



# City of Oregon City

625 Center Street  
Oregon City, OR 97045  
503-657-0891

## Meeting Minutes - Final

### Planning Commission

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Monday, July 11, 2016

7:00 PM

Commission Chambers

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#### Public Open House - Marijuana Regulations

[16-413](#)

Planning Commission Worksession - Marijuana Regulations (Planning File LE-16-0001)

#### Work Session - Marijuana Regulations

*Chair Kidwell called the Work Session to order at 5:30 PM.*

*Present: Charles Kidwell, Tom Geil, Denyse McGriff, and Damon Mabee*

*Absent: Robert Mahoney, Zachary Henkin, and Paul Espe*

*Staffers: Laura Terway and Pete Walter*

*Pete Walter, Planner, said a set of marijuana regulations had been drafted based on the results of some surveys, League of Oregon Cities recommendations, and review of other cities' codes. He explained the new definitions that would be added to the zoning code. The City had statutory authority to regulate marijuana. Currently there was a temporary local ban on marijuana businesses and the ban was going to a vote on the November ballot. These regulations would go into effect if the ban was lifted. Personal grows up to four plants would be allowed indoors only. Producers, processors, laboratories, wholesalers, and retailers would not be permitted in any residential zones. Producers, processors, laboratories, and wholesalers would not be permitted in any mixed use or commercial zones, however retailers would be allowed in those zones. Producers would be permitted in the general industrial zone. Processors would be allowed in the mixed use employment zone and campus industrial.*

*There was discussion regarding the environmental impact of producing and processing marijuana and the County's and neighboring cities' regulations.*

*Mr. Walter said the State required a 1,000 foot buffer from schools and staff was recommending a 250 foot buffer from any licensed daycare facility, public park, or transit center. Marijuana businesses could not abutt residential zones unless the property was on a freeway, expressway, major arterial, minor arterial, or collector. Because of the buffers, all of the McLoughlin Historic District was off limits for marijuana businesses. The institutional zone did not allow any marijuana uses.*

*There was discussion about allowing a laboratory use in the institutional zone.*

*Mr. Walter discussed the standards of operation for marijuana businesses. Anything other than personal medical grows would be treated the same as production and would not be permitted in residential zones.*

*There was discussion regarding allowing personal grows to be outdoors. There was*

*further discussion regarding the 250 foot buffer to daycares, parks, and transit center and whether or not it should be expanded. There was also discussion on whether or not to allow exemptions for marijuana businesses to abut residential areas if they were on major roads.*

*Mr. Walter said there would be a public hearing on these regulations at the next Planning Commission meeting.*

*Chair Kidwell adjourned the Work Session at 6:45 PM.*

## **Regular Meeting**

### **1. Call to Order**

*Chair Kidwell called the meeting to order at 7:00 PM.*

**Present:** 6 - Charles Kidwell, Tom Geil, Robert Mahoney, Zachary Henkin, Denyse McGriff and Damon Mabee

**Absent:** 1 - Paul Espe

**Staffers:** 3 - Laura Terway, John Lewis and Pete Walter

### **2. Public Comments**

*John Lewis, Public Works Director, gave an update on the Cove project. Meetings had been held regarding the geotechnical work, land use work, and phasing and site development work for the project. The developer wanted to get started with construction soon starting with the Garden Cove Apartments. For most of the project, part of Main Street would be closed. Signage would be posted regarding the closures. He explained the excavation that would take place on the site. The first permit for the development would be an Erosion Control Permit. There would be a pedestrian trail that would be open during construction. Staff would be regularly monitoring the project.*

### **3. Public Hearing**

#### **3a. [PC 16-073](#)**

Planning Files US 16-02 / NR 16-04 / SP 16-04 / VR 16-01: Retaining Wall to Mitigate a Landslide at Berryhill Apartments.

*Chair Kidwell opened the public hearing and read the hearing statement. He asked if any Commission had ex parte contacts, conflicts of interest, bias, or statements to declare including a visit to the site.*

*Commissioner Mabee said his wife used to live in these apartments. Commissioner McGriff had visited the site on many occasions and had a long history with this piece of property. Commissioner Geil and Chair Kidwell were familiar with the site.*

*Pete Walter, Planner, presented the staff report. This proposal would mitigate the landslide between the Forest Edge apartments and Berry Hill apartments. He explained the subject site. This was a landslide zone that needed to be mitigated in order to stop movement on the slope. He then discussed the proposed site and exploration plan with retaining wall and Geologic Hazard Overlay District criteria. The applicant's geologic consultant recommended a soldier pile wall with tiebacks be installed at the top of the upper slope near the active head scarp to stabilize the*

