFU land, and on MUA and RR-10 land on a case-by-case basis for parcels over 5 acres that meet conditional use permit (CUP) and setback requirements.**
- **Take no action on water regulation at this time.** Water regulation is best addressed in a consistent manner on a statewide basis.

Those alive to witness the end of liquor prohibition in 1933 may not have imagined the present day micro brewing and artisanal distilling in Deschutes County and across the state of Oregon.

Let us now choose to be ambassadors of a common sense approach, be the innovators and entrepreneurs of a growing industry, and promote the responsible use of legal cannabis through adoption of reasonable regulations for recreational marijuana in Deschutes County.

###

Testimony Relating to House Bill 3400, Providing Opt Out Options for the Establishment of Marijuana Businesses, etc. in Regard to Land Use Outside of the Cities.

Hearing Date: Wednesday, December 2, 2015

You did did not offer testimony in person.

Your Name: Jeremy Kuit

Mailing Address: 70 SW Century Dr, Ste 100 113 Bend OR 97702

E-mail address (optional): jeremy@bloomwellbend.com

Phone #s (optional): 541-999-3051

Your Comments: I operate Bloom Well, a community dispensary that employs a dozen people, ^{many} ~~most~~ of whom live in the county.

We rely on small family farmers to provide cannabis products to our clients, most of whom also reside in the county.

Small business and farming entrepreneurship is the lifeblood of

the American economy & the economic multiplier

works to bring prosperity to cannabis and non-cannabis businesses alike. To limit agricultural production to

20+ acre large farms [&] is detrimental to the American dream & spirit, and harmful to our ~~local~~ ^{regional} economic development

as well. Small farmers are good stewards of their land,

(Use back of page if desired.)

Signature: _____

good neighbors, and engaged civic participants. Small farmers who reside on 5 acre RR or MUA properties should be able to follow reasonable and suitable regulations that permit them to operate in a sensible manner. I support regulations that permit our suppliers to continue to operate in the regulated supply system, and they should be able to attain licenses to continue to operate in the taxed and regulated supply system. I'm concerned that a lack of sensible regulations will prevent ^{family farmers} will-intentioned operators from participating ^{economically} in an integral, conscientious, and vibrant manner. Support for small farmers is good for public safety, fair labor practices, and economic development for our region. Please adopt the County's Original ^{Draft} Proposed ~~one~~ that permits small farms, less than 20 acres in size to participate in regulated marijuana product & sales

Bonnie Baker

From: Alan Unger
Sent: Tuesday, December 08, 2015 11:17 AM
To: Bonnie Baker
Subject: FW: Farm Use Acreage Limitation for Recreational Cannabis

Alan Unger, Commissioner
Deschutes County
1300 NW Wall St. Suite 200
Bend, OR. 97701
alanu@co.deschutes.or.us
Office: 541-388-6569 Cell: 541-419-0556 -----Original Message-----
From: Mike Hayes [<mailto:mikehayes1775@gmail.com>]
Sent: Tuesday, December 01, 2015 3:28 PM
To: Alan Unger
Subject: Farm Use Acreage Limitation for Recreational Cannabis

Commissioner Unger,

Thank you for taking the time to read this email. I know your time is valuable, so I will keep this short. In regards to regulating recreational cannabis grow operations on farm use land for land owners with 20 acres or more does not solve the concerns of the county. I agree with the committee's decision in that lighting, noise, and air disturbance should be regulated. What I do not understand or agree with is the size of farm land one should own to have a recreational grow.

Size of farm land ownership does not prevent an irresponsible land owner to place an outside grow on the set back limitation bordering his neighbor's property. Noise, lighting, and air disturbance will still be an issue. A one size fits all requirement of land ownership does not solve this problem. Here is my recommendation:

1. Review each case separately.
2. Land designated for farm use
 - a. Allow a recreational grow site that is internal and follows a set back of 100 feet from neighboring property lines. Internal defined as; no light, smell, or noise emittance and external walls non transparent.
 - b. Allow an external (outside) recreational grow site following the committee's minimum 20 acre land ownership.

I know if you keep grows to internal facilities with control measures for lighting, smell, and noise you will not need a minimum on farm use acreage.

Currently, the size of the farm will create an unfair disadvantage for small farmers who own small parcels. I am one of those farmers who has just over 6 acres of land. In my case, I am surrounded by 100 acres of BLM, a very large dairy farm, and a very large alfalfa grow operation. I don't fit the committee's recommendation but fit the concerns of the community. Light, noise, and smell are not emitted with a closed internal grow operation. Placement of the facility will be a mile from any major roadway. Again, the one size fits all does not work.

As a small business owner of three businesses in the City of Bend, I ask you take the verbiage of minimum land ownership out and implement the type of grow operation which one can grow recreational cannabis. Internal recreational grow operation only, if less than 20 acres of farm use land, not to exceed the OLCC Tier I & II guidelines. External and internal recreational grow operations for greater than 20 acres of farm use land, not to exceed the OLCC Tier I & II guidelines.

Thank you for your time.

Mike Hayes

Bonnie Baker

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Alan Unger, Commissioner
Deschutes County
1300 NW Wall St. Suite 200
Bend, OR. 97701
alanu@co.deschutes.or.us
Office: 541-388-6569 Cell: 541-419-0556

From: Mike Hayes [mailto:mikehayes1775@gmail.com]
Sent: Thursday, December 03, 2015 7:08 AM
To: Alan Unger
Subject: Re: Farm Use Acreage Limitation for Recreational Cannabis

Commissioner Unger,

Thank you again for listening to my testimony yesterday afternoon. I was asked to submit my recommendations:

1. Review each case separately.
2. Farm use land allowed to grow cannabis. No restrictions to acreage.
3. Define **Internal** versus **External** grow operations.
 - Internal grow operation
 - No light, noise, or odor is emitted from the enclosed structure.
 - Meets all current planning and OLCC Tier 1 & 2 requirements.
 - Walls are non transparent.
 - External grow operation
 - Crop is exposed to external view.
 - Light is emitted when lights are present.
 - If confined in a structure (greenhouse), walls are transparent.
3. Internal operations allowed to be constructed with no set back outside the current guidelines set forth by the county.
4. External operations allowed with a set back of 100' from neighboring property.

A slow start to help grasp and educate the public would be my final input. Change is hard. Internal grow operations will provide a non intrusive operation and help ease tension with those opposed to grow facilities. I am happy to speak with you offline with any questions you may have regarding my input.

Thank you,

Mike Hayes

Personal clarification.

Resident for 11 years.

Family farm in Deschutes County since 1972.

Education: MBA

Work experience:

1. Current Owner, Maverick's Country Bar
2. Current Owner, Groove Yoga
3. Current Owner, Miracle Greens, Inc.
4. Captain, United States Marine Corps

On Dec 1, 2015, at 3:37 PM, Alan Unger <Alan.Unger@deschutes.org> wrote:

Mike, you should come and testify with your ideas. I agree with a lot of what you say. Medical grows have created a problems that people are upset with. Currently I am thinking that we should be conservative to start then relax some as we and the state have a better handle on the issue. I would like to see a variance process like you suggest. I am not sure how we get there.

Alan Unger, Commissioner

Deschutes County

1300 NW Wall St. Suite 200

Bend, OR. 97701

alanu@co.deschutes.or.us

Office: 541-388-6569 Cell: 541-419-0556

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

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Thank you for your time.

Mike Hayes

TO: Chair De Bone, Commissioner Baney, Commissioner Unger
FR: Name, Business
DA: December 2, 2015
RE: Deschutes Board of County Commissioners public hearing on marijuana
business regulations

Chair De Bone, Commissioners,

My Name is Lindsey Pate and I am a co-owner of Glass House Grown, a company currently functioning as a medical cannabis farm, located at 4859 N Hwy 97, Redmond OR, 97756. My husband and I recently purchased 16 acres of EFU land to relocate our cannabis farm with the intent of using less than a quarter of an acre to grow cannabis as a family run farm. Our property's unique topography is a natural setback that provides screening, and we also have zoning that protects a farmer's right to farm, with neighbors who are supportive of our business. The first 2 months of our property ownership was spent hauling trash and cleaning up *farmland* that had been used to store hoards of collected items. My family is honored to turn this property back into a farm and make it a thriving part of our local economy. As I said at the first public hearing, I would like to think that we are the kind of cannabis growers that you want in your county.

I respectfully request that the Board of County Commissioners continue to support licensed and well-regulated cannabis farming and other businesses in our county by the following ways:

Adopt responsible business regulations for adult use and medical cannabis businesses. Licensed and regulated businesses are the key to public safety and job creation in rural Deschutes County.

Adopt the original draft of the County's proposed rules regarding zoning and land use, allowing farming on all EFU land, and on MUA and RR-10 land on a case-by-case basis for parcels over 5 acres that meet conditional use permit (CUP) and setback requirements. When HB 3400 was passed by the Legislature and signed into law by the Governor, the intention was for cannabis cultivation to be considered a farm use. Because of that very specific and intentional change in Oregon law, we urge Deschutes County to allow cannabis cultivation on land zoned for exclusive farm use.

Please take no further action on water regulation at this time. Water regulation is a matter best addressed in a consistent manner on a statewide basis.

Like microbreweries and micro distilleries, smaller cannabis farmers will play an important role in the recreational market in Deschutes County. My small, family operated farm has already won a few cannabis awards because our attention to detail

and quality is our most valuable asset. By adopting the original regulations, you will be adopting policy that is inclusive to both large and small businesses.

Again, please ensure responsible and fair regulation of adult-use cannabis in Deschutes County. Thank you again for this opportunity to testify.

Lindsey Pate
Glass House Grown
cell 541-213-9306
office 541-923-0420
lindsey@glasshousegrown.com
www.glasshousegrown.com

Deschutes County Testimony

About Envirotech Greenhouse Solutions

Envirotech Greenhouse Solutions designs and builds advanced cultivation facilities with a focus on sustainability and efficiency. EGS builds both indoor and greenhouse cultivation, as well as production facilities for both cannabis businesses and farmers of traditional agricultural products. Envirotech utilizes Dutch, European, and American technology to improve energy and resource efficiency in all of its projects. This allows EGS clients to create more sustainable business models for their own businesses, the environment, and the community at large.

Public Safety

Both prohibition and responsible regulation have the same goal: public safety. By instituting responsible regulations on the medical and adult-use cannabis industry, Deschutes County can decrease the demand for a black market, thereby reducing the access of marijuana to underage users as well as decreasing the risks associated with the unregulated market by ensuring that access and the cannabis itself is safe. Deschutes County Commissioners should ensure that its citizens have safe access to cannabis through a regulated marketplace. By restricting cannabis businesses within the County, the incentives for citizens to participate in the regulated market decrease, thereby harming public safety by potentially subjecting these consumers to harmful pesticides or heavy metals through unregulated cannabis.



Environmental Impact

Natural light cultivation includes outdoor, greenhouse and mixed light cultivation. This type of cultivation is not only energy efficient but also encourages additional environmentally conscious farming methods in order to preserve the necessary resources for natural light cultivation. Unlike indoor cultivation, natural light cultivation does not require massive energy consumption.

Natural Light cultivation consumes up to 80% less energy than indoor cultivation and is the most practical and efficient method of cultivating cannabis. Rather than consuming resources, it takes our County's best natural resource, the sun, and maximizes their effects to reduce cannabis Cost of Goods (COGS) by up to 75%. The only reason that cannabis has been produced indoors under artificial light was its prohibition.

Land Use

In order to implement responsible business regulations for adult use and medical cannabis businesses that comply with the spirit of HB3400, Deschutes County should allow cannabis farming on all EFU land and on MUA and RR-10 land on a case-by-case basis for parcels over 5 acres that meet CUP and setback requirements. Many parcels are well suited for cultivation while others are not. By regulating cannabis businesses through the CUP process, the County ensures its ability to impose reasonable regulations while also encouraging business owners to participate in the emerging industry, benefiting our schools and public services.

Economic Impact

Despite technological innovations, cultivating high quality cannabis is a very labor intensive process. Allowing cannabis business to operate within the County will create countless job

opportunities for individuals with varied skill sets. The cultivation and production of medical and adult-use cannabis will promote innovative technologies to help to mitigate any detrimental environmental effects related to cannabis including odor mitigation and energy consumption. Land zoned for traditional farming uses are best suited for this type of environmentally conscious production and processing. Small farmers should have the option to participate in the cannabis industry if they choose to. By limiting cultivation to more industrial areas, the County would be reducing the incentives for small farmers to participate in the industry and utilize their land to its maximum potential. In today's ever-changing and evolving economy the residents of Deschutes County should have the opportunity to earn their living in a manner of their choosing. Infused product manufacturers, laboratories, and advanced horticulture will allow the cannabis industry to have a positive impact on other sectors of the County and State economies. These businesses require expertise in the operation of compliant facilities as well as push technological innovation that has a multitude of applications outside of the cannabis industry. This will enable the residents of the County to remain ahead of the curve in today's economic environment. The significant number of applications of agricultural and manufacturing technologies to the cannabis industry make it an excellent fit for the innovative development sectors of Deschutes County.

In Closing

A well-regulated and responsible cannabis industry in our County will not only increase public safety and limit the environmental impacts by promoting greenhouse cultivation, but it will also have a positive economic impact on all members of our community, with the exception of the black market. Responsible regulation will also lead to a safer community by ensuring that products are safe for consumption by patients and consumers.

About First Harvest Financial

First Harvest Financial is an investment firm dedicated to the cannabis industry. Our goal is to support innovative technologies and advancements in the industry by identifying individuals and businesses that can utilize our financial expertise. This includes not only funding but an advanced mentorship program for small businesses and entrepreneurs in the ancillary and core cannabis businesses.

Broader Economic Impact

Oregon has a unique opportunity to make a significant mark on the industry nationwide due to the extensive expertise of high caliber growers and processors that have been operating in a regulated medicinal market, with an overwhelming dedication to organic and sustainable farming practices, which is evident above all other States. When high quality producers are given ample support by their County and State governments, they are best positioned to advance their brand and take their company national through licensing partnerships. This strategy has been successful for Colorado businesses because they were first to market, not necessarily due to producing the highest quality product. We believe Oregon has the potential to be the first real competitor in the national landscape. Some Colorado cannabis companies have recently expanded internationally, one of them gaining a \$100m contract with Jamaica. Once a brand is built and technology developed locally, the intellectual property can be expanded globally. And the citizens and local and State governments will continue to benefit from this expansion through taxes and job creation across many sectors of the economy.

Land Use and the Environment Perspective of FHF

We support most of the original draft of the County's proposed rules regarding zoning and land use, allowing farming on all EFU land, and on MUA and RR-10 land on a case-by-case basis for parcels over 5 acres that meet conditional use permit (CUP) and setback requirements. This is extremely important in order to balance the needs of our community while protecting small farmers.

Individuals who have purchased homes adjacent to EFU have accepted the risks associated with all agricultural activities. Marijuana is considered an agricultural crop and thus needs to be allowable on ALL farmlands that are compliant with setbacks from neighboring properties and schools. However, we have determined that many EFU properties, particularly larger parcels over 20 acres, are not located on County roads. Over the last two decades much of the rural EFU land in Deschutes County has become luxury estate home property, where our high quality soils and water resources are not being utilized to the best of their ability. Instead, much has been converted into heavily watered lawns consuming up much of our precious resources while depleting and polluting our soils with agrochemicals and fertilizers. We ask that you not protect these estate home owners and instead allow for true agricultural farming on all EFU property regardless of their neighbor's approval and proximity to County roads.

We also encourage Deschutes County Commissioners to promote greenhouse cultivation which provides a perfect balance of sustainability and high quality crop production. Historically, we have seen dramatic increased property values in Colorado and Washington since regulation and licensing of adult use cannabis. Colorado crop land is up 22% and Denver residential is up 16%. I have included excerpts from news reports regarding real estate for the Commissioner's to read later.

Real Estate in the News:

Early on, the pot business was seen as a boon for Denver real estate. "There has been a huge bump in real estate prices due to the legalization of marijuana," **James Paine**, managing partner at West Realty Advisors, told [BusinessWeek.com](#) in June. "It's massively pushed up raw land and industry prices."

The [S&P 500](#) in Denver, \$350,500, is up 15.9% from this time last year. Vacancy rates in all sectors—residential, commercial, industrial—are all down, and so is unemployment. Home sales are up 3.1% from last year.

-Lisa Davis, [realtor.com](#)

While the legalization of marijuana isn't the only thing driving the market, it has contributed to job growth in the area that has people flocking to Denver. "The pot industry is creating jobs we didn't have before," said Kelly Moye, a Re/Max real estate agent who has worked in the Denver area for 24 years. "It's brand new, it adds a whole new factor to the area; you have real estate needs, housing needs, job needs."

The industry has created jobs beyond growers and dispensaries. Legal marijuana has also been a boon for existing businesses like security and HVAC companies who service the new "green" businesses. "Electricians have grown from mom and pops to big-time electric companies," said J.P. Speers, an agent at Berkshire Hathaway Home Services.

-CNMoney (New York) June 4, 2015: 2:28 PM ET

Colorado cropland soared 22 percent in value to \$1,780 per acre in 2013, well above the national rate, as high crop prices and long-term prospects for food production lured venture capitalists and other investors to the agricultural land market.

-Steve Lynn, [BizWest.com](#) a Boulder, CO Industry Magazine



**Chair Tony DeBone
Commissioner Tammy Baney and
Commissioner Alan Unger**

Testimony from Hunter Neubauer, Oregrown Inc.

December 2, 2015, Final Public Hearing

Deschutes County Regulation of Adult-use Cannabis

Chair DeBone, Commissioner Baney and Commissioner Unger, my name is Hunter Neubauer and I am the co-owner of Oregrown Industries, Inc. I am here to testify in support of Deschutes County adopting sensible cannabis regulations to promote responsible use and economic opportunity.

Our local business, Oregrown, currently employs over 30 Central Oregon residents. Our business plan is to employ more that double that number by the end of 2016! This is a wonderful opportunity for much needed job growth here in Deschutes County. We are providing good benefits and pay a living wage to our employees. These are people that love living in this area of the country because of our wonderful quality of life. We urge the Commission to support policies that will fuel the momentum now and in the future. Our community truly needs the economic boost that comes with a well-regulated cannabis business sector.

Those of us who make up the cannabis business community are, farmers, concentrate makers, processors and dispensary owners. And we work with allied professionals in the legal, laboratory and security arenas too. We respectfully request the Board of County Commissioners work to meet the economic and public safety needs of the community by acting to ensure fair and balanced regulation of cannabis farming and other businesses in our county.

We appreciate the public process the County has undertaken to develop thoughtful regulations for cannabis businesses. Please act now to:

1. Adopt responsible business regulations for adult use and medical cannabis businesses. Licensed and regulated businesses are the key to public safety and job creation in rural Deschutes County.
2. Adopt the original draft of the County's proposed rules regarding zoning and land use, allowing farming on all EFU land, and on MUA and RR-10 land on a case-by-case basis for parcels over 5 acres that meet conditional use permit (CUP) and setback requirements. We urge Deschutes County to allow cannabis cultivation on land zoned for exclusive farm use.
3. Please leave current state-based water regulation in place and take no further action at the local level.

action at the local level.

We are concerned that a prohibition of cannabis businesses in Deschutes County would have the unintended consequence of propping up the illegal market, driving criminal activity and making it harder for licensed and compliant businesses to succeed. Sensible regulation and oversight supports public safety in our rural communities and brings jobs and economic opportunity to our county.

The Oregon Cannabis Association and other cannabis small business owners' thank you for the hard work that has gone into the thoughtful approach to regulation in Central Oregon. Please enact the draft rules as proposed. Thank you.

###



TO: Chair De Bone, Commissioner Baney and Commissioner Unger
FR: Deschutes County Business Owners and Allies
DA: December 2, 2015
RE: Sensible regulations for cannabis businesses in Deschutes County

Dear Chair De Bone, Commissioner Baney and Commissioner Unger:

We are local cannabis farmers, processors and edible makers, licensed dispensary owners and other allies of Deschutes County's legal cannabis business community. We respectfully request that the Board of County Commissioners continue to support licensed and well-regulated cannabis farming and other businesses in our county.

We appreciate the public process the County has undertaken to develop thoughtful regulations for cannabis businesses. We urge the County to:

- **Adopt responsible business regulations for adult use and medical cannabis businesses.** Licensed and regulated businesses are the key to public safety and job creation in rural Deschutes County.
- **Adopt the original draft of the County's proposed rules regarding zoning and land use, allowing farming all EFU land, and on MUA and RR-10 land on a case-by-case basis for parcels over 5 acres that meet conditional use permit (CUP) and setback requirements.** When HB 3400 was passed by the Legislature and signed into law by the Governor, the intention was for cannabis cultivation to be considered a farm use. Because of that very specific and intentional change in Oregon law, we urge Deschutes County to allow cannabis cultivation on land zoned for exclusive farm use. **This is extremely important in order to balance the needs of our community while protecting small farmers.**
- **Please take no further action on water regulation at this time.** Water regulation is a matter best addressed in a consistent manner on a statewide basis.

We are concerned that a prohibition of cannabis businesses in Deschutes County would have the unintended consequence of propping up the illegal market, driving criminal activity and making it harder for licensed and compliant businesses to succeed. Sensible regulation and oversight supports public safety in our rural communities and brings jobs and economic opportunity to our county.

The Oregon Cannabis Association and other members of our local cannabis business community thank you for the time and energy that has gone into this process. We look forward to being good neighbors, strong economic drivers and active participants in the civic process.

Sincerely,

More than 160 members and allies of Deschutes County's cannabis business community
And the Oregon Cannabis Association

December 2, 2015

Deschutes County Cannabis & Allied Business Petition Signers

Business owners/operators

Business Name

- | | |
|---|---------------------------------|
| 1. Hunter Neubauer and Aviv Hadar | Oregrown Industries |
| 2. Cameron and Ashlie Yee | Lunchbox Alchemy |
| 3. Lindsey and Chris Pate | Glass House Grown |
| 4. Jeremy Kwit | Bloomwell Apothecary |
| 5. Rustin Kluge | Cannatea |
| 6. Jeremy Sackett and Ashley Preece-Sackett | Cascadia Labs |
| 7. Noah Stokes | CannaGuard Security |
| 8. Todd Foster | Oregon Cannabis Insurance |
| 9. Sam Stapleton | DiamondTREE Club |
| 10. Joceylyn Anderson
Farma | Plantae Health & Alfalfa Valley |
| 11. Benjamin Hebert | Dr. Jolly's |
| 12. Michael Campion | Farmer, processor |
| 13. Cash Smith | Top Shelf Medicine |
| 14. Joe Hovorka | Strong Silicone |
| 15. Gary Hall and Tony Grissen | Bent Beverage |
| 16. Kieran Connoly-Ng | Moonfire and Sun Garden Center |
| 17. Joseph Aliotta | Joeganics Bend LLC |
| 18. James Hart | JR Hart Co. |
| 19. Donald Huff | Green Knottz |
| 20. Tyler Wolk | Juniper Analytical |
| 21. Georg Olden | Saturn Farms |
| 22. Brent Thurman | CannaCopia |
| 23. Todd Horrex | K&T's LLC |
| 24. Taylor Rembrowski | Oregon Euphorics |
| 25. Darrin Blankenship | Nectar Trees |
| 26. Laura Kilmer | Zuni Organics |
| 27. Tyler Wolk | Juniper Analytics |
| 28. Ralf Dilzer | Ruby Farms |
| 29. James Tellegen | Davis Farms |
| 30. Brian Boucher | Farmer, Processor |
| 31. Aaron Hohman | Sacred Herb Medicinals |
| 32. Eleanor Sauerborn | Farmer, Processor |
| 33. Casey Howland | Farmer |
| 34. Jason Kelleher | Farmer |
| 35. Breona Fagen | Farmer |
| 36. Jeffrey Thompson | Farmer |
| 37. James Radnich | Dank of the Cascades |
| 38. Peter Butsch | Massive Organic |
| 39. Zachary Meyer | Farmer |
| 40. Andy Satterfield | Sacred Ground Medicinals |

- | | |
|--|-------------------------|
| 41. Taylor Du Monday | Delta 9 Confections |
| 42. Jamie Payne | Processor, Edible Maker |
| 43. Gary Hill | Bent Beverage |
| 44. Alex Berger | Magic Number |
| 45. Lori Sullivan | First Harvest Financial |
| 46. Lillian Hallock and Michael Martin | Farmer John's Produce |
| 47. Frank Roberson | Sales Consultant |
| 48. Joel Timmerman | 4T Consulting |

Individual signers

49. Julie Austin, Bend
50. Barbara Crafts, La Pine
51. Melanie Rainwater, Sisters
52. Yuvia Storm, Alfalfa
53. Ryan Miller, Bend
54. Beth Griggs, Bend
55. Monte, Sutton Bend
56. William Bogoger, Tumalo
57. Morgan Kurz, Bend
58. Casey Howland, Bend
59. Kevin Hogan, Deschutes
60. Julyn Andrews, Bend
61. Craig Olsen, Eagle Crest
62. Leydon Thornton, Bend
63. Dustin Newman, Alfalfa
64. Dante Delvecchio, Bend
65. Christina Adams, Tumalo
66. Tony Santopolo, Bend
67. Jesse Long, Tumalo
68. Edward Salzman, Deschutes
69. William Taylor, Bend
70. Erynn Magidow, Bend
71. Joey Breitels, Bend
72. Laura Schmidt, Bend
73. Ambda Moore, Bend
74. Sanya Christie, Bend
75. Kelly Faulkner, Bend
76. Keith Gilchrist, Bend
77. Josh Jordan, Bend
78. Michael Faulkner, Bend
79. Tyler Paquette, Bend
80. Angeline Palmer, Bend
81. Kaitlyn Hoffman, Bend
82. Dallas Falley, Bend
83. Todd Cover, Bend

84. Stacey Wimberley, Bend
85. Korri Ormsby, Deschutes River Woods
86. Mark Chapman, La Pine
87. David Lynch, Bend
88. Summer Latchford, Bend
89. Justin Work, Bend
90. Kelly Prows, Bend
91. James Chavez, Deschutes
92. Fallon Sweeney, La Pine
93. Samantha Miller, Bend
94. Travis Derryberry, Redmond
95. Tsiona Bitton, Deschutes
96. Melissa Johnson, Bend
97. Jennifer Demoran, Bend
98. Skylar Kayser, Bend
99. Amber Whitmet, Bend
100. Kaitlyn Hoffman, Bend
101. Dallas Falley, Bend
102. Gregory Graham, Bend
103. Scott Byers, Bend
104. Adam Farrington, Bend
105. Mitchell Druery, Bend
106. Laura Lamberton, Deschutes
107. Michael Hodecker, Bend
108. Breonnw Fagen, Bend
109. Leila Carter, Deschutes
110. Ryan Daugherty, Bend
111. Dallas Dudley, Bend
112. Peter Wiegand, Bend
113. Mike Shibel, Bend
114. Katie Cutler, Bend
115. Henry Drake, La Pine
116. Devinne Fagen, Bend
117. Vonni Hofferber, Bend
118. Nate Wyeth, Bend
119. Laretta Butler, Redmond
120. Alexander Sarames, Bend
121. Matthew Dubois, Bend
122. Trista Runions, Bend
123. Noa East, Bend
124. Jenna Egusa Walden, Alfalfa
125. Samantha Burch, Bend
126. Linda Burch, Bend
127. Chris Litton, Bend
128. David Horton, Bend
129. Angeline Palmer, Bend

130. Craig Randleman, Deschutes
131. Jeremy Oprish, Deschutes
132. Brooke Stuart, Bend
133. Amanda Benkert, Redmond
134. Kristin Kerner, Bend
135. David Burns, Terrebonne
136. Corbin Breazeale, Bend
137. Andrew Accardo, Bend
138. Elizabeth Munroe, Bend
139. Megan Barnett, Deschutes River Woods
140. Dean Cambron, Bend
141. Maggie DeWitt, Bend
142. Jason Siebert, Bend
143. Scott Swanson, Bend
144. Kate Swanson, Bend
145. Kelly Crowther, Sisters
146. Katrina Warner, Deschutes
147. Chris Casad, Bend
148. Melinda White, Prineville Junction
149. Robert Bandemer, La Pine
150. Traci Wilkinson, La Pine
151. Benjamin Van Patten, Bend
152. Mason Hardie, Bend
153. Edwin Price, Bend
154. Quintin Robinson, Prineville Junction

December 2, 2015

Deschutes County Planning Commission
1300 NW Wall St.
Bend, OR

Re: Finalized recommendations for regulating marijuana businesses in unincorporated areas as reported by Ted Shorack *The Bulletin* Published Nov 25, 2015.

Commission Members,

My name is Dan Burkhalter and along with my wife we are residents of Oregon Water Wonderland Unit II (OWWII), a rural residential area of Bend just south of Sunriver.

The intent of this letter is to express my **agreement** with the Planning Commission's recent recommendation that marijuana growing be restricted to farm/agricultural zoned areas and be barred from areas zoned residential. I offer the following comments supporting my position.

In May 2013 we purchased our retirement home in OWWII a residential community and home owners association dating back to the late 1960's. OWWII consists mainly of ½ acre lots and home sites. Property owners are a mix of full time residents, seasonals and unimproved lot owners. Shortly after our purchase an adjacent neighbor built a commercial size greenhouse to grow marijuana ostensibly under the medical grow regulations. This greenhouse includes multiple commercial/industrial size fans, blowers and heating apparatus.

My wife's and my choice of OWWII was based upon the development being a residential community affording good size lots, a true 4 season environment and home owner association regulations ensuring the peaceful and quality enjoyment of our home.

Contrary to the recent patently absurd comments of Mr. Hunter Neubauer that residential growing is "...fair for the community..", our choice of home location did not include:

- Heightened risk of security due to the thriving black market for marijuana which invites criminal trespass and theft of property,
- Industrial/farming noise pollution 24 hours a day 7 days a week far beyond reasonable ambient noise disturbing our peace and enjoyment of our home and outdoor areas,
- A reasonable belief that adjacent neighbor's property values have been depressed,

Burkhalter/Deschutes County Planning Commission
December 2, 2015
Proposed Marijuana Regulations

- Large scale greenhouses and the like are not consistent with the look and feel of a residential neighborhood, and
- Final stage growth and cultivation of marijuana can best be described as having the overpowering odor of a skunk.

I am not some anti-marijuana zealot. I am 64 years old and smoked and grew "pot" as far back as my teenage years (perhaps longer than most of these growers have even been alive) and I even voted for its legalization; however, regulations need be established that protects the fundamental right of a neighbor's peaceful and quiet enjoyment of their home.

Clearly protection need be afforded neighboring property owners from the degradation of the quality of our lives and the enjoyment of our properties and homes by marijuana growers. We believe the growth of marijuana as a **crop** should be limited to agricultural zoned property and **NOT** allowed in unincorporated or rural residential zones. I solicit your agreement.

Thank you,

Dan Burkhalter
17472 Killdeer Dr.
Bend, OR 97707
(541) 213-4386

Bonnie Baker

From: Robert H Blake III <rhblake828@gmail.com>
Sent: Wednesday, December 02, 2015 3:16 PM
To: Board; Tammy Baney; Tony DeBone; Alan Unger; Nick Lelack; Matt Martin
Subject: Public Hearing Testimony and Comments/Bob Blake
Attachments: BOC Recommendations 12-02-2015.pdf; ATT00001.htm

Dear Commissioners, Nick, and Matt,

Please find attached my testimony today. In listening to all of the testimony provided today, we heard some important considerations about "right to farm." Please recognize that there is a big difference between indoor and outdoor cannabis production. It seems that virtually all of the opponent complaints have resulted from outdoor production operations. Most all medical cannabis farmers have been growing indoor, especially those on MUA and RR properties. As Mike Hayes, the 10 year veteran Marine, stated this afternoon, there should not be set back limits other than lawful permitted ones for indoor cannabis operations. There is no sight, sound, smell, light, etc. pollution with indoor cannabis operations. We also have provided a pathway for medical cannabis operators to enter the regulated market and provide Deschutes County 100% control over approval of operations. The alternative is promoting the "black market."

Your public policy decisions are not easy. Thank you for your thoughtful leadership to date and forward.

We simply cannot permit or allow outdoor greenhouses without strong regulation and certainly not on small parcels without the controls of filters, shades, etc. The 100 ft./300 ft. setbacks and the CUP perhaps are the best solutions that we can achieve for MUA and RR properties. A 200 ft. setback is not feasible on most 5 acre properties.

And although not discussed today, medical cannabis research is my true drive or target. Once we move beyond all of this land use, we can really focus on bringing medical research to Deschutes County as some of the later testimony today presented.

Sincerely yours,

Bob Blake

**Deschutes County Board of Commissioners
Public Hearing
December 2, 2015**



Oregonians for Better Health, Inc.

**63552 N. Highway 97
Bend, Oregon 97701**

I. Facts Learned From Public Hearing Testimony and Other Comments

1. Cannabis is a divisive issue among the citizenry of Deschutes County. Specifically, many citizens do not want cannabis grown, processed, or otherwise handled on property that is adjacent to their own private property. This issue becomes acutely divisive for many citizens due to (i) smell and light pollution and (ii) direct sight considerations in communities with young families and children.
2. Oregon "right to farm" considerations, specifically on EFU Property, are protected under state law and local land use regulations.
3. Some cannabis business owners simply have NOT been "good neighbors" and have been poor industry representatives.
4. Cannabis business owners have produced 100's of new jobs in Deschutes County since the passage of H.B. 3460 (medical dispensary legislation) in 2013 and H.B. 3400 in 2015.
5. The majority of small cannabis producers have been silent, if not invisible, during this entire land use review process by Deschutes County. It is the nature of these smaller medical cannabis growers on MUA and RR zoned properties to be private and NOT have anyone know of their existence.

II. Recommendations

Thoughtful leadership is required from our elected representatives and county planning staff. There is no one solution that will make every constituent group or individual happy.

1. "Opt in" and accept the original planning recommendation matrix proposed to the Planning Commission. By the Board of Commissioners.
2. Grant "grandfather" exceptions for indoor facilities built prior to December 31, 2014 that do NOT violate smell, light, sight, and other considerations. The real objections have been with outdoor greenhouse operations that are used without any smell, light, or direct sight management.
3. If MUA and RR zoned properties of 5 acres or more are going to be disallowed or have setbacks greater than 100 ft./300 ft, allow smaller medical cannabis growers with statutorily limited 48/96 plant count limits that have been registered with the OHA on these properties prior to December 31, 2014 to continue their medical cannabis production operations and "opt in" to the OLCC licensing program, as permitted under H.B. 3400, given approval from the county. In this way, the potential for "black market" production and distribution is decreased and the county retains 100% control over property use.

GOT WATER?

My name is Susan Tunno. I am a real estate broker. I have worked in Deschutes county since 1999. I have background in water law, water rights, and have followed the Thornburg Destination Resort project with special focus on that projects' struggles to gain the water rights it needs to grow.

I have here a letter dated November 6th, 2015 from ODFW which is profound and compelling in its implications for the decision making of this body as it considers permitting a new ground water user to extract from our federally listed Deschutes Basin aquifer, the borders of which are illustrated on this map.

As you must know, the Federal Listing of the Bull Trout has resulted in a lockdown of sorts to any and all new users in the prescribed area of impact to the preservation of the Bull Trout. The No Net Loss standard developed by Deschutes County Planning department is one of the strictest standards in the country. To clarify, when a species is Federally listed, Deschutes County policy is to protect the habitat of the listed species at a 'no net loss to the habitat'.

The habitat of the Bull Trout is the Cold Springs, and the plumbing to the Cold Springs is the Deschutes basin aquifer, see map, therefore the entire aquifer may not be degraded or compromised or extracted from unless the proposed new user applicant can prove it can put back into the aquifer every gallon of water it extracts. Hence the Thornburg decision, see letter.

What this letter shows us is that Thornburg has not been able to accomplish this feat, and until it can demonstrate how its resort industry development can meet the No Net Loss test, the Destination Resort Industry, our biggest single industry in Deschutes County is effectively stopped.

This fact has not processed through to the decision making today. I understand this, as a Realtor who follows the land use issues and development code issues. Never the less, this body must get up to speed.

The Thornburg decision is the canary in the coal mine to the destination resort industry. It makes our Destination Resort overlay zone, most of which is overlaid upon EFU lands meaningless. You can't grow a resort if you can't touch the water.

You can't touch the water until the Bull Trout becomes 'delisted'. The Bull Trout will never become delisted because the aqua fur is now known to be declining by 1.5 feet per year. This fact referenced in the letter as new information. The results of a new water basin study.

This documented decline is now anticipated to accelerate as a result of the piping of the irrigation canals, which previously allowed 50% of its diversion waters to seep back into the aquifer and provide a bit of recharge. That gain is lost added to the current drought all spell an acceleration of decline. The monitoring of our basin water crisis is continuing and forever.

A moratorium on permitting new agricultural wells and water rights was declared in the Plainview area late 90's. I know. I bought the parcel that had the last agricultural well ever to be placed in the Plainview ground in 2000 and I worked hard to prove up the water right and earn the certificate of water right to that extraction well. That era has past.

The commercial wells of the privately owned rural area water providers, like Sun Mountain Water District, have their deep commercial wells and distribution system to service the MUA rural subdivisions and users pay for that water by the gallon. There is a natural check and balance to the quantity consumed by each user by virtue of the retail cost. Those water providers have probably reached end game on their ability to add more customers because they are stressed with monitoring their well depths just to preserve their ability to service the existing users. No new commercial wells may be installed in this basin.

There never were any agricultural wells established in the Tumalo area. (except Research Road Laboratories project.) That project was created by Harry Lonsdale, a close friend and associate of Gov. Tom McCall and carefully

built to all environmental and land use laws which McCall had created for Oregon.

All the rural *residential* lots, are eligible for a *domestic well permit* which restricts its water extractions to a residential house, ½ acre of landscaping and a few livestock. No more. The green you see on these lots is strictly provided by the surface diversion waters of the irrigation district—not one drop from the ground. Result, no pressure on the water table, no draw down of the aquifer, in normal times the recharge subterranean keeps everything stable. It is not possible to convert a domestic well to an agricultural well. The water right simply cannot be changed.

This is how it has always been . Now comes the Federal Listing of the Bull Trout. Now comes the results of the major water basin study which concluded that this basin is like no other in the world. And it is in decline.

Now faced with the reality that the growth of our biggest industry is over because of our water situation, how can our local governance consider for a moment allowing the marijuana industry into our basin.

How can this governing body consider it has the right to allow this new user of agricultural ground water access to a single drop? Not even asking the question “how much will you be taking?”

And this new taker expects to be allowed to extract federally listed habitat waters for the purpose of growing a federally listed banned plant substance called marijuana ?

The federal government is expected not to notice this illegal water theft occurring in this basin which it monitors for the sake of protecting its Listed Endangered Species?

In allowing this industry to continue its current criminal practices of extracting from domestic wells for its agricultural industrial uses and simultaneously allowing the OLCC to issue grow licenses within the same designated Federal Endangered Bull Trout Habitat territory puts Deschutes

County squarely in the cross hairs of the federal government. You have defied its authority and its rule of law on two fronts.