ground beneath the duplex and eightplex to avoid possible future damage to these structures. David Evans and Associates reviewed the application based on a natural resources assessment by AKS Engineers. AKS did an on-site and off-site delineation to determine the intermittent water feature in the Natural Resources Overlay District was actually not within the 200 foot vegetative corridor but 334 feet from the tributary to the edge of the tax lot. David Evans and Associates agreed with the assessment that there would be no impact to the vegetative corridor or any natural resource. The wall was reviewed against the minor site plan and design review criteria. The components of the wall were found to be appropriate. Staff added a condition of approval for the applicant to provide some tree and vertical components to the landscaping plan for additional screening. A variance was required because this was a six foot fence on top of a retaining wall that made it 15 feet tall. The fence code said the combined height of a fence and retaining wall should be no more than eight and a half feet. In the Geologic Hazard Overlay District there was a requirement for cut and fill slopes to be terraced. Each face of the terrace could not exceed 7 feet and in this case the design requirement was such that it could not be terraced. Staff found that the variance criteria had been met. The wall would alleviate the hardship based on the data that stated the slope would continue to move even with the retaining wall and the wall could not be terraced. The six foot fence on top of the retaining wall was for security of the residents of the apartments. The applicant's landscaping plan as conditioned would do a good job of mitigating the impact of the wall. This was not a highly visible area and the wall would be a permanent structure. Staff recommended approval with conditions. Initially the applicant had not expected to remove any trees, but after looking at the site, a few trees might need to be removed. If trees were removed, they would be mitigated for as per code. The soldier pile material the applicant wanted to use was not readily available and they were going to use a slightly smaller diameter soldier pile which required cross-brace pieces. The applicant included an additional narrative for that as well as photographs to show how much existing screening vegetation there was, which was Exhibit 8. A coating might need to be put on the wall for corrosion resistance which could enhance the look of the wall.

David Higgins, geotech consultant who was representing the applicant, discussed the current condition of the site, where the retaining wall would be located, vicinity, and topography and showed aerial photographs of the area. The landslide began at the Forest Edge apartments and then crept uphill to the Berry Hill apartments. This led to the evacuation of the apartments in January. The retaining wall would retain everything up-slope and would prevent anything up-slope from moving. All the land below the retaining wall would continue to move. He then discussed a landslide map which showed the Forest Edge Apartments entirely within the mapped ancient landslide and that there were many ancient landslides in the area. He showed photographs of the Berryhill Apartments from 2011 which showed small cracks forming. The decks were removed from the building and grass was planted. December 2015 was one of the wettest Decembers on record, the slide reactivated, more cracks formed, and the apartments were evacuated. The retaining wall would be built behind the eightplex and duplex. An inclinometer casing was installed that measured movement and showed there was a small amount of movement. At the location of the wall, the landslide was 36 feet deep and the wall was designed to go through that sheer plane and cut it off and the movement would be stabilized. He explained the aerial and cross section, proposed vegetative screening, site plan, slope stability analysis, and sample wall photo. They did not submit a landscape plan because they thought the wall was not visible due to the vegetation already there. Any trees planted on the other side of the wall would be subject to movement and too much vegetation would cause the water to have to be irrigated. Staff's condition was to add more vegetation, and they would work with the landscape architect to find shrubs and trees that did not require a lot of water and would be flexible to the ground movement. He then described the retaining wall general plan, retaining wall tieback

*plan, and view of the downslope area and vegetation.*

*Tim Pfeiffer, City's Geotechnical Consultant, said based on his observations he thought the retaining wall would mitigate the landslide problem. It was standard practice and was the least risky option. Mr. Higgins explained the existing drainage system would not be made worse by installing this wall; they would build the wall to continue the existing runoff conditions.*

*Chair Kidwell closed the public hearing and the Commission took a short break.*

*Commissioner Mabee said they had been assured by engineering reports that the wall met the standards. It might not work long-term, but he was supportive of the plan.*

*Commissioner Henkin hoped properties in similar circumstances were paying attention to this property and were proactive. He thought the wall would work to mitigate the problem and thought the variances made sense.*

*Commissioner Mahoney was also in support as something needed to be done at the site.*

*Commissioner Geil agreed it needed to be fixed. People in landslide zones could not get slide insurance. He was concerned that if the land moved again, who would be responsible, the City or the property owner. He was in favor of this plan.*

*Commissioner McGriff wished she had all of the information submitted for review so she had time to read it. She did not think she had sufficient information to make a decision.*

*Chair Kidwell said his biggest reservation was how the piles were going to be installed especially if the vibration exacerbated the movement on the slope, but he felt comfortable with the method being proposed.*

**A motion was made by Commissioner Henkin, seconded by Commissioner Geil, to approve Planning Files US 16-02 / NR 16-04 / SP 16-04 / VR 16-01: Retaining Wall to Mitigate a Landslide at Berryhill Apartments. The motion passed by the following vote:**

**Aye:** 5 - Charles Kidwell, Tom Geil, Robert Mahoney, Zachary Henkin and Damon Mabee

**Nay:** 1 - Denyse McGriff

**3b. [PC 16-072](#)**

**AN-16-0001: Annexation of one property of 0.5 acres into the City Limits.**

*Chair Kidwell opened the public hearing. He asked if any Commissioner had ex parte contacts, conflicts of interest, bias, or statements to declare including a visit to the site.*