If the federal government decides that the decline rate of the aquifer has become unacceptable it can and may declare a total shut down of all growth in the basin. That means no permits issued to do anything whatsoever.

And if the federal government also notices that the cannabis industry is operating in its protected basin and stealing its protected waters in the conduct of its federally illegal acts, don't you think it might pull the trigger?

This event has already occurred in a community very nearby. It is called Gilcrist. The federal government, through its arm, the DEQ, has shut down the region in a mapped enclosed area, to all growth. You cannot get a permit to build a carport in Gilcrist. And this moratorium on growth will not be lifted until the water basin can be shown to be restored to full health.

Proceed as you are Deschutes County Commission and face the certainty that any time in the near future the federal government can pull the trigger.

And so I ask you... do you feel lucky?

The OLCC should have stuck with whiskey. Because whiskey is for drinking and water is for fighting. And we here have already lost this fight.

We simply cannot afford the water bill for the cannabis industry.

We need to just say no... we can't grow. And we need to not allow this cannabis industry to destroy all that we have built up and developed out to the limits of what is possible in this rare high desert region with its totally rare, only one of its kind in the world water drainage system. A delicate dance played lightly upon the land has carried us this far. Gov. Tom McCall would be proud.

Now comes the test of our resolve he warned us would always come courting to this Oregon seeking only to extract wealth at the cost of our Oregon country's health.

HB3400 and its enabling legislation was constructed so as to allow the counties to decide, as a separate and personal decision, whether they wanted to allow this new agricultural industry and its practices in its agricultural zones. The Opt Out provisions, as crafted, are designed to accommodate this rural decision making. The assumption made is that no county will vote to allow an industry in its territories which it is totally not capable of accommodating.

And the question of whether to 'allow' has always been couched within the assumption that if, in the future, cannabis is delisted as a federally banned substance and class #1 drug, then all the problems associated with it will magically disappear.

For Deschutes County we can't even get to that page because first and foremost we have to ask ourselves the simple and primary question which always must be asked when you live in a desert...**Got Water?**

XOXO



Oregon

Kate Brown, Governor

Department of Fish and Wildlife
Deschutes Watershed District
East Region
61374 Parrell Road
Bend, Oregon 97702
(541) 388-6363
FAX (541) 388-6281



November 6, 2015

Deschutes County
Community Development Department
Planning Division
117 NW Lafayette Ave
Bend, OR 97701
ATTN: Peter Gutowsky

RE: Thornburgh Resort Company-Final Master Plan Remand

The purpose of this letter is to clarify Oregon Department of Fish and Wildlife's (Department) recommendation whether fish and wildlife mitigation proposed in the Thornburg Resort Company Final Master Plan meets a No Net Loss standard.

Based on new information and changes since 2008 the Department believes there is significant uncertainties as to whether a No Net Loss standard is being met by the proposed mitigation. Thus, we recommend a reassessment needs to be conducted.

On Friday October 31, 2015 I sent an email to Kameron DeLashmutt which I understand was forwarded to you by him. Based on information I was not aware of at the time of sending that email and on further review, the Department is retracting that email and statements in it.

In addition, the Department is retracting all statements made in our June 13, 2008 letter to the County regarding adequacy of proposed mitigation to address fish and wildlife impacts from resort development. Specifically, the Department is retracting the statement:

"ODFW has determined that providing the proposed mitigation outlined above should mitigate for potential impacts on springs and seeps and provide a net benefit to the resource."

At this time the Department does not believe that the proposed mitigation has been shown to be adequate to meet a No Net Loss standard and to do so there needs to be a reassessment.

The Department requests that the record in this matter on fish and wildlife issues be reopened for a new assessment, given new information and other changes since June of 2008.

On the Deschutes River, a re-analysis is needed of whether the Deep Canyon Creek springs proposed for mitigation will provide long-term cold water mitigation giving the declining water table identified in the 2013 USGS Scientific Investigations Report 2013-5092 titled "*Analysis of 1997-2008 Groundwater Level Changes in the Upper Deschutes Basin, Central Oregon.*" The report indicates that groundwater appears to be declining in the Central Deschutes Area about 1 foot per year. Given this new information, we are not sure the Deep Canyon Creek springs will persist and actually provide the proposed mitigation.

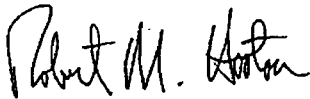
As for mitigation in Whychus Creek subsequently proposed by the Resort, the Department was unaware of such a proposal at the time of our June 13, 2008 letter and thus did not comment on the proposal's adequacy.

It is our position however, that warmer instream water as proposed would not mitigate to No Net Loss for lost cold spring water. Flow changes in Whychus Creek over the past seven years, including this year's drought, need to be assessed, as well as any new information on the springs in the lower Creek.

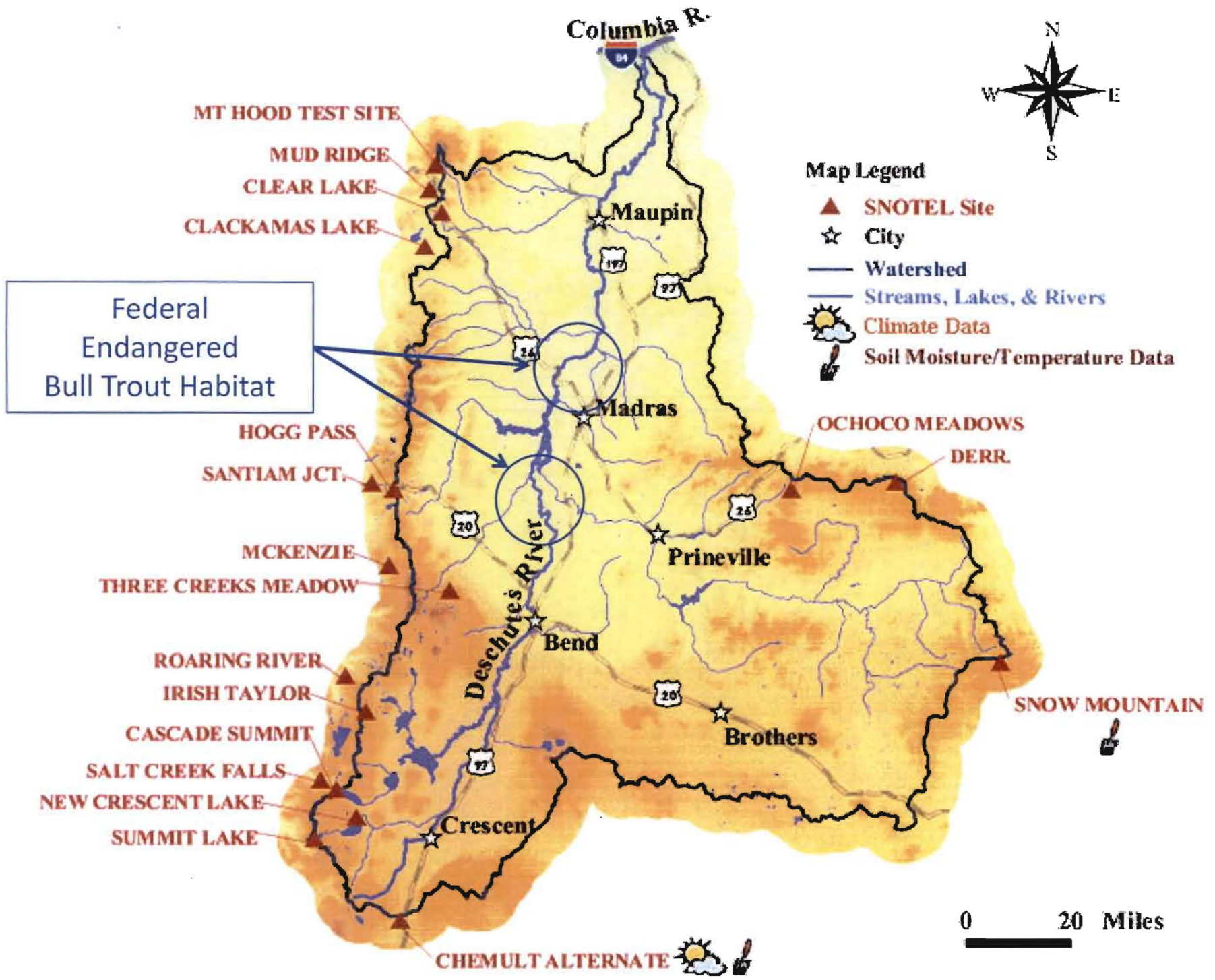
We also believe a reassessment is needed of the proposed wildlife mitigation to assess changes on the land in the Cline Buttes area and management of it over the past seven years.

Thank you for the opportunity to comment.

Sincerely,



Robert M. Hooton
Deschutes Watershed District Manager



My name is Jim Petsche, I live at 66145 Becker Rd and my property is adjacent to a Medical Marijuana Greenhouse Grow Facility so I have first hand experience of what it is like for 2 seasons. It has not been a good experience !

I've testified before so I'm not going to go into detail except to remind you of what I call the 3 C's of the living next to a pot production greenhouse... Sights, Sounds, Smells.

I actually applaud the County for coming up with some reasonable regulations to control the conflicts that have been occurring and will continue to occur with this new industry.

I just think that some of the Planning Commission Recommendations need to be adjusted before they are actually implemented:

While the idea of pushing production to EFU lands 20 acres and larger is a reasonable idea... it will result in more of these facilities on fewer and fewer parcels. I guess for the Greater Good...but it makes it even more important now to enact rules to protect what little RIGHTS and property values the existing EFU residents, like me, have left.

1. The setback requirement FROM EXISTING HOMES should be increased from **300 to 400 feet**. These large grow facilities, in my view, are commercial/industrial operations and are basically ruining the rural character of the existing farm lands. Several current operations have unreasonably sited their facilities and PUSHED their presence onto existing rural residents in the past 2 years since there have been minimal regulations. **This should not be allowed to recur**. 400 feet of setback from existing homes is not near enough but should be a reasonable compromise.
2. Bring back some screening requirement for these facilities. There should be a requirement to install a min of 8 ft tall trees at not greater than 10 ft centers. It is not an onerous requirement. I've planted trees, installed fencing, built a berm and a building to block the view.....my neighbor has **done nothing** even though OHA rules require screening.
3. Increase the requirement that growers show where they intend to get the water from to grow their crops. If they intend to use wells, they MUST show they have a commercial water right for this use. Irrigation districts only supply water for part of the year so at some point they all will try to use wells. Many of these facilities are using 'exempt wells' and these uses currently are illegal for the actual growing of ANY crop — not just marijuana. (SEE attached memo from State Water Resources Department)
4. Strengthen the wording regarding ODOR control. The current wording is vague and will be very difficult to enforce. It only requires a filter system and there is no discussion about the amount of odor released. You may want to consult with the city of Denver that uses a device called a Nasal Ranger to measure and enforce their odor ordinance. (www.nasalranger.com)

5. Require that processing of extracts take place only in an area with commercially available water hydrants and require fire sprinklers in the facilities. Allowing them just where there is a fire district is not acceptable. Many of the processes used are dangerous and the buildings that will be used will likely be AG buildings without even building permits let alone turnaround spaces for fire trucks, dual entrances hydrants or fire sprinklers.

Finally,

6. No multiple cardholder medical marijuana production or processing allowed on EFU lands. These should only be grown indoors in industrial facilities only.

Whatever you do, make sure these new “Reasonable Regulations” are in-force by the end of the year.

Even with these regulations, I encourage you to OPT OUT !

I think the County should tread carefully when it comes to impacting our agricultural resources and the investments of its existing rural residents. By **OPTING OUT** the county can take a Deliberate, Considered Approach and allow the “Marijuana Gold Rush Frenzy “ to just cool down and let things get sorted out.

Understanding Water-Use Regulations: Medical and Recreational Marijuana



Marijuana-related water use is subject to the same water-use regulations as any other irrigated crop. Under the Oregon Water Code of 1909, all water belongs to the public. With a few exceptions, cities, irrigators, businesses, and other water users must obtain a water right from the Water Resources Department to use water from any source – whether it is underground, or from lakes or streams. Generally speaking, landowners with water flowing past, through, or under their property do not automatically have the right to use that water without authorization from the Department.

New water permits are not available in many areas of Oregon, so individuals are strongly encouraged to investigate their water-resources options before investing in a project that requires a water supply. Violations of Oregon Water laws can result in civil penalties or prosecution for a class B misdemeanor.

The best way to identify your legal water resources options is to speak with your local watermaster (see next page). For more information, you can contact the Department at 503-986-0900, or visit our website at <http://www.oregon.gov/owrd>.

What are the water-use authorization options?

1. A water right may already be associated with your property; however, you will need to confirm that the right is still valid, and that it can be used for your purposes. Similarly, water may be obtained from a water purveyor such as a city or a water district that delivers water under an existing water right.
2. If available, water may be acquired by obtaining a new water-right permit for surface water or groundwater.
3. Certain water uses are authorized through Oregon law as “exempt” from the need for a water right. More information about exempt uses is provided below. Check with your watermaster to make sure your use qualifies.
4. There can be other options to obtain water aside from obtaining a new right to surface water or groundwater. In some cases, with Department approval, a water right from another property can be transferred to a new parcel, or stored water that is captured during the winter and spring can help provide a supply. Talk to your watermaster about options.

What else should you know about the use of your water right?

Once you have a water right, make sure that you comply with the conditions on the right. It is always a good idea to check with your watermaster to understand the conditions. Water rights are issued for a particular place of use, type of use, and point of diversion. Water rights also have limits on the amount of water that can be used, and may include limitations on the season of use. Your watermaster can help you to understand the terms of use on your water right.

If you want to change how the water is being used (for example, from field irrigation to a greenhouse), check with your watermaster to make sure that the change fits within your existing water right. In some instances you may need to obtain approval from the Department through a process called a transfer. In addition, there may be limits on the months that the water can be used. Water rights may be subject to forfeiture if not used for five consecutive years.

In addition, there may be times where there is not enough water for every water user who holds a water right. In times of shortage, the senior user is entitled to receive all of his or her water, before a junior user. For example, a senior user with a priority date of 1910 can make a call for water, and users with a junior date (after 1910 for this example) may be regulated off in order to satisfy that senior right. You should talk with your local watermaster to understand how frequently regulation is likely to occur, so that you can plan your operations accordingly. *Note: Although exempt groundwater uses do not require a permit, the well may be subject to regulation like any other water right in times of water shortage.*

How do I obtain a water right permit in the State of Oregon?

Most water rights are obtained in a three-step process. The applicant first must apply to the Department for a permit to use water. Once a permit is granted, the applicant must construct a water system and begin using water. After water is applied, the permit holder must hire a certified water-right examiner to complete a survey of water use (a map and a report detailing how and where water has been applied). If water has been used according to the provisions of the permit, the Department will issue a water-right certificate.

What sources of water are exempt from the permitting process and how can the water be used?

- **Natural springs:** Use of a spring that, under natural conditions, does not form a natural channel and flow off the property where it originates at any time of the year is considered exempt from the need to obtain a water right. Check with your watermaster to determine if your spring qualifies for the exemption.
- **Rainwater:** Collection and use of rainwater from an artificial impervious surface, such as a roof, is considered exempt from needing a water-right. For more information, refer to ORS 537.141. Check with your watermaster to make sure that your rainwater system is properly set up to meet this exemption. You may also need to check on local regulations with your county and/or city.
- **Exempt use of groundwater for non-irrigation-related commercial/industrial purposes:** Under the exemption, up to 5,000 gallons per day could be used for commercial or industrial use without a water right. This would include processing marijuana; however, this exemption *does not* include water to promote plant growth/cultivation.
- **Exempt use of groundwater for one-half acre of non-commercial lawn and garden:** Water for cultivation/growth of marijuana, whether in a greenhouse or not, does not require a water right permit provided that the irrigation is no more than one-half acre in area *AND* the cultivation is *non-commercial*. Use of groundwater to grow marijuana plants where there is intent to profit does not qualify for a groundwater exemption. Non-commercial includes homegrown recreational marijuana and medical marijuana for personal use, or where there is no intent to profit. Medical growers that seek to make a profit from medical or recreational marijuana are not eligible for this exemption. For example, an individual that grows marijuana and donates it to patients and dispensaries could qualify for the exemption. Conversely, an individual that grows marijuana and is reimbursed for the costs of the production and labor – intending to make money – *would not* qualify.

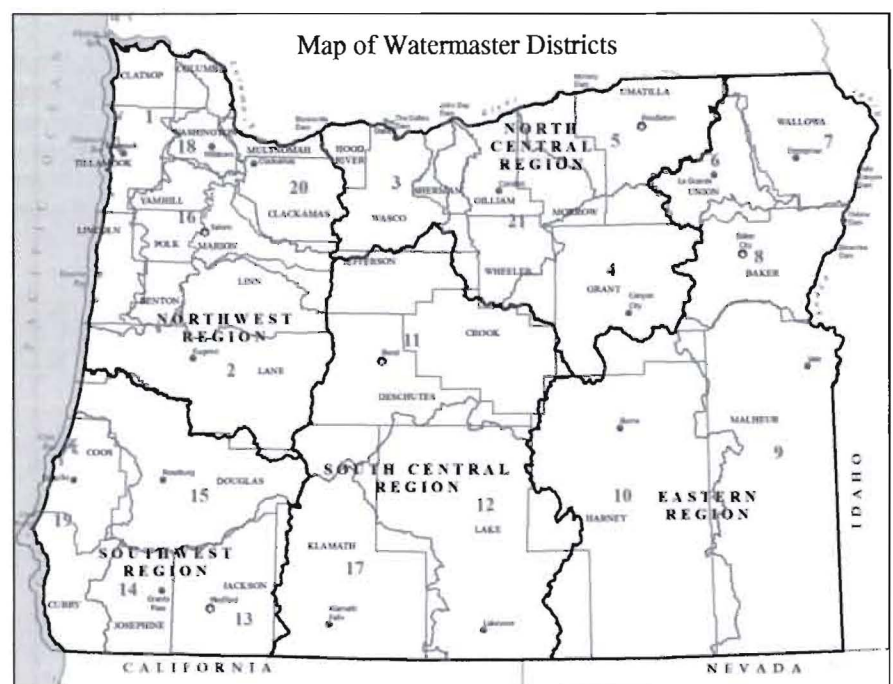
NOTE: This is not a complete list of exemptions, but rather lists those most pertinent to the growth and production of marijuana. Like any crop, the growth of marijuana for commercial purposes, whether medical or recreational, is not eligible for groundwater exemptions.

Can water be obtained from a federal water project?

The federal government is responsible for determining whether water from their projects can be used to grow marijuana. Previous statements by the federal government indicate that use of Bureau of Reclamation water for the purpose of growing marijuana is prohibited. Contact the Bureau of Reclamation or your irrigation district for more information.

Who is my watermaster?

District 1	Nikki Hendricks	503-815-1967
District 2	Michael Mattick	541-682-3620
District 3	Robert Wood	541-506-2652
District 4	Eric Julsrud	541-575-0119
District 5	Greg Silbernagel	541-278-5456
District 6	Shad Hattan	541-963-1031
District 7	David Bates	541-426-4464
District 8	Rick Lusk	541-523-8224
District 9	Ron Jacobs	541-473-5130
District 10	JR Johnson	541-573-2591
District 11	Jeremy Giffin	541-306-6885
District 12	Brian Mayer	541-947-6038
District 13	Travis Kelly	541-774-6880
District 14	Kathy Smith	541-479-2401
District 15	David Williams	541-440-4255
District 16	Joel Plahn	503-986-0889
District 17	Scott White	541-883-4182
District 18	Jake Constans	503-846-7780
District 19	Greg Wacker	541-396-1905
District 20	Amy Kim	503-722-1410
District 21	Ken Thiemann	541-384-4207



Testimony of Jeff Glasberg 12-2-15

1. My following comments are not a referendum for or against the MJ industry. These are strictly are land use and property rights issues. It doesn't matter to me what the subject of the proposed operations are, however when proposed operations substantially impact property rights of others it's an important issue to be considered with the highest standard of diligence and consideration.
2. After repeatedly seeking clarification from the Planning Commission on how many licenses would be allowed to be issued per lot, and it being stated in a recent public hearing that the recommendation was going to be 1 license per lot. I now see the Planning Commission is "**considering**" **permitting 1 indoor and 1 outdoor grow for every 10 or 20 acres of parcel area.**
3. This appears to me to be in complete contradiction to the current recommendation of having NO commercial marijuana production on EFU lots smaller than 20+ acres. This makes NO sense.
4. IF YOU ARE LIMITING MARIJUANA PRODUCTION TO 20+ ACRES WHY ARE YOU THEN PERMITTING OWNERS OF THESE LOTS TO BE ABLE TO UTILIZE 10 ACRE PORTIONS. I don't understand the logic because BY DOING SO YOU'RE IN EFFECT PERMITTING INDOOR AND OUTDOOR GROWS ON 10 ACRE LOTS. This will benefit only owners of larger lots at the great expense to neighboring properties. And by packing all growers into 20+ EFU, it will substantially increase the negative impact to adjoining land owners.
5. If Deschutes County moves forward with these guidelines, let me share with you what life would be like for me and my family.
6. I currently reside next to a 60 acre EFU parcel and the current proposal would have the effect of creating the possible following scenario for me:

1 indoor and 1 outdoor grow per every 10 acres of land would result in the entire lot essentially becoming full of marijuana production. Let me break this down for you:

Up to (6) 40,000 sq foot outdoor grows (1 for each 10 acres). That's 240,000 sq ft.

Up to (6) 10,000 sq foot indoor grows (1 on each 10 acres), another 60,000 sq ft.

Additionally the grower could locate a **Processing plants (up to 20,000 sq feet in size.)**

WITH ONLY A 200 SETBACK FROM MY PROPERTY LINE AND NO SCREENING! I also don't know why extending setbacks to 200' will eliminate the need for any screening. As you may recall, the previous recommendation was to have evergreen screening. How does moving the setback back another 100' invalidate the need for screening of these large structures. We'll still see them. 100' is home plate to first base.

7. Do you know how many plants are in a 40,000 sq ft outdoor grow, which is roughly an acre in size? (**Acre = 43,560**).
8. According to TheWeedBusiness.com (a MJ industry website), they estimate 10,000 plants per acre at 36 inch spacing per row.
9. On the large lot next to me, and for a huge percentage of rural residents who adjoin 20, 40+ acre lots, this means 60,000 outdoor plants within 300' from my house. 10's and 10's of thousands of plants a mere 200' from the yards where the children in our community play. How is that OK?
10. The stink from these would render neighboring properties virtually UNINHABITABLE.
11. I have a friend who is just putting his house on the market outside of Boulder CO and told me he's relieved because his neighbor recently cut down the one 8' plant he had in his backyard. It smelled so strong, he didn't want perspective buyers experiencing the odor because he knew it would make it more difficult to sell his house. And that was ONE plant.

12. It's bewildering, that you're proposing to put patches of 10's of thousands of outdoor plants all throughout our rural neighborhoods.

13. **THE QUALITY OF LIFE FOR NEIGHBORING PROPERTIES LIKE MINE WOULD BE SEVERELY COMPROMISED by the horrendous odor, MULTIPLE INDUSTRIAL FANS RUNING 24/7, AND ALL THE LIGHTS AND OTHER ASSOCIATED issues that come with these operations.**

14. **EVEN IF THESE PROPERTY OWNERS WANTED TO SELL WHO WOULD BUY THEIR PROPERTIES....WOULD YOU??**

15. Colorado does not permit outdoor commercial grows.

16. **The Director of the Colorado High Intensity Drug Trafficking Area, Tom Gorman, recently advised us the reasons why Colorado does not permit outdoor grows as follows:**

- **You don't want cultivation open to the public view, particularly youth. It tends to normalize, advertise and condone marijuana.**
- **Security problem. More subject to theft since high price "crop", as well as theft by youth for both use and sale.**
- **Some concern with environmental impact, i.e., water usage.**

(The High Intensity Drug Trafficking Areas (HIDTA) program, was created by Congress with the Anti-Drug Abuse Act of 1988, and provides assistance to Federal, state, and local enforcement agencies operating in areas determined to be critical drug-trafficking regions of the United States. The purpose of the program is to reduce drug trafficking and production in the United States)

17. By implementing a 20+ acre rule and permitting multiple licenses on one lot, in effect Deschutes County will have taken an EFU Agricultural property and turn it into nothing short of an "industrial" complex with all the nuisances they entail.

18. This will forever change neighboring property owners' views, quality of life, and it bears repeating, **most definitely their property values.**

A.) Nobody who is looking for the peace and tranquility Tumalo once offered will buy our homes when they're next to, or could be next to, industrial sized marijuana operations.

B.) We will not even be able to sell our properties to Marijuana growers because Deschutes County will have now designated our less than 20 Acre lots as too small for commercial pot production.

19. **IN ESSENCE DESCHUTES COUNTY HAS NOW MADE OUR PROPERTY Virtually UNSALEABLE. We STAND TO LOSE 100,000'S OF DOLLARS. IS DESCHUTES COUNTY OR THE MJ GOWERS PROPOSING TO COMPENSATE HOMEOWNERS FOR THEIR LOSS OF CURRENT AND FUTURE PROPERTY VALUES?**

20. I know the **Commissioners are concerned that "The Marijuana owners can afford to plow thousands into legal and lobby fees to protect their businesses."** I would like to remind the Commissioners that they were elected to protect and serve the interests of **ALL the citizens of Deschutes County not just a handful who stand to profit handsomely and the expense of so many rural residents.**

21. I urge the Commissioners to **OPT OUT** now, so we can all take the time to figure out these complex issues as a community.

22. Failing that, Deschutes County should limit licenses to one per lot, no matter the lot size (unless located in a commercial/industrial zone). **AND like COLORADO, prohibit outdoor commercial grows entirely. That would be a "reasonable" compromise.**

Respectfully Submitted,

Jeff Glasberg
Tumalo Resident

MY MASTER BEDROOM

100 FEET

200 FEET

NOISE

STINK

SMELL

NO SCREENING

(1) x 20,000 - 40,000 OUTDOOR GROW
(2) x 5,000 - 10,000 INDOOR GROW

10 AC (1) x 20,000 - 40,000 OUTDOOR GROW
(2) x 5,000 - 10,000 INDOOR GROW

10 AC (1) x 20,000 - 40,000 OUTDOOR GROW
(2) x 5,000 - 10,000 INDOOR GROW

10 AC (1) x 20,000 - 40,000 OUTDOOR GROW
(2) x 5,000 - 10,000 INDOOR GROW

10 AC (1) x 20,000 - 40,000 OUTDOOR GROW
(2) x 5,000 - 10,000 INDOOR GROW

10 AC (1) x 20,000 - 40,000 OUTDOOR GROW
(2) x 5,000 - 10,000 INDOOR GROW
+ 20,000 SAFT PROCESSING PLANT

60 ACRES
Could total

240,000 SAFT
OF OUTDOOR
GROW

60,000 + 54 FT
OF INDOOR GROW

+
20,000 SAFT
PROCESSING PLANT

7-23-15

Dear Commissioners,

Chair Ludlow, Commissioners Bernard, Smith, Schrader, Savas

I posed the below question to the Director of the Colorado HIDTA and got the below response.

Shirley Morgan

Citizens for Public Safety, Quality of Life, & Property Values

www.protectoursociety.org

Unwantedpotgrows.com

From: Shirley Morgan

Sent: Wednesday, July 22, 2015 7:54 AM

To: 'Tom Gorman' (tgorman@rmhidta.org)

Subject: Tom Gorman Director Colorado Rocky Mountain HIDTA

Importance: High



Mr. Tom Gorman-Director

Colorado Rocky Mountain High Intensity Drug Trafficking Area

303-671-2180 ext 221

Dear Mr. Gorman,

In researching the various medical marijuana and recreational marijuana programs in Colorado and Washington, I noticed that Colorado does not allow any recreational marijuana outdoor grows. I am wondering if you can provide some insight as to why?

Thank you,

Shirley Morgan

Citizens for Public Safety, Quality of Life, Property Values

P. O. Box 1351

Welches, Oregon 97067

From: Tom Gorman [mailto:tgorman@rmhidta.org]

Sent: Thursday, July 23, 2015 1:59 PM

To: Shirley Morgan

Subject: RE: Tom Gorman Director Colorado Rocky Mountain HIDTA

Shirley:

- You don't want cultivation open to the public view, particularly youth. Tends to normalize, advertise and condone marijuana use.
- Security problem: More subject to theft since high price "crop", as well as theft by youth for both use and sale.
- Harder to control and regulate.
- Some concern with environmental impact; i.e., water usage.

Thomas J. Gorman

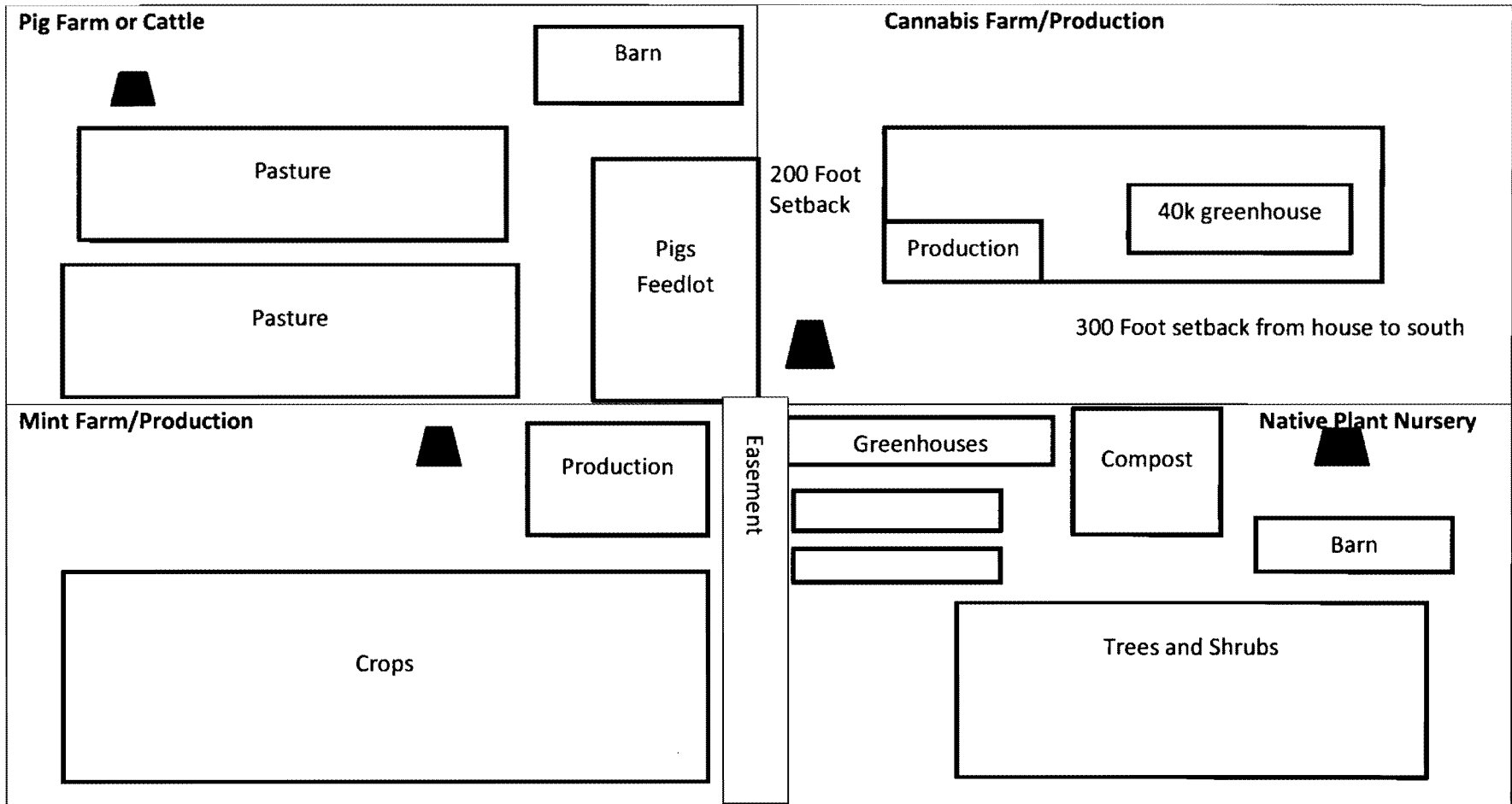
Director, Rocky Mountain HIDTA

303-671-2180, ext. 223

303-618-5496 (cell)

tgorman@rmhidta.org

www.rmhidta.org



20 Ac Lots / 1350 by 650

Improvement Type	County Marijuana Requirements	Cannabis Farm	Others
Processing/Barns	Minimum Lot Size	20 Acres	No minimum lot size for farm use.
Processing/Barn	Setbacks	200' from property line; 300 feet from adjacent homes	0-100 feet per DCC 18.16.070
Processing/Barn	Access	Permission required from all users, even if easement on cannabis farm.	No permission required. Rely on real property law; enforcement by courts for misuse of easement.
	Odor	Filtration system required for production	None required.
	Lighting	Lighting restrictions for processing	County lighting ordinance.
	Screening	Pre-existing production barn must be planted with evergreen screening along entire perimeter of barn.	No screening requirements.
	Color restrictions	Pre-existing barns must be finished in muted earth tones.	Red barn or any other color acceptable.
	Water	Watermaster proof that supply complies with all local, state and federal law.	No requirements.
	Fire Protection	Cannabinoid processing only within fire protection district.	Mint extract with same processing has no restrictions.
Greenhouse/Production			
Greenhouse/Production	Setbacks	200' from property line; 300 feet from adjacent homes	0-100 feet per DCC 18.16.070
	Access	Permission required from all users, even if easement on cannabis farm.	No permission required. Rely on real property law; enforcement by courts for misuse of easement.
	Odor	Filtration system required for production	None required.
	Lighting	Grow lights prohibited from sunset to sunrise.	No restrictions.
	Screening	Pre-existing greenhouse must be screened	No screening requirements.
	Water	Watermaster proof required.	No requirements.

Outdoor Farm use, including growing crops, pigs, feed lots, etc...	Setbacks	200' from property line; 300 feet from adjacent homes	0-100 feet per DCC 18.16.070. Pig and cattle can be located up to the property line.
	Access	Permission required from all users, even if easement on cannabis farm.	No permission required. Rely on real property law; enforcement by courts for misuse of easement.
	Odor	Filtration system required for production	None required. Pigs, cattle, composting areas may all be located up to property line with no odor control.

December 2, 2015

Commissioners Baney, Unger and DeBone:

My name is Larry Fulkerson and I am a resident of rural Deschutes County.

Thank you for the opportunity to speak to you today. I also want to thank you for doing such a good job of addressing complex issues in past that have affected us all here in Deschutes County. I know from past experiences that all three of you are dedicated and very competent professional administrators who are interested in representing the residents of Deschutes County.

State law will allow you to put in place robust regulations that will protect the quality of life and property values that are so negatively impacted by the incredible stench emanating from marijuana grow sites. I believe there has been sufficient testimony presented to the Deschutes County Planning Commission, and I am sure to you three as well, by various means, to establish that beyond a shadow of a doubt the odor of marijuana grow sites has a significant negative impact on property values and quality of life of residents that suffer from the odor. In my opinion it smells exactly like that of skunks. Your Planning Department has recommended that marijuana grow sites in EFU to be on parcels of 20 acres or larger. It makes very little difference how big the parcel of land is. If the grow site is only 300' from a dwelling, there will be a significant negative impact from the odor. Removing this requirement and instead stating that there be no odor allowed off the premises would simplify compliance and negate the need to grandfather any of the existing marijuana operations.

To grandfather any of the medical marijuana grow sites from the requirements to comply with all portions of this draft code as is proposed in DCC 18.116.330 (A) (13) – Nonconformance, would serve to not reduce or mitigate any of the current problems with grow sites and it would give a competitive advantage to medical marijuana grow sites and thereby encouraging more marijuana to enter the black market in direct contradiction to the purpose of Measure 91, as stated in Section 1 of Measure 91. Numerous other political subdivisions such as Boulder City and Boulder County, Colorado, and Denver City and Denver County, and, King County Washington have all enacted robust odor control regulations that do not allow the odor of marijuana grow sites to negatively impact their neighbors. If such a liberal place as Boulder Colorado found it necessary to control odor from marijuana grow sites it certainly must have been a serious problem. I suggest we learn from others that have dealt with state legalized marijuana grow operations on a much larger scale than Deschutes County has. The City of Bend itself is not allowing grow sites for medical or recreational marijuana within its city limits. They apparently expect the rural residents to put up with the odor and

reduced property values caused by the grow sites, while they reap the benefits of controlling the retail marijuana stores.

If the County cannot legally implement the necessary regulations due to State law, I implore you to put medical and recreational marijuana statutes up for a vote to the residents of Deschutes County. Due to the fact that Deschutes County voters voted for measure 91 by a very slim margin and the negative impact of the rapid growth that grow sites have had on their neighbors, one can have little doubt such an initiative would pass, especially if this ballot measure would be specifically worded to not allow production and processing operations while not restricting the use, retail or wholesaling of marijuana.

If you cannot legally put adequate regulation in place to protect our property values and quality of life, or put both medical and recreational marijuana initiatives before the voters next November, I am sure that there are many others like myself that will work tirelessly to ensure that enough signatures are gathered to put both issues on the Ballot in 2016. I believe that gathering the required 4144 signatures would not be difficult. Along those lines, I would like to request those of you in attendance today who are willing to devote some time to help gather signatures to put this issue on the ballot to meet with me in the hallway so I can obtain your contact information, if we need to petition for a vote. I do hope this is not necessary since I would much rather direct my efforts towards getting the permanent 911 levy passed, but don't see how I would be able to devote time to both.

Thank you for your service to the community, and for this opportunity to speak to you.

Sincerely,

Larry Fulkerson
22321 McArdle Rd
Bend, OR 97702
541-977-8988

Larry & Carol Fulkerson

From: "Larry & Carol Fulkerson" <landcflkrsn@gmail.com>
Date: Monday, November 30, 2015 10:51 AM
To: "Nick LeLack" <Nick.Lelack@deschutes.org>; "Matt Martin" <Matt.Martin@deschutes.org>
Subject: Fw: Marijuana questions

TO: Nick LeLack and Matt Martin
FROM: Larry Fulkerson
RE: Questions to clarify 18.116.330

I plan to attend the County Commissioners hearing and have a couple of questions that I would like to have clarified.

1. Would the proposed 20 acre minimum lot size for marijuana grow operations in EFU apply to the over 1800 medical marijuana grow sites that are currently licensed in Deschutes County?
2. The proposed codes in 18.116.330 (A) (5) for outdoor marijuana grow lights makes me think that you expect marijuana to be grown outdoors. In 18.116.330 (A) (4) Odor, your detailed requirements for odor control will not control the odor of grow sites if they are permitted to be outdoors. Do you propose to allow outdoor grow sites with NO odor control at the over 1800 currently licensed medical marijuana grow sites, plus all the new medical and recreational grow sites that will be licensed in Deschutes County and who plan to use outdoor grow sites?

Please get back to me on this at your earliest opportunity so I can consider this in time to prepare comments to the Commissioners.

Thanks for your assistance.