*Commissioner McGriff visited the site. Commissioner Mabee drove by the site.*

*Mr. Walter presented the staff report. This was a request to annex one property of .5 acres on Columbine Court into the City limits. The site was in the Urban Growth Boundary and had a Comprehensive Plan designation of low density residential and Clackamas County designation of Future Urban 10. He described the subject site. The property owner wanted to annex into the City in order to make some expansions to his house. The property was contiguous to the City limits, did not create any*

islands, had one existing house, and had a sewer line running across the back. Currently the property was receiving water from Clackamas River Water. This annexation did not require voter approval due to the change in State law. The property owner was requesting R-10 zoning, however that required compliance with the Transportation Planning Rule and findings which had not been submitted yet. Staff recommended approval of the annexation and retaining the FU-10 zoning. There would be time for the property owner to submit the findings before the final zoning was placed on the property.

There was discussion regarding how a property that was annexed into the City could retain a County zone.  
Chair Kidwell did not think they should bring a property into the City with a non-compliant zone.

Ms. Terway said the applicant was not proposing to do anything on the property. If he wanted to subdivide the property, the zoning would need to be changed. The applicant had chosen not to submit findings at this time. There were other properties with the FU-10 zoning in the City that were in a holding pattern currently.

Commissioner Mabee was comfortable with it since there was a precedent of allowing this zoning.

Commissioner McGriff asked why upon annexation would the applicant have to start paying stormwater utility fees. Mr Lewis said it was part of the City's stormwater management program.

Mr. Walter then discussed the approval criteria. Staff recommended approval of the application.

There was no public testimony.

Chair Kidwell closed the public hearing.

Commissioner Mahoney thought they had a better opportunity to work with the property owner if he was in the City than if he was out. There was no impact to this annexation.

Commissioner Henkin said this was half an acre and was next to other properties that had been annexed into the City. It was contiguous and would not create an island. Properties had been annexed before with County zoning.

Commissioner Mabee was in support of the annexation.

Chair Kidwell thought the policy should be changed so that non-conforming zones were not taken into the City. Either applicants needed to provide the study before they were approved for annexation or the properties would go to a default City zoning automatically.

**A motion was made by Commissioner Henkin, seconded by Commissioner Mahoney, to approve AN-16-0001: Annexation of one property of 0.5 acres into the City Limits. The motion passed by the following vote:**

**Aye:** 4 - Charles Kidwell, Robert Mahoney, Zachary Henkin and Damon Mabee

**Nay:** 1 - Tom Geil

**Abstain:** 1 - Denyse McGriff

#### 4. Adoption of the Minutes

##### 4a. [16-417](#)

Approval of Planning Commission minutes for 11/30/2015, 12/14/2015, 01/11/2016, and 02/22/2016.

**A motion was made by Commissioner McGriff, seconded by Commissioner Mabee, to approve the January 11, 2016 Planning Commission minutes. The motion carried by the following vote:**

**Aye:** 5 - Charles Kidwell, Tom Geil, Zachary Henkin, Denyse McGriff and Damon Mabee

**Abstain:** 1 - Robert Mahoney

**A motion was made by Commissioner McGriff, seconded by Commissioner Mabee, to approve the February 22, 2016 Planning Commission minutes. The motion carried by the following vote:**

**Aye:** 6 - Charles Kidwell, Tom Geil, Robert Mahoney, Zachary Henkin, Denyse McGriff and Damon Mabee

**A motion was made by Commissioner McGriff, seconded by Commissioner Mabee, to approve the November 30, 2015 Planning Commission minutes. The motion carried by the following vote:**

**Aye:** 6 - Charles Kidwell, Tom Geil, Robert Mahoney, Zachary Henkin, Denyse McGriff and Damon Mabee

#### 5. Communications

*Ms. Terway said the City was able to apply for the equitable housing grant and would soon turn in the application. She had been hired as the City's new Community Development Director. There would be a joint Work Session with the Planning and City Commissions on the Willamette Falls Legacy project on July 25. Staff was working on identifying solutions for the intersection of Beavercreek and Highway 213.*

*Carrie Richter, City Attorney, discussed three LUBA cases. One regarding the Willamette Falls Hospital zone change, plan amendment, and master plan amendment. The record had been settled in this case and the briefing had been filed. Oral argument would be on July 21. The second case was regarding Historic Properties LLC's zone change. The City had submitted the record, but there was a record objection and the City was still sorting out the record. A decision would most likely not be made until October. The third case was the Beavercreek Concept Plan. A supplemental record was being filed. The decision would most likely be made in October.*

*Commissioner McGriff suggested for excerpts from the application that were in the staff report, to put them in a different font or italics. She asked that original reports that were referenced in the staff report be included in the packet. She thought consultants needed to do site visits so they did not miss something important.*

*There was discussion regarding relying on staff expertise when making decisions and that the Commission did not have to be experts on the technical issues in order to make a decision.*

#### 6. Adjournment

*Chair Kidwell adjourned the meeting at 10:00 PM.*