Carol Fulkerson

From: "Matt Martin" <Matt.Martin@deschutes.org>
Date: Tuesday, December 01, 2015 9:10 AM
To: "Carol Fulkerson" <fulkerson.carol53@gmail.com>; "Nick LeLack" <Nick.Lelack@deschutes.org>
Subject: RE: Marijuana questions

Good Morning Larry-

I have responded to your questions below. Please let me know if you have additional questions.

Sincerely,
Matthew Martin, AICP
Associate Planner
Community Development Department
Deschutes County
Office: 541.330.4620/Fax: 541.385.1764
www.deschutes.org/cd

From: Carol Fulkerson [mailto:fulkerson.carol53@gmail.com]
Sent: Monday, November 30, 2015 10:47 AM
To: Matt Martin; Nick LeLack
Subject: Marijuana questions

TO: Nick LeLack and Matt Martin
FROM: Larry Fulkerson
RE: Questions to clarify 18.116.330

I plan to attend the County Commissioners hearing and have a couple of questions that I would like to have clarified.

1. Would the proposed 20 acre minimum lot size for marijuana grow operations in EFU apply to the over 1800 medical marijuana grow sites that are currently licensed in Deschutes County?

RESPONSE: To first clarify, medical marijuana grow sites are registered with the Oregon Health Authority not licensed. With regard to the Planning Commission recommendation of 20 acre minimum parcel size in the EFU zone for marijuana production, it would not apply to existing, lawfully established medical marijuana grow site. They would be considered nonconforming.

2. The proposed codes in 18.116.330 (A) (5) for outdoor marijuana grow lights makes me think that you expect marijuana to be grown outdoors. In 18.116.330 (A) (4) Odor, your detailed requirements for odor control will not control the odor of grow sites if they are permitted to be outdoors. Do you propose to allow outdoor grow sites with NO odor control at the over 1800 currently licensed medical marijuana grow sites, plus all the new medical and recreational grow sites that will be licensed in Deschutes County and who plan to use outdoor grow sites?

RESPONSE: No odor control is proposed, and probably not possible, for outdoor (not in building or greenhouse) marijuana production. The proposed standards addressing nonconformance require existing registered medical marijuana grow sites within buildings or greenhouses to retroactively install odor control equipment.

Please get back to me on this at your earliest opportunity so I can consider this in time to prepare comments to the Commissioners.

Thanks for your assistance.

December 2, 2015

Deschutes County Commissioners Baney, Unger and DeBone:

My name is Carol Fulkerson and I am a resident of Deschutes County.

In my opinion, the problems with the marijuana industry were caused entirely by the industry itself. To clarify, here are some obvious and not so obvious facts. The marijuana grow sites can and do emit a skunk like odor if not properly controlled. Noise and lights, if not properly controlled, also have a negative effect on neighbors, their quality of life and property values. Since marijuana was illegal for so many years, controls were self imposed by the industry or they would have been fined, incarcerated, or both. As a result, the general public has not been aware of the odor and other problems related to marijuana production and processing sites.

When marijuana laws were being crafted by the State of Oregon, the representatives of the marijuana industry who were on the rule making committee did not try to mitigate the negative impact that grow sites have on their neighbors. The cost of complying with reasonable and mitigating regulations would have been placed on all growers and caused the product to be only slightly more expensive. Instead, the marijuana industry seems to have decided that they should not have to control odor, noise or lighting and thereby causing much opposition to their grow operations. This was not a good business decision on their part since voters have the ability to vote their industry out of existence.

Medical marijuana was legalized in Oregon in 1998 with very few regulations and almost no enforcement. Now that recreational marijuana has been legalized according to Oregon state law, and Deschutes County has decided to impose reasonable regulations, your Planning Department and Planning Commission was tasked with crafting new code language. After 2 days of hearings before the Planning Commission, members were asked if any of them had ever set foot on a marijuana grow site. The very reluctant and uncomfortable answer was "no". One member said he had driven by one operation. This lack of due diligence serves to discredit the whole process and their recommendations. Maybe this is why the proposed odor regulations will not adequately control the odor problems. Telling the marijuana grow site operators how big of a fan and filter to use and micromanage their operation will be almost impossible for the County to enforce because according to State law you cannot even determine where the grow sites are located. Instead, I suggest the County writes in a requirement that all production and processing sites are not allowed to emit any marijuana odor. After all, growers are able to accomplish odor control in the other 46 states where recreational marijuana is illegal. Let the grow site operators figure out how to

accomplish that. If the rules were complaint driven then when a complaint was received you could, through law enforcement channels, determine if the site was properly licensed and legal before taking enforcement action.

The marijuana industry has shown no willingness to try to reduce its negative impact on its neighbors. The negative impact on many property owners, quality of life issues and property values means we look to you to impose robust and effective regulations. We all agree that this is a new industry with many problems having been reported. Please err on the side of caution by protecting our rights with strong regulations. Remember that by Federal law, marijuana is still illegal under the 1970 Controlled Substances Act. Oregon's new laws have not been tested at the Federal level. Consider too that it is generally easier to relax tight restrictions, if it is warranted at a later date, than it is to tighten them should that prove to be necessary. And, growers can request a variance if their operation qualifies under DCC 18.132.

Thank you for this opportunity to speak to you, and for your service to the citizens and property owners in Deschutes County.

Sincerely,

Carol Fulkerson
22321 McArdle Rd
Bend, OR 97702
541-815-0482

BUILD FA

5-10-6. - Marijuana Odor Emissions.

- (a) No person, tenant, occupant, or property owner shall permit the emission of marijuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
- (b) Whether or not a marijuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.
- (c) A marijuana odor emission shall be deemed to interfere with the reasonable and comfortable use and enjoyment of property if the city manager receives three or more complaints concerning marijuana odor emanating from the same source from individuals representing separate households, rooming units, or places of business within the city.
- (d) No person shall be convicted of a violation of this section unless the city manager has delivered or posted a written warning, in the previous twelve months, that conduct violating this section is occurring or has occurred.
 - (1) The person, tenant, occupant, or property owner must abate the marijuana odor emission within seven days after the warning is delivered or posted.
 - (2) Seven or more days after a warning is posted or delivered, a separate violation of this section occurs on each day that the marijuana odor emission repeats or continues.
 - (3) The warning shall cite this section.
 - (4) The warning may be delivered personally or posted on the property.
 - (5) It shall be presumed that a person charged under this section received the warning if the warning was either (i) delivered to the property owner, a tenant, or an occupant; or (ii) posted on the property.
- (e) Extended grace period for licensed marijuana cultivation facilities. No person who receives a warning at a licensed marijuana cultivation facility shall be convicted of a violation that allegedly occurred within ninety days after the first warning issued pursuant to Subsection (d), if all of the following conditions are met:
 - (1) A first warning within twelve months was previously issued pursuant to Subsection (d) of this section for the person's property, and the subject property is licensed as a marijuana cultivation facility by the city or the state;
 - (2) Seven or fewer days after the warning was posted or delivered, the person submitted a written document to the city manager which explained (i) why the marijuana odor emissions could not be abated within seven days feasibly, and (ii) how the person planned to abate the marijuana odor emission in the following ninety days;
 - (3) The person receiving the warning has diligently pursued to completion the plans for abating the marijuana odor emission; and
 - (4) The written document described in Paragraph (2) was submitted fewer than ninety days before the date of the violation.

BOULDER COUNTY MARIJUANA LICENSING REGULATIONS

Article 1: Purpose and Intent

Section 14 of article XVIII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law. Section 16, article XVIII of the Colorado Constitution permits personal use of marijuana by persons aged 21 years and older under Colorado law. To enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado Medical Marijuana Code, article 43.3 of title 12, C.R.S. (the "CMMC"). In addition, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules ("the MMR"). The CMMC and MMR authorize counties and municipalities to determine whether to permit, as a matter of state law, certain medical marijuana businesses within their jurisdictions. Further, to enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. (the "CRMC"). In addition, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1500, Retail Marijuana Rules ("the RMR"). The CRMC and the RMR authorize counties and municipalities to determine whether to permit, as a matter of state law, certain retail (i.e. non- medical) marijuana establishments within their jurisdictions.

The purpose of these regulations is to authorize licensing in unincorporated Boulder County as provided in §§ 12-43.3-301(2)(a), 12-43.4-104(3) and 12-43.4-301, C.R.S., as amended; to establish specific standards and procedures for local licensing of marijuana-related business and establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Boulder County by prescribing the manner in which marijuana businesses and establishments can be conducted in the county. By enacting these regulations, Boulder County does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, that constitutes or may constitute a violation of state or federal law. As of the date of the enactment of these regulations, the use, possession, distribution, and sale of marijuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Article 2: Defined Terms

The definitions in the CMMC, § 12-43.3-104, C.R.S., as amended, and the CRMC, § 12-43.4-103, C.R.S. shall apply to these regulations.

- a) "Authority": the Boulder County Marijuana Licensing Authority;
- b) "Dual Operation": A facility that simultaneously operates a licensed medical marijuana business and licensed retail marijuana establishment.
- c) "Dual Retail Business Operation": A dual operation of a Medical Marijuana Center and Retail Marijuana Store.

- d) **“Dual Cultivation Business Operation”**: A dual operation of a Medical Marijuana Optional Premises Cultivation Business and a Retail Marijuana Cultivation Facility.
- e) **“Dual Manufacturing Business Operation”**: A dual operation of a Medical Marijuana Infused Products Manufacturer Business and a Retail Marijuana Products Manufacturer.
- f) **“Electronic ID Scanner”**: A device that is capable of quickly and reliability confirming the validity of an identification using computer processes.
- g) **“Medical Marijuana Business”**: A licensed Medical Marijuana Center, Medical Marijuana-Infused Products Manufacturer, or an Optional Premises Cultivation.
- h) **“Medical Marijuana Center”**: A licensed retail operation from which Medical Marijuana Registry patients or registered caregivers may purchase medical marijuana and medical marijuana infused products, but is not a primary caregiver See C.R.S. §12-43.3-402.
- i) **“Medical Marijuana Infused Product Manufacturer”**: A facility which produces medical marijuana infused products such as edibles, tinctures and beverages. These facilities are only allowed to sell their products to licensed Medical Marijuana Centers wholesale. See C.R.S. §12-43.3-404.
- j) **“Medical Marijuana Optional Premises Cultivation”**: A licensed facility which grows, harvests and processes raw medical marijuana product to sell in Medical Marijuana Centers or for use in infused products. See C.R.S. §12-43.3-403.
- k) **“Off-Premises Storage Permit”**: A permitted off-premises storage facility is an extension of a medical marijuana business or retail marijuana establishment’s licensed premises and is subject to all applicable medical or retail marijuana regulations.
- l) **“Retail Marijuana Cultivation Facility”**: An entity licensed to cultivate, prepare, and package retail marijuana and sell to retail marijuana establishments, but not to consumers. See C.R.S. §12-43.4-403.
- m) **“Retail Marijuana Establishment”**: A Retail Marijuana Store, Retail Marijuana Cultivation Facility, Retail Marijuana Products Manufacturing Facility, or Retail Marijuana Testing Facility.
- n) **“Retail Marijuana Products Manufacturing Facility”**: An entity licensed to purchase retail marijuana; manufacture, prepare, and package retail marijuana products; and then sell retail marijuana products to other retail marijuana establishments, but not to consumers. See C.R.S. §12-43.4-404.
- o) **“Retail Marijuana Store”**: An entity licensed to purchase retail marijuana or retail marijuana products from a retail marijuana establishment and then sell retail marijuana and retail marijuana product to consumers. See C.R.S. §12-43.4-402.
- p) **“Retail Marijuana Testing Facility”**: A public or private laboratory licensed to conduct research and analyze retail marijuana, retail marijuana products, and retail marijuana concentrate for contaminants and potency. See C.R.S. §12-43.4-405.
- q) **“State”**: The Marijuana Enforcement Division of the Colorado Department of Revenue.

Article 3: Local Licensing

- a) **Effective date.** Except as provided in paragraph b it is unlawful to operate any business in unincorporated Boulder County for which a license is required under the CMMC without first having obtained a local license under these regulations and a state license under state code.
- b) **Pre-existing businesses.** Any person who is lawfully engaged in the business of selling, cultivating, or manufacturing medical marijuana as permitted by the CMMC and the Boulder County Land Use Code prior to July 1, 2012 may continue in business if, on or before September 4, 2012, the person submitted an application for local licensing under these regulations. If an application is submitted according to this subsection, the business may continue until such time as the state or local licensing application is denied or the state or local license is revoked.
- c) **Dual Licenses.** Dual Operations are permitted so long as appropriate State and local licenses have been issued and remain valid and active for both operations. No Dual Retail Business Operation is permitted to sell marijuana to persons younger than twenty-one years of age.
- d) **No entitlement of vested right.** No person shall have any entitlement or vested right to licensing under these regulations, the CMMC, the CRMC, Boulder County zoning approvals, or Boulder County building permits. To lawfully engage in the business of selling, cultivating, or manufacturing marijuana in unincorporated Boulder County, all persons must obtain a license under these regulations. Such a license is a revocable privilege subject to the will and scrutiny of local and state authorities.

Article 4: Relationship to Other Laws

Boulder County intends to follow and incorporate the requirements and procedures in the CMMC, the CRMC, the MMR, and the RMR. Whenever possible, these regulations and any licenses issued under these regulations shall be construed to comply with federal law, specifically including the Controlled Substances Act.

Article 5: Authority

The Boulder County Board of County Commissioners (the "Board") may designate, in its discretion, a person or persons to act as the Boulder County Marijuana Licensing Authority. The Authority shall serve at the pleasure of the Board and be compensated on terms mutually agreeable to the Board and the Authority. The Authority shall accept and determine applications and fees, investigate potential licensing violations, take action against licensees, and perform other duties as provided by these Regulations.

Article 6: Licenses

The Authority is authorized to issue the following local licenses should the applicant fulfill the requirements: Medical Marijuana Center license; Medical Marijuana Optional

Premises Cultivation license; Medical Marijuana Infused Products Manufacturer license; Retail Marijuana Store license; Retail Marijuana Cultivation Facility license; Retail Marijuana Products Manufacturing Facility license; Retail Marijuana Testing Facility license; and an Off-Premises Storage permit. The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law. The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by the CMMC and the CRMC.

Article 7: Licensing Procedure

- a) **General Procedure.** The Authority shall consider and act upon all complete local license applications as authorized by these regulations. The Authority shall defer to the State to enforce compliance with the requirements in the CMMC and the CRMC and any other state regulations not covered by these regulations. The Authority shall grant or deny a license based solely upon the Authority's investigation and findings, and no public hearing shall be required. The Authority shall deny any application that is not in full compliance with these regulations. The Authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these regulations.
- b) **Application forms.**
 1. All applications for a new marijuana business, establishment or dual operation licenses shall be made upon forms provided by the State and shall include the Boulder County New Marijuana Business/Establishment License Application form and all documentation required by the Authority.
 2. All applications for conversions from a licensed medical marijuana business to a retail marijuana establishment shall be made upon forms provided by the State and shall include the Boulder County Marijuana Business/Establishment Conversion Application form and all documentation required by the Authority.
- c) **Other County Departments.** Upon receipt of an application under 7(b) above, the Authority shall circulate the application to the Land Use Department, the Transportation Department, Public Health, and the Treasurer's Office. These departments should employ their best efforts to respond within thirty days to the Authority with any concerns they have regarding the application. Failure of a referral agency to timely respond to a referral shall not constitute approval of the license.

Article 8: Licensing Requirements

- a) Before issuing a local license for a new marijuana business or the Authority shall determine that all of the following requirements have been met:
 1. The appropriate application is complete and all fees have been paid;
 2. The Land Use Director or designee has determined:

- a. The use is permitted and that the owner or operator has obtained any required approvals under the Land Use Code;
 - b. No zoning violations exist on the property or any property in the county owned by the business owner;
 - c. All existing or proposed signage meets the requirements of the Land Use Code;
 - d. All existing or proposed lighting meets the Land Use Code's lighting requirements;
 - e. All structures in which the use is located have been inspected by the Chief Building Official (the "Building Official") or designee, who has determined the structure complies with all applicable building code provisions, and all necessary building permits have been obtained;
3. The Public Health Director or designee has determined the property has all required well and septic permits or is adequately served by public water and sewer;
 4. The Treasurer or designee has determined all property taxes have been paid and no tax liens exist on the property or any property in the county owned by the business owner(s);
 5. The Transportation Engineer or designee has determined the marijuana business or establishment has satisfactory vehicular access and parking facilities pursuant to the County's Multimodal Transportation Standards and the Land Use Code, has provided for reasonably required offsite transportation improvements to serve the proposed site, and has suitability mitigated any traffic hazards associated with the use;
- b) Additionally, before issuing a local license for a conversion from a medical marijuana business to a retail marijuana establishment or conversion to a Dual Operation, the Authority shall determine that all of the following requirements have been met:
1. The appropriate application is complete and all fees have been paid;
 2. The business has a current and valid medical marijuana business license, for the premises issued by the Authority.
 3. The proposed activity must take place on the same parcel as the current licensed area unless a modification has been approved as provided for under Article 11(d) below;
 4. No offensive odors have been reported, or odor issues have been rectified as confirmed by Public Health.
 5. For a Dual Retail Business Operation documentation of the required signage and receipt labeling has been provided.
 6. No outstanding violations of County regulations or licensing requirements exist on the property where the proposed establishment is located.

Article 8.5: Operation Requirements

- a) **Hours of Operation.** Medical Marijuana Centers, Retail Marijuana Stores, and Dual Retail Business Operations must be closed to the public and no sale or other distribution of

marijuana may occur upon the premises or via delivery, between the hours of 7:00 pm and 8:00am.

- b) **Odor Control.** Odors should not escape the property line. If any complaints are received, licensees will work with Public Health to rectify air quality concerns. Unresolved air quality complaints may be basis for action on the license pursuant to Article 13 of these regulations.
- c) **Business Conducted Within Building.** All cultivation, production, distribution, storage, display, and sales of marijuana and marijuana-infused products must not be visible from the exterior of the business.
- d) **Direct Sales.** All retail sales of retail marijuana must be in person, directly to the purchaser. No sales may be made by telephone, internet, or other means of remote purchase.
- e) **Giveaways.** Medical Marijuana Centers, Retail Marijuana Stores, and Dual Retail Business Operations may not distribute marijuana or marijuana-infused products free of charge to a consumer.
- f) **Advertising.** All marijuana businesses and establishments are subject to the requirements of the Land Use Code and the restrictions on advertising and marketing under the CMMC and CRMC. In addition, no advertisement for marijuana or marijuana products are permitted on signs mounted on vehicles, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property without consent of the property owner. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the County or on the internet; (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth.
- g) **Sponsorship.** A marijuana business may sponsor a charitable, sports, or similar event, but a marijuana business must not engage in advertising at, or in connection with, such an event unless the marijuana business has reliable evidence that no more than thirty percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of twenty-one.
- h) **Additional requirements for Retail Marijuana Stores or Dual Retail Business Operations:**
 - 1. **Age limitation.** Retail Marijuana Stores or Dual Retail Business Operations are not permitted to sell marijuana to persons younger than twenty-one years of age.
 - 2. **Signage.** A sign must be posted in the sales area that clearly states: "You must be at least 21 years old to enter."
 - 3. **Receipts.** Receipts must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21."
 - 4. **Proof of age.** Proof of age of every person entering the business or establishment must be verified with an Electronic ID Scanner.
- i) **Sustainability.** All marijuana cultivation operations must meet the following requirements, unless the Authority in consultation with the Building Official grants an extension of time for good cause shown.

1. Commencing April 30, 2015, a sustainability report must be submitted to the Building Official that documents all electrical energy consumed and any fuel associated with generators or CO2 generation since the previous report. Energy usage for January through March shall be reported by the last day of April, usage for April through June shall be reported by the last day of July, usage for July through September shall be reported by the last day of October, and usage for October through December shall be reported by the last day of the following January. This report must be created and signed by an independent third-party commissioning agent who is approved by the Building Official. All fuels must be converted to kilowatt hours ("kWh") using the rate of 3412 Btu = 1 kWh. Documentation of source of consumption data is required. If a cultivation facility is participating in the Boulder County Energy Monitoring Program, then energy usage does not have to be separately reported in the sustainability report. Energy offset and lamp disposal must also be demonstrated in the sustainability report. All lamps must be disposed of at a hazardous waste or comparable facility and not deposited in a trash receptacle or landfill. The time, date, and location of all lamps recycled must be documented.
2. January 1, 2015, directly offset 50% of electricity consumption through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent approved by the Building Official. The offset must be demonstrated in the sustainability report approved by the Building Official.
3. By January 1, 2016, directly offset 100% of electricity consumption through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent approved by the Building Official. The offset must be demonstrated in the sustainability report approved by the Building Official.
4. By January 1, 2015, if an electrical power generator, CO2 generator or unvented room heater is located on-site, then the consumption of any natural gas, liquid fuel, bio-fuel or propane for this device must directly offset 50% of such fuel consumption through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent approved by the Building Official. By January 1, 2016, this consumption must be offset 100%. The offset must be demonstrated in the sustainability report approved by the Building Official.
5. By January 1, 2015, for any expansion of the cultivation area, 100% the energy consumed in the expanded area must directly offset through a verified subscription in a Community Solar Garden, renewable energy generated on site, or equivalent approved by the Building Official.
6. In lieu of the offset requirements contained in subsections (1), (2), (3), (4) & (5) of this article, a facility may choose to pay fees to the Boulder County Energy Impact Offset Fund ("BCEIOF"). The owner(s) of such facilities must sign a BCEIOF agreement in which they agree to abide by all terms, requirements, and conditions of the BCEIOF program. Failure to make any payment shall be considered a violation pursuant to Article 13.

Article 9: Inspection

By signing and submitting a license application, the owner of the business or establishment certifies that the applicant has received permission from the property owner to allow inspections as may be required under state or local licensing law. In addition, the owners authorize the Authority or designee and the Building Official or designee, to enter upon and inspect the premises. Such inspections, if necessary, shall take place at a reasonable time with prior notice to the property owner, and prior to a determination on the application. Upon request, the owner of the business or establishment shall timely provide the Authority with records related to the business, including, but not limited to, utility bills from the commercial energy provider for the premises. This section shall not limit any inspection authorized under any other provision of law or regulation.

Article 10: Decision and Appeal

- a) The Authority, in its sole discretion, may delay issuing a decision on a license application while the applicant is working toward bringing a noncompliant property into compliance. Applicants receiving the benefit of such a delay must proceed to correct the noncompliance diligently and in good faith or be subject to denial.
- b) Once the Authority has completed a review of the application, it shall either issue a local license or a denial letter that specifies the reasons for denial. Within ten days of a denial letter, the applicant may request that the Authority reconsider its decision by submitting a letter to the Authority clearly stating the grounds for the request. In response, the Authority may deny the request, issue a revised denial letter, or issue a local license. A denial letter, revised denial letter or local license denial is subject to judicial review as specified in to C.R.S. §12-43.3-801 or Colorado Rule of Civil Procedure 106(a)(4), as applicable, but issues that were or could have been decided by the Board of Adjustment may not be raised in such a proceeding.
- c) A determination by the Land Use Director or designee, under Article 8(a)(2) above, that the use is not permitted or that the owner or operator has not obtained the required approvals under the Land Use Code, shall constitute a final decision of the Director appealable to the County Board of Adjustment under the applicable provisions of Article 4 of the Land Use Code. When the Authority receives such a determination, the Authority shall not issue a decision on the licensing application for thirty days. If the applicant files an appeal to the Board of Adjustment, the Authority shall not issue a decision on the licensing application until such appeal is finally resolved, unless a separate reason for denial exists.
- d) A pre-existing business operating under Article 3(b) must cease operation within forty-five days after the issuance of a denial letter or revised denial letter, as applicable.

Article 11: Changes in License

All County forms, State forms and fees must be submitted to the Authority to modify a business premise, location or ownership and shall be made at least thirty days prior to the anticipated

change. If forms are received less than thirty days from the change or after the change has occurred a late fee may be charged. All information provided on State and County forms must be consistent.

- a) No modifications may be made to the business or establishment until the license is issued by the Authority
- b) **Transfer/Change of Ownership.** A license shall be transferable only upon approval by the Authority and the State. Any change in ownership shall require approval by the Authority and be requested on Change of Ownership Application.
- c) **Change of Location.** A change to the location of a business or establishment shall require approval by the Authority and be requested on Marijuana Licensing Report of Changes form, including the procurement of all permits and approvals from the Land Use Department. If a license has not expired, operations may continue at the current location until the new location is approved. Marijuana or marijuana products may only exist at the licensed location. To be approved for a change of location the new location must comply with Articles 8 and 8.5 of these regulations.
- d) **Modification of premises.** A modification of any building structure where a marijuana business or establishment or an off-premises storage facility is located is subject to all applicable provisions of the Land Use Code and County building code. Any modification of premises shall require approval by the Authority and be requested on Marijuana Licensing Report of Changes form.
- e) **Change of Mailing Address.** Change may be made only upon approval by the Authority and the State. Any changes shall require approval by the Authority and be requested on Marijuana Licensing Report of Changes form.
- f) **Change in Trade Name.** Change may be made only upon approval by the Authority and the State. Any changes shall require approval by the Authority and be requested on Marijuana Licensing Report of Changes form.

Article 12: Term of license; renewal

- a) **Term of License.** Boulder County marijuana business or establishment licenses shall be valid for a period of one year or upon the expiration and non-renewal of the associated license, whichever occurs first.
- b) **Renewal of License.**
 - 1. A renewal application, renewal fee, operating fee, and any required accessory license operating fees must be submitted at least forty-five days before the expiration of the license or a late fee may apply. Failure to submit a renewal application prior to the expiration date of a license will result in the revocation of a license on the expiration date.
 - 2. No violations of these Regulations exist. Renewal of any local license is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place.
 - 3. No offensive odors have been reported, or odor issues have been rectified as confirmed by Public Health.

Article 13: Violations

- a) **Order to Show Cause.** If the Authority has reasonable cause to believe that a license has violated the CMMC, CRMC or these Regulations, it shall issue an Order to Show Cause, specifically identifying the alleged violation(s), advising that action may be taken against the license, and giving the licensee ten days to provide a response in writing.
- b) **Decision.** Based on the licensee's response and any other evidence that has been presented, the Authority shall determine if a violation has occurred, and if so, the appropriate penalty. The Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed.
- c) **Penalties.** The Authority will make a determination regarding the type of penalty to impose based on the severity of the violation in the following categories:
 1. **License Infractions.** This category of violation is the least severe and may include, but is not limited to, air quality complaints, unauthorized modifications of the premises of a minor nature, or failure to notify the Authority of a minor change in ownership. The range of penalties for this category of violation include a verbal or written warning, license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$10,000 depending on the mitigating and aggravating circumstances. Sanctions may also include license restrictions.
 2. **License Violations.** This category of violation is more severe than a license infraction but generally does not have an immediate impact on the health, safety, and welfare of the public at large. License violations may include but are not limited to, unrectified odor issues, advertising and/or marketing violations, unauthorized modifications of the premises, failure to notify the Authority of a change in ownership. The range of penalties for this category of violation may include a written warning, license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$50,000, and/or license revocation depending on the mitigating and aggravating circumstances. Sanctions may also include restrictions on the license.
 3. **License Violations Affecting Public Safety.** This category of violation is the most severe and may include, but is not limited to, medical marijuana sales to non-patients, consuming marijuana on the licensed premises, medical marijuana sales in excess of the relevant transition limit, violations related to collocated medical marijuana businesses and retail marijuana establishments, packaging or labeling violations that directly impact patient safety. Violations of this nature generally have an immediate impact on the health, safety, and welfare of the public at large. The range of penalties for this category of violation may include license suspension, a fine per individual violation, a fine in lieu of suspension of up to \$100,000, and/or license revocation. Sanctions may also include restrictions on the license.

- d) **Fines.** Fines of \$3,000 for each offense may be imposed for a licensee's violations. If a licensee has had multiple violations within a three-year period, fines of \$5,000 for each offense may be imposed. If a license has been suspended pursuant to this Article 13 for fourteen days or less, the licensee may petition the Authority for a fine in lieu of suspension, and the Authority in its sole discretion may grant, pursuant to C.R.S. §12-43.3-601(3). Any fine must be paid within thirty days of a final decision by the Authority or the license will be suspended, unless the Authority grants a longer period.
- e) **Appeal Process.** Within ten days of any decision by the Authority, the licensee may provide a written response by submitting a letter to the Authority clearly stating its position. In response, the Authority may make a final decision, request additional information or conduct additional investigation prior to issuing a final decision, or withdraw the violation determination. A final decision is appealable under Colorado Rule of Civil Procedure 106(a)(4). A licensee may continue to operate during the pendency of an appeal. The Authority may grant extensions of deadlines under this Article for good cause shown.
- f) Upon denial or revocation of a state license, any license issued under these regulations shall be null and void. If a court of competent jurisdiction determines that the issuance of local licenses violates federal law, all licenses issued under these regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Article 14: Fee Structure.

- a) **New Medical Marijuana Business Licenses.** Only one Application Fee is required per business, per location. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.

Application Fee	\$2,500
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$250

- b) **New Retail Marijuana Establishment Licenses.** An individual application fee will be received from the State for each license. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.

Application Fee	\$2,500
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$250

- c) **Conversion from a Medical Marijuana Business to a Retail Marijuana Establishment or Dual Operations.** An individual application fee will be received from the State for each license. An Annual Operating Fee will be required for the first license and an Accessory License Operating Fee will be required for each additional license for that business, at that location.

Application Fee	\$250
Annual Operating Fee	\$4,000
Accessory License Operating Fee	\$250

- d) **Administrative fees.**

Renewal	\$300
Late Renewal	\$500
Transfer of Ownership	\$100
Change in Ownership Structure	\$50
Change of Location	\$3,000
Change in Mailing Address	\$50
Change in Trade Name	\$50
Modification of Premises	\$500
Late Fee for Changes	\$250

The operating fee may be refunded if the Authority denies the application. All other fees are nonrefundable. The Board of County Commissioners has authority to set and amend fees.

Article 15: Severability

If any provision of these regulations is found to be invalid by a court of competent jurisdiction, only the provision subject to the court decision shall be repealed or amended. All other provisions shall remain in full force and effect.

DEFINITION

Sec. 4-10. - Nuisance.

- (a) It shall be unlawful for any person to emit air contaminants that constitute a nuisance as defined in section 4-2.
- (b) It shall be an unlawful nuisance for any person to cause or permit the emission of odorous air contaminants from any source so as to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of property. Upon either or both of the following occurrences, any odor will be deemed to interfere with reasonable and comfortable use and enjoyment of property:
 - (1) If odorous contaminants are detected when one (1) volume of the odorous air has been diluted with seven (7) or more volumes of odor-free air, as measured by any instrument, device, or method designated by the Colorado Air Pollution Control Division to be used in the determination of the intensity of an odor and in the enforcement of Colorado Air Quality Control Commission Regulation 2.
 - (2) When the department receives five (5) or more complaints from individuals representing separate households within the city within a 12-hour period relating to a single odordescription, and the department verifies the source of theodor. To be considered an odor complaint the department must have a record of it, which must include the:
 - a. Name, address and phone number of complainant.
 - b. Time and date of call.
 - c. Description of odor nuisance, including estimated location or source of complaint, and if possible, prevailing wind or weather conditions observed.
 - (3) The department must use reasonable efforts to investigate all complaints to verify the source of the odor.
- (c) It is an affirmative defense to a violation of the odorous air contaminant standard that the violation was caused by an upset condition or breakdown of a device, facility, or process that: could not have been reasonably anticipated or prevented; the facility owner or operator took immediate action to eliminate the upset condition and, if necessary, repair all equipment and devices that caused or contributed to the upset condition or breakdown; the facility owner or operator notified the department about the upset condition or breakdown within eight (8) hours of its occurrence; and the facility owner or operator provided written detailed information describing the upset condition or breakdown and identifying the measures taken to correct it within three (3) working days of the occurrence.
- (d) Rodeos, stock shows, tarring operations, and other similar temporary events are exempt from this section.

(Ord. No. 292-90, § 3, 5-29-90; Ord. No. 683-08, § 5, 12-8-08)

Secs. 4-11—4-20. - Reserve

Testimony Relating to House Bill 3400, Providing Opt Out Options for the Establishment of Marijuana Businesses, etc. in Regard to Land Use Outside of the Cities.

Hearing Date: Wednesday, December 2, 2015

You did did not offer testimony in person.

Your Name: Steve Wheeler

Mailing Address: P.O. Box 2542 Eugene, Or. 97402

E-mail address (optional): Steve.wheeler@comcast.net

Phone #s (optional): 541-953-3951

Your Comments: I have submitted written

testimony. I enquire the commissioners

to opt out. Further, strict enforceable

regulations need to be enforced on all

grow operations.

(Use back of page if desired.)

Signature: Steve Wheeler

November 12, 2015 Planning Commission Hearing

From : steve wheeler <steve.wheeler@comcast.net>

Mon, Nov 16, 2015 07:19 AM

Subject : November 12, 2015 Planning Commission Hearing**To :** Board@Deschutes.org

Dear Deschutes County Commissioners,

November 16, 2015

I attended the Nov. 12th planning commission meeting regarding the regulation of marijuana grow operations.

We purchased a house on 10 acres on Couch Market Road in 2000. We searched for 2 years before purchasing the property for its views, considerate neighbors, and water rights to raise hay for horses. We also loved the tranquility and neighborhood feeling of the area.

The hearing alarmed me in many ways. Most disturbing was the testimony of a majority of residents that provided details of grow operations obtaining permits for "hay barns", then building glass greenhouses with grow lights brighter than the moon in the nighttime hours. The "dead skunk" odor is pungent and distinct turning off highway 20 and is one and a half miles from the grow operation. Complaints have been filed and nothing appears to have been addressed. Two of the growers stated that their operations used the proper carbon filters that prevented noxious odors from leaving their property, and buildings that were opaque to prevent light pollution. They also were concerned for their neighbors in regard to traffic and other related issues that could be destructive forces in their neighborhoods. If all growers acted this way, there would not be a need to put in place strict, clear, enforceable code restrictions. Unfortunately, the testimony of long time residents made it very clear that restrictions must be in place and enforced. I wonder if Bend residents complained about odors, night lights as bright as the moon, and traffic nuisances, would the city of Bend address these issues? I am certain the answer would be yes.

I believe in people's right to free enterprise and the ability to use their property for beneficial purposes. I do not believe others have a right to disregard destructive behaviors (ie. light pollution, noxious odors, and traffic problems).

In conclusion, I believe it is in the best interests of the Commissioners, all growers, and the residents of Deschutes County, to "opt out", and simultaneously adopt strict, clear, enforceable code restrictions that will aid good will and assure a healthy community. I know this issue is not an easy one to deal with, but if handled decisively, and firmly, Deschutes County will continue to be an amazing place to live.

Thank you for your time and consideration.

Sincerely,
Steve Wheeler
P.O. Box 2542
Eugene, Oregon 97402

2013 ORS § 215.253¹

Restrictive local ordinances affecting farm use zones prohibited

• exception

- (1) No state agency, city, county or political subdivision of this state may exercise any of its powers to enact local laws or ordinances or impose restrictions or regulations affecting any farm use land situated within an exclusive farm use zone established under ORS 215.203 (Zoning ordinances establishing exclusive farm use zones) or within an area designated as marginal land under ORS 197.247 (1991 Edition) in a manner that would restrict or regulate farm structures or that would restrict or regulate farming practices if conditions from such practices do not extend into an adopted urban growth boundary in such manner as to interfere with the lands within the urban growth boundary. Farming practice as used in this subsection shall have the meaning set out in ORS 30.930 (Definitions for ORS 30.930 to 30.947).
- (2) Nothing in this section is intended to limit or restrict the lawful exercise by any state agency, city, county or political subdivision of its power to protect the health, safety and welfare of the citizens of this state. [1973 c.503 §8; 1983 c.826 §12; 1985 c.565 §31; 1995 c.703 §10]

...

§§ 215.203 (Zoning ordinances establishing exclusive farm use zones) to 215.311 (Log truck parking in exclusive farm use zones)

Effect of constitutional provision requiring payments based on government regulations restricting use of property, (2001) Vol 49, p 284

Chapter 215

Published notice is adequate if property owners can reasonably ascertain that property in which they hold interest may be affected. *Clackamas County v. Emmert*, 14 Or App 493, 513 P2d 532 (1973), Sup Ct review denied

Dear Commissioners:

I wanted to supplement my comments from the public hearing with the Deschutes County Board of Commissioners on December 2, 2015. After thoroughly reviewing the proposed ordinance and the changes recommended by the Deschutes County Planning Commission, I would ask that the following information be used in your deliberations regarding regulations concerning the legal cannabis industry activity within the County.

There seemed to be some confusion on the Planning Commission about state law and OLCC regulations regarding "marijuana" production, processing and distribution. To help clarify this confusion I will lay out some of the key state laws and regulations currently in place regarding the legal cannabis industry in Oregon.

H.B. 3400

Section 1 (Definitions)

(3) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:

- (a) A mechanical extraction process;
- (b) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;
- (c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or
- (d) Any other process identified by the Oregon Liquor Control Commission, in consultation with the Oregon Health Authority, by rule.

(4) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

(5) "Cannabinoid extract" means a substance obtained by separating cannabinoids from Marijuana by:

- (a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;
- (b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or
- (c) Any other process identified by the commission, in consultation with the authority, by rule.

(12) "Licensee" means any person who holds a license issued under this Act section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, or any person holding a license or permit issued under any regulation promulgated under paragraph (e) of subsection (2) of section 7 of this Act.

[The sections referred to above and throughout H.B. 3400 are as follows: Section 19 = OLCC Producers; Section 20 = OLCC Processors; Section 21 = OLCC Wholesalers; Section 22 = OLCC Retailers]

(13) "Licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent such that the person acts in such a representative capacity.

(24)(a) "Premises" or "licensed premises" includes the following areas of a location licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015:

(A) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas;

(B) All areas outside of a building that the Oregon Liquor Control commission has specifically licensed for the production, processing, wholesale sale, or retail sale of marijuana items; and

(C) For a location that the commission has specifically licensed for the production of marijuana outside of a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases, or has a right to occupy.

(b) "Premises" or "licensed premises" does not include a primary residence.

Section 8 (OLCC License Denials)

This sections gives the OLCC broad authority to deny licenses for a variety of reasons, including:

- There are already a sufficient numbers of licenses already located in the locality
- The applicant is in the habit of using drugs or alcohol to excess
- The applicant has made false statements to the commissions
- The applicant is incompetent or physical unable to carry on management of establishment proposed to be licensed
- The applicant has maintained an insanitary establishment
- The OLCC has broad discretion to look at all local, state and federal law violations of the applicant, including convictions from other states and can deny a license for those convictions that the OLCC determines are substantially related to the fitness and ability of the applicant to lawfully operate in the state
- The applicant is not of "good repute and moral character".
- The applicant does not have a record of compliance with the OHA and the OMMP
- The applicant is not the legitimate owner of the business proposed to be licensed
- The applicant does not possess the "financial responsibility" or ability to conduct the business proposed to be licensed
- The applicant does not understand the law of the Oregon regarding cannabis

Section 10 (Finger Printing of Applicants)

This section allows the OLCC to have applicants fingerprinted for national criminal background checks.

Section 12 (OLCC Producers)

Codified this is Section 19, and is the section that covers OLCC Producers (adult use/rec). I refer to them as Section 19 Producers.

Section 14 (OLCC Processors)

Codified this is Section 20, and is the section that covers OLCC Processors (adult use/rec). I refer to them as Section 20 Processors.

Section 15 (OLCC Wholesalers)

Codified this is Section 21, and is the section that covers OLCC Wholesalers (adult use/rec). I refer to them as Section 21 Wholesalers.

Section 16 (OLCC Retailers)

Codified this is Section 22, and is the section that covers OLCC Retailers (adult use/rec). I refer to them as Section 22 Retailers.

Section 19 (Marijuana Handlers)

This, along with OLCC rules establishes a system of licensing and certification for those working in OLCC licensed facilities. All those seeking such certification to work must be 21 years of age or older.

Section 21 (Bonds and Liability)

The OLCC can and will require bonding and the carrying of liability insurance.

Section 23 (Seed to Sale Tracking)

The OLCC has contracted with a company to fulfill the requirement that all cannabis produced for OLCC distribution be tracked from seed to sale to prevent diversion of cannabis.

Section 33 (Land Use)

Grants Cities and Counties the authority, on their authority under local charters, the ability to adopt *reasonable* "time, place and manner" regulations of the "nuisance" aspect of establishments that sell marijuana to consumers with "specific findings" that the "establishment would cause adverse effects to occur." The section then went on to detail what "reasonable regulations" included and what licenses under HB 3400 the localities could impose those regulations. Here is the summary:

- "Reasonable Conditions on the manner" that Section 19 Producers may produce
- "Reasonable Conditions on the manner" that Section 20 Processors may process
- "Reasonable Conditions on the manner" that Section 21 Wholesaler may sell

- “Reasonable Limitations” on hours of operation of Section 22 Retailers
- “Reasonable Conditions on the manner” that Section 22 Retailers may sell
- “Reasonable requirements related to the public’s access” to a licensed premise
- Reasonable limitations” on where producers, processors, wholesalers and retailers may be located.

It is important to note that any regulations that are adopted must be consistent with the localities comprehensive plans and zoning ordinances.

Section 34 (Treatment of Marijuana as Crop)

This section established Marijuana as a “Crop” for the following purposes:

- As a “farm use” under ORS § 215.203
- As a “farm” and “farming practice,” under ORS § 30.930;
- As a product of farm use as described in ORS § 308A.062;
- As a product of an agricultural activity for purposes of ORS § 568.909

However, unlike other crops under state law, this section precluded the following activities on Exclusive Farm Use (EFU) Land:

- New Dwelling in conjunction with a “marijuana crop”
- Farm Stands under ORS § 215.213 and § 215.283
- Commercial Activity under ORS § 215.213(2)(c) and § 215.283(2)(a)

Furthermore, this section indicates that the counties may allow marijuana production on other lands zoned for Farm and Forest Use in the same manners as production is allowed on EFU under HB 3400 and ORS § 215.213 and § 215.283.

Localities will be requested to fill out a Land Use Compatibility Statement (LUCS) so as to determine if OLCC license applicants are in areas that have been approved for such use by the localities. The localities must be prepared to act on these LUCS requests within 21 days.

OLCC REGULATIONS

OAR 845 Division 025

1015 (Definitions)

(16) “Financial interest” means having an interest in the business such that the performance of the business causes, or is capable of causing, an individual, or a legal entity with which the individual is affiliated, to benefit or suffer financially, and such interests include but are not limited to:

- (a) Receiving, as an employee or agent, out of the ordinary compensation, either in the form of overcompensation or under compensation;
- (b) Lending money, real property or personal property to an applicant or licensee for use in the business at a commercially unreasonable rate;
- (c) Giving money, real property or personal property to an applicant or licensee for use in the business; or
- (d) Being the spouse or domestic partner of an applicant or licensee. For purposes of this subsection, "domestic partners" includes adults who qualify for a "domestic partnership" as defined under ORS 106.310.

(21) "Licensee" means any person who holds a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(22) "License holder" includes:

- (a) Each applicant listed on an application that the Commission has approved;
- (b) Each individual who meets the qualification described in OAR 845-025-1045 and who the Commission has added to the license under OAR 845-025-1030; or
- (c) Each individual who has a financial interest in the licensed business and who the Commission has added to the license under OAR 845-025-1030.

(23) "Licensee representative" means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity.

1030 (Application Process)

Applicants must provide the following:

- Proof of Oregon residence for at least two years
- Information and Fingerprints for federal background check

Person with "Financial Interest" holding at least 10% interest they must submit:

- Information and Fingerprints for federal background check
- Individual History form and any other forms requested by the OLCC

1045 (Qualifications of Applicants)

The following are considered "applicants" under the OLCC rules for application:

- Any individual that has a financial interest in the business for which licensure is sought and who is directly involved in controlling the ordinary course of business for the business that is proposed to be licensed; and
- Any legal entity that has a financial interest in the business for which licensure is sought and is directly involved in controlling the ordinary course of business for the business that is proposed to be licensed;

1115 (Denial of Application)

Applications for Proposed licensed premises will be denied for the following reasons:

- It is located on federal property
- It is located on the same “physical location or address of a medical marijuana grow site registered with the OHA (unless it has opted in and is under OLCC rules), a medical marijuana processing site registered with the OHA, a medical marijuana dispensary (MMF) registered with the OHA
- It is located at the same “physical address or location” of a liquor license under ORS § 471

Applications for Proposed licensed OLCC producers will be denied for the following reasons:

- It is located on public land
- It is located on the same “tax lot or parcel” as another licensed producers under common ownership

Proposed applications for licensed processors will be denied if they are in areas zoned exclusively for residential use.

1230 (Licensed Premise Restrictions and Requirements)

This covers all the restrictions and requirements for locating licensed premises, access to licensed premises and cover the restrictions listed above and a host of other restrictions.

1300 (Licensee Prohibitions)

(1) A licensee may not:

- (a) Import into this state or export from this state any marijuana items;
- (b) Give marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or game of skill, or competition of any kind;
- (c) Sell, give or otherwise make available any marijuana items to any person who is visibly intoxicated;
- (d) Make false representations or statements to the Commission in order to induce or prevent action by the Commission;
- (e) Maintain a noisy, disorderly or insanitary establishment or supply adulterated marijuana items;
- (f) Misrepresent any marijuana item to a customer or to the public;
- (g) Sell any marijuana item through a drive-up window;
- (h) Deliver marijuana to any consumer off the licensed premises except as permitted by OAR 845-025-2880;
- (i) Sell or offer to sell a marijuana item that does not comply with the minimum standards prescribed by the statutory laws of this state; or
- (j) Use or allow the use of a mark or label on the container of a marijuana item that is kept for sale if the container does not precisely and clearly indicate the nature of the container’s contents

or in any way might deceive a customer as to the nature, composition, quantity, age or quality of the marijuana item.

(2) No licensee or licensee representative may be under the influence of intoxicants while on duty.(a)

For purposes of this rule “on duty” means:

(A) The beginning of a work shift that involves the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, to the end of the shift including coffee and meal breaks;

(B) For an individual working outside a scheduled work shift, the performance of acts on behalf of the licensee that involve the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, if the individual has the authority to put himself or herself on duty; or

(C) A work shift that includes supervising those who handle or sell marijuana items, check identification or control the licensed premises.

(b) Whether a person is paid or scheduled for work is not determinative of whether the person is considered “on duty” under this subsection.

1400 (Security Plans)

Requires detailed security plans and information to be submitted at the time of application

1410 (Security Requirements)

Details all the security requirements for licensees

1420 (Alarm System)

Details all the security alarm system requirements for licensees

1430 Video Surveillance Equipment

Details all the video surveillance system requirements for licensees

1440 (Required Camera Coverage and Camera Placement)

Details all the camera coverage and placement requirements for licensees

1450 (Video Recording Requirements for Licensed Facilities)

Details all the video recording requirements for licensees

1460 (Location and Maintenance of Surveillance Equipment)

Details all the location and maintenance of surveillance equipment requirements for licensees

1470 (Producer Security Requirements)

Details all the additional security requirements for production licensees

1620 (General Sanitation Requirements)

Details all the sanitation requirements for licensees

2000 (Recreational Marijuana Producers)

This section details that “indoor production” involves using artificial light and “outdoor production” involves growing outdoors or in greenhouse, hoop house, etc. that does not use artificial light.

2040 (Production Size Limitations)

This section details how producers must establish “cultivation batch sizes” and other requirements for tracking product. More importantly, it established the following canopy size restrictions for growers:

Indoor Production:

- Tier I = up to 5,000 square feet
- Tier II = 5001 to 10,000 square feet

Outdoor Production:

- Tier I = up to 20,000 square feet (less than ½ acre)
- Tier II = 20,001 to 40,000 square feet (less than acre)

Producers can do both indoor and outdoor, but only at a 1 to 4 ratio.

Current Proposed Ordinance by Deschutes County

The first concern I raised during public comments was about the proposed regulations under the ordinance applying to both large scale commercial producers and small individual medical growers. The way marijuana production is defined in the proposed ordinance, it would apply to the largest commercial OLCC producer as well as the cancer patient who is growing six plants for themselves and six plants for another patient. This seems hardly fair and I doubt it was the intent of the ordinance. However, a plain reading of the definition of “marijuana production” to make all OLCC licensees and OHA grow site registrants required to comply with the regulations. If the county were to proceed with such requirement of medical growers who are only producing for themselves or a small number of patients and are not doing so as a “commercial” operation, I believe those would be beyond the time, place and manner restrictions allowed under H.B. 3400. The land use section of H.B. 3400, as detailed above only gave the localities the ability to regulate OLCC licensed producers (§ 19), processors (§ 20), wholesalers (§ 21), and retailers (§ 22). I also believe that if the county tried to impose these regulations and restrictions on medical growers (§

81) it could lead to litigation between the County and small scale medical growers. The County should make a clear policy distinction between those operating commercial cannabis operations and non-commercial medical patients, their caregivers and their growers.

I also believe that the County would be doing a large disservice to the areas small farmers if marijuana production was only permitted on EFU on 20 acre parcels as requested by the planning commission. The original ordinance would have permitted production on all EFU and required a conditional use permits in other zones that traditionally allow “farm use” or “agricultural activity”. MAU, F1, F2 and RR-10 districts all allow either “farm use” or “agricultural activity”. These are generally smaller tracts and traditionally owned by smaller family farms who are permitted under the current zoning ordinance to engage in a variety of agricultural activities and farm uses. Some of those activities can involve odors and noisy machinery. Odors and noisy machinery are a common part of the rural landscape, and a necessity for many farming operations.

“Farm use” and “agricultural activity” are also permitted in various other zones that the proposed ordinance would require a conditional use permit for marijuana production applications. Under the current zoning ordinance, the Redmond Urban Area permits “farm use”, as does the Sisters Urban Reserve Area. “Farm use” is also a permitted use under the current Code for F1 and F2 zones. RR 10 zones permit “agricultural activity”. General, farm operations are permitted under the Code for all these zones.

The proposed ordinance would require those small farmers who own these properties to go through the conditional use permit process. This could be very time consuming and potentially lead to the permit being denied and the producer not being able to get a license with the OLCC and use their property for a use that is recognized as a “farm use” and “agricultural activity” under state law. This would be fundamentally unfair to small producers, some who have lived in the area and farmed for multiple generations. Also, unless a strong rational basis for not allowing a state recognized farm use or agricultural activity to occur in zones where it is customarily allowed, the County will be vulnerable to costly litigation.

However, the County has recognized some zoning areas where “agricultural activity” is permitted, but it excludes hog farms, mink farms and feed lots. There were obviously additional circumstances in these zones in which the county recognized that agricultural activities that had offensive odors were not going to be allowed. The Rural Service Center and Alfalfa Residential Center are zones under the current code with these odor related restrictions to use. It would seem fair and legally and defensible to exclude marijuana production in these zones for the same reason as not allowing feed lots, hog farms and mink production.

Thus, with regard to the land use and zoning issues, the County should be consistent with state law to avoid unnecessary and costly litigation. Any zone that permits farm use or agricultural activity, should permit marijuana production. Additionally, the consistency should be a two-way street. If an activity, like processing generally required a special or conditional use permit under the current

code, it should be required for marijuana processing. Currently, the proposed ordinance permits marijuana processing in EFU zones. However, under the current County Code, processing of farm crops is permitted but subject to the special conditions under D.C.C. 18.16.038 and pursuant to Limited Use permit under D.C.C. 18.16.042. To be consistent, marijuana processors on EFU should have to comply with the same special conditions as other processors of farm products.

The proposed ordinance requires producers to utilize carbon filter systems to eliminate odor. Though this is one method of odor reduction, for most greenhouse facilities, it would be insufficient. Also, there are other methods like ionization and others that may be more effective. The technology is rapidly changing in this area as well. The proposed ordinance should require, if anything, "reasonable measures" to eliminate odors. Again though, unless the county can establish a "rational basis" for odor restriction on this farm use and not others that also involve offensive odors, they will be in jeopardy of facing litigation over this issue. Restricting any farm use based on odor complaints is a very slippery slope with regard to rural zoning.

The same exact statement applies to the noise and light portions of the proposed ordinance. Unless similar noise and light restrictions are placed on other farm operations, the county would need to establish a rational basis for imposing those restrictions only on marijuana production. The light casts by HID lights inside many riding arenas in the County are on after dark, as people give riding lessons after work and school. Tractors are frequently observed with lights on after dark, mowing, bailing and picking up hay. They generate a tremendous amount of noise. Well more than the decibel limits established under the proposed ordinance. Again, consistency with the treatment of farm use and agricultural activities is the best way to avoid uncostly litigation. It is also the only way to be fair to the small farmers in the community who may want to the opportunity to be involved in the cannabis industry. This goes back to the mandate of H.B. 3400 requiring localities to be consistent with their current zoning.

The 100 foot setbacks from property lines and 300 foot setbacks from existing dwellings can and will in some circumstances drastically limit some producer's ability to use their farm. They will have entire sections of their property that will not be usable. This will allow situations to arise where a residence will prevent EFU land from being in production. Again, without any sort of rational basis for this sort of restriction of farm use and agricultural activity, the county will be begging for litigation. Farm use and agricultural activities on EFU land or any land where these activities are permitted should not be infringed upon or restricted based on potential sensitivities of rural residents to sights, sounds and smells. There are plenty of both urban neighborhoods in the county, as well a rural developments and subdivisions that do not allow farm use or agricultural activities. Additionally, there will be issues when the existing house itself violates current setbacks under the Code or when there are property line disputes. Any dwelling that is currently in violation of Code setbacks, that is located on property created by a partition of EFU land, or that is a new dwelling built on EFU and required to file the nuisance suit affidavit should not be included in any setback requirements; nor should any property lines that are currently under some form of dispute.

The 1000 foot setback from schools, daycare, parks, etc. will also have to be supported with some sort of rational basis. These setbacks could also have the effect of limiting a person use of their EFU land or other land for otherwise permitted activities. Though there are probably very few instances where these setbacks will come into play, their impact could be huge on property owner rights. Additionally, without grandfathering of current operations, daycare facilities or other buffer targets could move in after the fact in an effort to zone out operations.

Clearly, the big concerns from citizens commenting during the last hearing revolved around, sight, smell and sound of the production facilities. Again, I preference the comments with the thought that we are talking about farm land and farm operations, which all inherently have sight, smell and sound issues, depending on whose perspective you are looking at. Also, Oregon and Deschutes County have adopted right to farm statutes and ordinances that signal a priority in allowing farm use and agricultural activities to be conducted without undue interference in rural area. Deschutes County even requires those seeking to build new dwellings on EFU land to sign and file affidavits precluding them from bringing nuisance claims for farm related activities.

I would strongly caution against relying on citizen complaints about odor, smells and sights as a "rational basis" for prohibiting state recognized farm use or agricultural activities. This would stand the right to farm laws on their head. It would also make other farm activities vulnerable to these same type of complaints. This goes well beyond people's ability to grow cannabis legally in this new industry in Oregon. It goes right to the heart of agriculture and producers' ability to run their operations without interference from encroaching suburbia and their urban sensitivities.

Unless the country restricts this industry to large 20 plus acre tracts, you can expect that many of the licensed producers will be small farmers who also raise livestock, hay, commercial vegetable gardens, and are involved in other agricultural activities on their farm operations. This is the model the state and county should be looking to obtain. This is the model that will reduce and eliminate some, if not all, the current complaints issued against non-licensed producers currently operating in the county. Allowing only large tracts to be involved is only going to lead to super large production sites, which will lead to further complaints and issues. If we can get regulations that place the cannabis producers on the same footing as other producers in the county, we will eventually see this industry become understood and accepted as an agricultural activity in Deschutes County farm land. That is the best way forward as we try to bring a formerly unregulated production activity into the light and make adhere to the basic principles of farming.

I thank you for your time and consideration of this matter.

Sincerely,

Michael R. Hughes
Attorney/Farmer
Bend, OR

DESCHUTES COUNTY

Rural Living Handbook

A Resource for
Country Living and
Land Stewardship



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Is Rural Living *for* You?

This handbook is designed to introduce current and prospective rural landowners to land-stewardship resources. Often, newcomers accustomed to services normally provided by urban governments are surprised by the hard work required to manage rural property. Relating with neighbors can become helpful or difficult, depending on how you manage your rural property.

Use this handbook as a resource in determining whether rural life is for you. It contains information about agencies and organizations that can help clarify regulations, policies, rights and planning decisions during a transition to living in rural Deschutes County. It provides answers to general questions, including those on land-use planning, gardening, irrigation, livestock management, forest and range management and wildlife concerns.

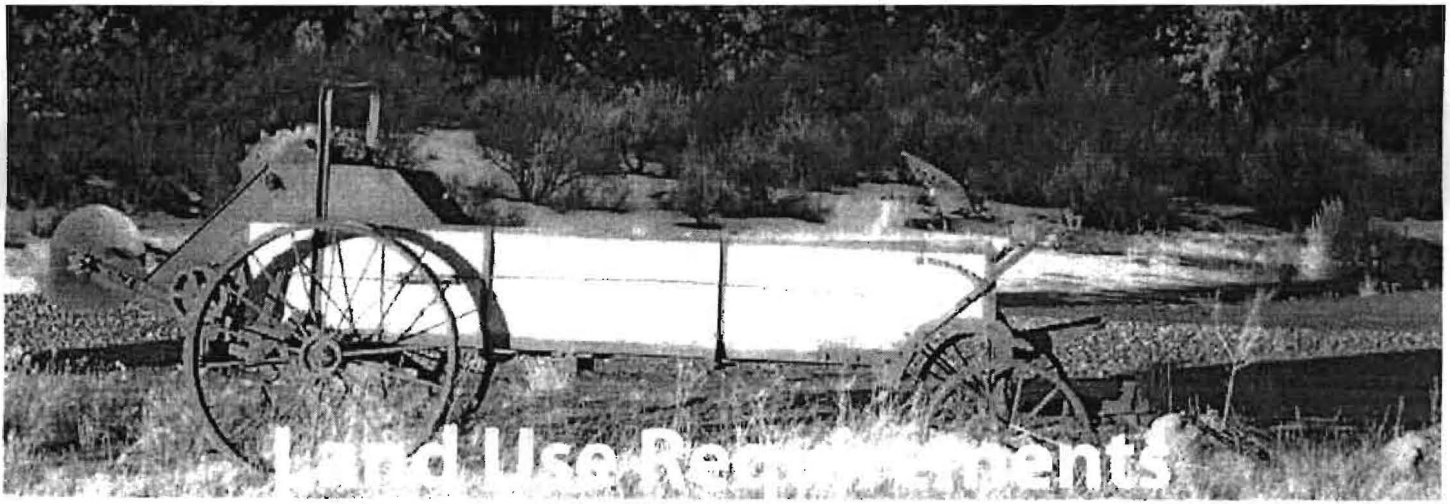
Unexpected Challenges of a Rural Lifestyle

- You lose a pet or livestock to a predator.
- You are responsible for a fire that starts on your land and spreads to other properties.
- Deer eat everything you just planted.
- There is no garbage service where you live.
- You are surprised at the cost of building structures needed to protect livestock from predators.
- You don't have enough time or energy to irrigate, mow fields, maintain fences, spray weeds, feed livestock, deal with muddy facilities, doctor sick animals or vaccinate healthy animals.
- Your domestic or agricultural water source has dried up.
- You have to go through the Ground Water Mitigation Process to dig a well on your property.
- Minerals or pollutants have entered your well.
- It takes more time and money to drive to town than you expected.
- It takes more time to learn about and maintain wells and pumps, sewer systems, irrigation pumps, ditches, hand lines, etc.
- Pet food on the back porch has attracted skunks or other wildlife.
- You discover that the access road to your property is not publicly maintained, and it is your responsibility to maintain it.
- You don't necessarily have fire-protection services.
- You hear gunfire from legal shooting.
- Your cell phone does not work properly at your property.
- You cannot access Internet services from your property.
- The Wild and Scenic Rivers Act imposes restrictions on your property use.
- You share your drinking-water well with your neighbor.



The communities of La Pine, Sisters, Redmond, and Bend are unique, and each community has its own rules and regulations.





Deschutes County has strict land-use laws. It is important to understand the land-use rules that apply to the parcel you are considering and to the properties in the vicinity.

Things can change: some properties can be sub-divided into smaller parcels and forests can be logged. Not all zones allow for a new house as a matter of right. If a property doesn't have a satisfactory home or is vacant, before purchasing, you will want assurances that you will be allowed to build a new one at the location you desire or remodel the old one. If you want to fill in a wetland on your property, remove trees in a stream channel or do similar activities, you may first need to obtain a permit from Oregon's Department of State Lands, which regulates the removal or filling of certain amounts of material in state waters.

County Permits, Planning and Zoning

The Deschutes County Community Development Department (CDD) has available all county-issued development permits. The CDD facilitates orderly growth and development through coordinated programs of planning and zoning, environmental health and building safety. Obtain information, such as development history, zoning, current development regulations and procedures, maps of your property with overlay zoning, flood plain, soils, aerial views and other useful tools at CDD offices.

Research past development activities or the potential for development on-line or in the County's office. Customized mapping products are available through their Geographic Information System (GIS). Complaints about perceived violations of county codes will be investigated upon written request. Counter staff are available to assist during regular office hours.

All proposed buildings on your property must be reviewed and approved by the CDD. Be sure to consult the CDD before starting a project so that you obtain all

necessary permits and your project is consistent with all applicable regulations.

The Planning Division processes individual land-use applications and establishes policies and regulations to reflect the community's vision for the future. The Planning Division maintains information on zoning, land-use regulations and historical land-use permits.

The Environmental Health Division oversees the installation of on-site sewage disposal systems for homes that are not served by a community or centralized sewer system. The Division also licenses and inspects restaurants, pools, spas and other facilities.

The Building Division reviews construction plans and inspects all new structures for conformance with applicable building, plumbing and electrical codes.

Scenic Waterways

The setting and visual characteristics that draw people to rural property are the same values that created the Oregon Scenic Waterways Program. Land purchased along the Deschutes River could be within the boundaries of a state scenic waterway.

A major function of the program is to protect the natural and scenic diversity of waterways by encouraging new development to blend with existing development. This program tries to achieve a balance between protecting natural resources and granting the wishes of riverfront property owners. Existing uses in the form of residences, grazing, farming and forest crops are recognized as a part of the scenic beauty of the scenic waterway.

The Oregon Parks and Recreation Department (OPRD) reviews land use changes within state scenic waterways. You are required to notify the OPRD of certain improvements or changes in land use you may want to make. The proposed changes may not start sooner than one year after such notice, unless OPRD has given written approval.

ODRD rules and regulations: <http://egov.oregon.gov/pord/rules/waterways.shtml#background>

Setback regulations and allowed uses on a specific property: Deschutes County Community Development Department, www.deschutes.org/cdd



Living Next to Agriculture

People move to the country for numerous reasons. It is important to become acquainted with daily and seasonal activities that go along with the joy of living next to agriculture. Many farmers depend on their land to make a living; it is important for non-farming neighbors to have a clear understanding of an agricultural-based lifestyle.

Right-to-Farm

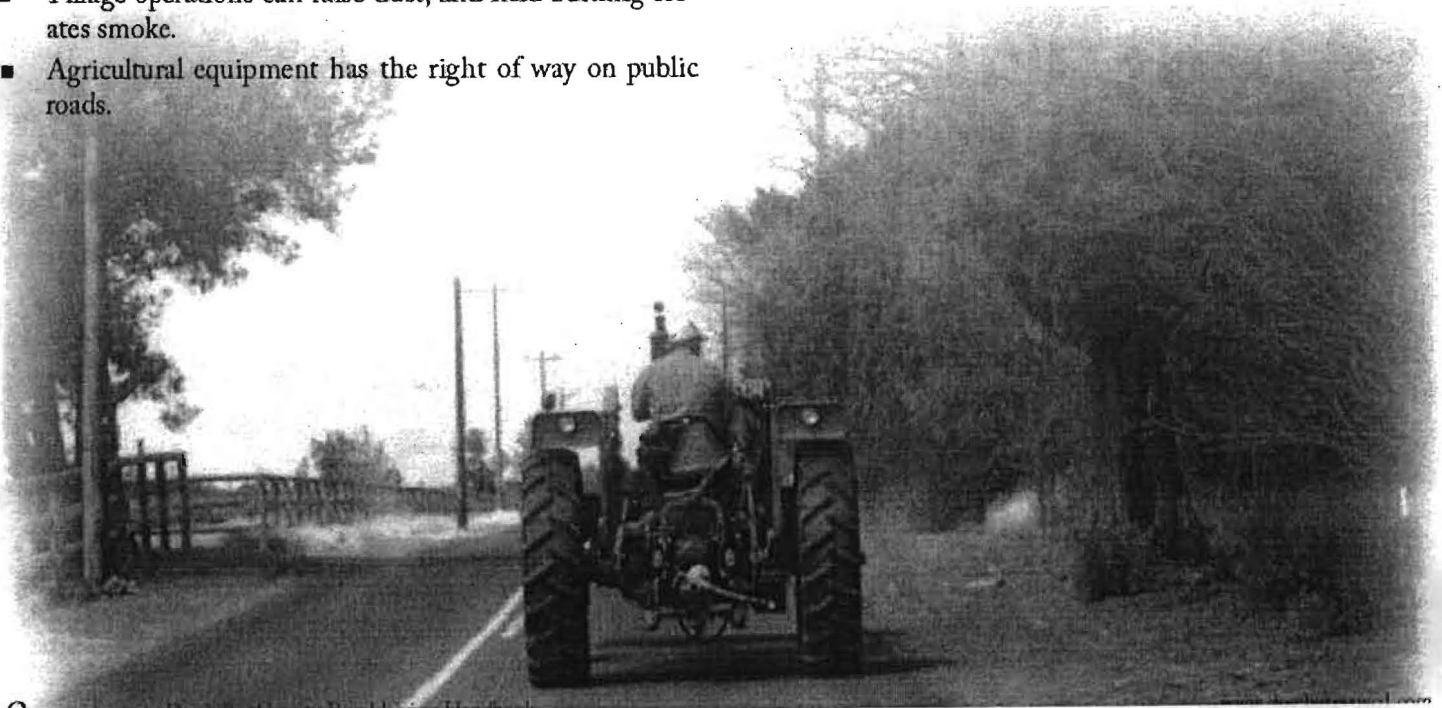
Agricultural operations are protected by Oregon's right-to-farm law, a policy that seeks to protect the investment farmers have made in their agricultural operations. Neighbors in rural communities understand the following principles regarding agricultural lands:

- Farm operations may involve practices that result in noise, dust and odor.
- Agricultural operations are sometimes conducted outside of normal business hours. Cutting and baling machinery often operate at night, and agricultural equipment can be noisy.
- Pesticides are commonly used in raising crops and their use is strictly regulated by state and federal governments.
- Tillage operations can raise dust, and field burning creates smoke.
- Agricultural equipment has the right of way on public roads.

Understanding Rural Living: Be a Good Neighbor

Problems arise when people don't understand what is happening and the reasons why. Avoid potential conflict by understanding some basic principles:

- **Communicate:** Get to know your neighbors and make an effort to understand more about their operation. With communication, many problems can be avoided. Don't assume anything.
- **Respect Private Property:** Ask permission before entering private property. If you are granted permission to travel down private roads, be sure to leave gates as they are found (closed or opened). Pay attention to "No Trespassing/Private Drive" signs.
- **Privacy:** Realize that while people who live in rural areas often value their privacy, they also depend on their neighbors for help, advice and, perhaps, a cup of sugar to finish their batch of cookies. Respect one another's privacy, but don't be afraid to extend some friendliness and courtesy.



Testimony Relating to House Bill 3400, Providing Opt Out Options for the Establishment of Marijuana Businesses, etc. in Regard to Land Use Outside of the Cities.

Hearing Date: Wednesday, December 2, 2015

You did did not offer testimony in person.

Your Name: Tom Maddux

Mailing Address: 22670 Peacock Ln. Bend 97701

E-mail address (optional): _____

Phone #s (optional): 541-382-8490

Your Comments: ① 20 Acre minimum should be 10 Acres w/ no more than 50% of property covered w/ buildings

② Rezone all EFU 20 nonconforming parcels to muA.

③ This appears to be a backdoor approach to violating

county ordinance 9.12. Using this to set precedent to alter Deschutes Counties "right to farm" ordinance.

A legal crop in ORE. is legal no matter what it is.

DO NOT water down 9.12 and our rights to conduct legal farm operations.

(Use back of page if desired.)

Signature: Tom Maddux

Testimony Relating to House Bill 3400, Providing Opt Out Options for the Establishment of Marijuana Businesses, etc. in Regard to Land Use Outside of the Cities.

Hearing Date: Wednesday, December 2, 2015

You did did not offer testimony in person.

Your Name: RON DAVIS

Mailing Address: 18455 COUCH MARKET ROAD

E-mail address (optional): _____

Phone #s (optional): _____

Your Comments: We are moving too fast - opt out
until the citizens of the county are satisfied that
we are truly ready for this major change.
you won't be able to undo it.

(Use back of page if desired.)

Signature: R. Davis

To: Board of County Commissioners

December 2, 2015

From: Ron & Elizabeth Davis

Subject: Marijuana Rules

I hope you will agree that a major responsibility of the County Commissioners, is to protect the life-style of our people in Deschutes County. We are about to see the greatest change in life-style for people living in the unincorporated areas of the county and I hope you will take action to save what we now have. The legalization of marijuana, allowing its production and sale, has the potential to cause a major change to the life-style of people seeking a quiet, peaceful, rural life.

After retiring from the United States Air Force and several years working in the Middle East, my wife and I settled on 20 acres in Tumalo and have now been there for 30 years. We raise registered Quarter Horses on our property. There is a marijuana growing operation cranking up across the street from our ranch where two very large green houses have been built high on a hill. I am concerned that our horses will be frightened by people looking for a place to buy (or perhaps steal) marijuana. And, in some cases, to steal something else to support their habit. I speak from experience; I have a teenage family member who had a very bright future derailed due to an addiction to pot. And he stole from us. I don't want to have to install a locked gate across our driveway to keep people from wandering in. I also don't want to have to walk around my property heavily armed. And I don't want to see the ultra bright lights emanating at night from those very large green houses on the hill. When one of those green houses is fully lighted, I'm sure it can be seen from the International Space Station.

Tumalo is a desirable area because it allows a quiet, peaceful living environment and people pay a premium to live there. Now, with minimal warning, we see a new industry pop up with foul odors, excessive night lighting and heavy water and electricity use. And I think we can expect to see an increase in traffic, and unsavory characters cruising our previously peaceful neighborhoods. Those characters include the people who previously and probably still are, involved in the illegal drug trade. I have heard nothing in the testimony to date that refers to those "experienced," pot farmers. They haven't disappeared. They will be involved. The changes we should expect will not only affect our life-style, it will definitely have a negative impact on property values. I have been told by several parties that some people have already moved or are preparing to move from the area because of the expected impact on property values. They are afraid the commission will not take the necessary action to preserve our way of life and the value of our property. I hope they are mistaken.

I think the number of people attending these meetings makes it obvious that we are not ready for the tremendous changes the new rules may bring. We should opt out as many other counties have done at least until we can satisfy the citizens of Deschutes County that we are truly ready for a significant change to our way of life and a reduction in our property values. The citizens of our county are depending on you to make appropriate decisions. It will take time. Please help us.

Sincerely,



Ronald R. Davis

Elizabeth E. Davis

Testimony Relating to House Bill 3400, Providing Opt Out Options for the Establishment of Marijuana Businesses, etc. in Regard to Land Use Outside of the Cities.

Hearing Date: Wednesday, December 2, 2015

You did did not offer testimony in person.

Your Name: Krista Knoernschild

Mailing Address: 70 SW Century Dr, Ste 100-457, Bend, 97702 (street address 18850 Couch Market Rd)

Email address: oaktree2448@gmail.com

Phone #: 541/388-0475

Your Comments:

The Bend area has changed, as we all know. From its lumber mill era, to the quieter and slow-growing area with little traffic, to our fast-growing periods with more residents and businesses and traffic. For a long time, Deschutes County has been a desirable area to live in, whether living in town or on a farm or in the County areas not on a farm. Now there is a chance that this will change. It will not be a desirable place to live if you would be in the neighborhood of a Marijuana growing facility!

Not all of us remember the farms that used to be all around the city of Bend. They have been sold to developers or individuals and now there are private homes where the farmlands used to predominate. Zoning changes have followed or led this trend. I would wager that most of the Deschutes County tax income is from private landowners and businesses and not from the farms.

In Tumalo, which still has large portions of EFU zoning, the same growth of private dwellings has happened. Large custom homes have been built for the gentleman farmers who now live there. Many of these landowners do not farm their own property. The farmland is leased out so the owner can maintain his EFU tax benefit. But the tax revenue from these larger dwellings is more than what the farm properties generated without the bigger homes.

Here's a scenario of decline in tax revenue: a person builds a \$1,000,000 home in an EFU area and pays taxes based on that price. Given the increase in housing values, they could sell it for more than that and the County would get even more taxes. BUT, put a marijuana growing operation next door to that \$1,000,000 estate. The owners want to get out of there and end up selling their used-to-be expensive home for less than half that, and the County loses taxes because of the decline in property value.

(continued on other side)

Signature: *Krista Knoernschild*

(continued from other side)

In Tumalo, I have seen 2 farm properties on Collins Road that were sold in the past few years. Millions of dollars have been invested in improvements to those properties. It would not be fair to those owners to decrease the livability and value of their properties to have an unexpected type of farming operation built in their neighborhood.

People who have previously bought properties in EFU areas and have moved there have expectations of usual farm operations. The very helpful Deschutes County Rural Living handbook has outlined the typical noise and routines of standard farms, cattle ranches, horse ranches, or haying operations, so the new owners know what they will have in their neighborhoods.

The current owners did not buy their properties with any expectation of having a Marijuana farm in their area. Marijuana farming is a different set of unwelcome noises, smells, lighting and structures. Property values would be negatively impacted by their existence in the area.

Even if Deschutes County has restrictions on minimum acreage, lighting and noise restrictions during the night and setback from property lines, that won't remove the obnoxious effects during the day or the skunk odor all the time. And county codes are difficult to enforce with limited manpower and budgets.

The negative impacts of allowing commercial Marijuana farm operations in our fast-growing Deschutes County far out-weigh what possible benefits could exist. Just because an area has been historically zoned EFU, that doesn't mean the residents who live there want noisy, smelly, brightly lit big greenhouses near their beautiful farms or expensive new homes.

Deschutes County should OPT OUT of Measure 91 and have marijuana growers work further away from our beautiful and desirable living locations in Central Oregon.

I do not use marijuana, and I did not vote for its legalization for recreational use. Medicinal uses are fine and worthwhile, but to ruin property values and the beauty of our county for the new cadre of marijuana growers and their recreational using customers is not sensible. OPT out of Measure 91 and put the question to a vote by the people who live in our County. Don't let a slim majority of all voters in the state rule what happens here in our neighborhoods.

It is not reasonable that the three County Commissioners should bear the sole burden of making this very important decision about allowing commercial marijuana production in County areas even with regulations proposed by the Planning Commission. I recommend you vote to Opt Out of Measure 91 and put it to a vote of the County residents.

The people who live in the areas that would be negatively impacted should have the chance to vote on whether or not Marijuana farms could be allowed in their neighborhoods. I live in an EFU area and voted against legalizing recreational Marijuana use. The measure passed by a slim margin statewide. The consequences of increased Marijuana farming would most affect the rural residents whose voices were overshadowed by the greater numbers of urban voters. Please let the residents decide by having a County election on this significant issue.

PLEASE DO THE RIGHT THING: OPT OUT!!!!

We are writing regarding the Opt Out Marijuana proposal. We have lived in Tumalo for eleven years and are extremely concerned at the rate of marijuana growing facilities in our area. We are distressed by the prospect of modifying current zoning to allow tourist facilities on farmland. We did not move to this area to have a "pot lodge" as our neighbors-with all of the inevitable disturbances that will bring to our peaceful area. We worked hard to be able to live here and feel it is unjust and unfair to us (and all of our neighbors) for a small group of special-interest individuals to take advantage of this new, controversial agricultural endeavor benefit at our expense. This will inevitably affect the quiet rural life, security, peace of mind and many other reasons we have chosen to live here. The increase in traffic will require more maintenance on roads, fire protection and law enforcement associated with a development of this type. It is impossible to imagine the extent of the problems which may arise since this is new to central Oregon. Its no leap to imagine difficulties and perils will outweigh any benefits.

We urge you to carefully consider the many negative impacts this industry could have to established home owners and our children, as well as the wildlife in this area.

Oregrown's plan for a lodge on EFU land is not acceptable under the OREGON definition of EFU:

Oregon law establishes the following statewide policy for use of agricultural land (ORS 215.243):

- Open land used for agriculture is a vital natural and economic asset for all the people of the state,
- Preservation of a maximum amount of agricultural land, in large blocks, is necessary to maintain the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food,
- Expansion of urban development in rural areas is a public concern because of the conflicts between farm and urban activities

We are very concerned that Deschutes County has rushed to push the marijuana bill through without first providing regulations and restrictions that protect the citizens. We urge you to consider the impact that your decisions will have on the citizens who have elected you. Thank you,

Irene and Lance Olivieri
65580 Sisemore Road
Bend, Oregon 97703

Testimony Relating to House Bill 3400, Providing Opt Out Options for the Establishment of Marijuana Businesses, etc. in Regard to Land Use Outside of the Cities.

Hearing Date: Wednesday, December 2, 2015

You did did not offer testimony in person.

Your Name: William Kuhn

Mailing Address: William @ RiskFactor.com

E-mail address (optional): PO Box 5766 Bould 9700

Phone #s (optional): _____

Your Comments: I Recommended Opting out But

if this does move forward please increase
the ^{restrictive} distances, AND

when measuring distances make sure they
are from property line to property line

(Use back of page if desired.)

Signature: William John Kuhn