

**MEETING NOTICE FOR THE
CITY OF HUBBARD**

TUESDAY

OCTOBER 20, 2015

.....
COUNCILORS: YONALLY, KENNEDY, WHEATCROFT, RUIZ, SCHMIDT
COMMISSIONERS: ESTES, HOLUM, WILLIAMS, NICHOLS, ANDERSON
.....

The Hubbard City Council and Planning Commission will meet for a special joint Council and Planning meeting at the Hubbard City Hall at 6:30 p.m.

The City will, upon request, endeavor to arrange for the following services to be provided. Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible.

- X Qualified sign language interpreters for persons with speech or hearing impairments; and**
- X Qualified bilingual interpreters; and**
- X Assisting listening devices for persons with impaired hearing.**

Additional agenda items may be accepted until 4:00 p.m. on the Tuesday prior to the meeting. Please contact the City Recorder Vickie Nogle at 503-981-9633.

SEE ATTACHED AGENDA

**Posted 10/14/2015
4:00 p.m.**

**Vickie L. Nogle, MMC
Director of Administration/City Recorder**

**CITY OF HUBBARD
CITY COUNCIL / PLANNING COMMISSION
COMBINED MEETING AGENDA**

**TUESDAY, OCTOBER 20, 2015 - 6:30 PM
LOCATION: HUBBARD CITY HALL
3720 2ND STREET, HUBBARD**

- 1) **CALL TO ORDER.**
 - a) Flag Salute.
- 2) **APPROVAL OF THE SEPTEMBER 15, 2015, PLANNING COMMISSION MINUTES.**
- 3) **DISCUSSION REGARDING REGULATED MARIJUANA ACTIVITIES.**
- 4) **ADJOURNMENT.** (Next regular scheduled Planning Commission meeting November 17, 2015)

**CITY OF HUBBARD PLANNING COMMISSION MINUTES
SEPTEMBER 15, 2015**

CALL TO ORDER. The Hubbard Planning Commission meeting was called to order at 6:33 p.m. by the Planning Commission Chairman Glenn Holum at the City Hall, 3720 2nd Street, Hubbard.

Planning Commission Present: Glenn Holum, Harold Anderson, Dan Estes, Kevin Nelson.

Excused Absence: Byron Nichols.

Staff Present: Administrative Assistant Lucy Astorga; City Planner Joseph Shearer, MWVCOG.

FLAG SALUTE. Planning Commission Chairman Glenn Holum led the group in reciting the Pledge of Allegiance.

APPROVAL OF THE JULY 21, 2015, PLANNING COMMISSION MEETING MINUTES. MSA/Planning Commissioner Dan Estes/Planning Commissioner Kevin Nelson moved to approve the minutes as presented. Planning Commissioners Glenn Holum, Dan Estes, and Kevin Nelson were in favor. Motion passed.

Planning Commissioner Harold Anderson arrived to the meeting at 6:34 p.m.

ACCEPTANCE OF MYLAR PLAT FOR GREENS AT MILL CREEK SUBDIVISION (I & E CONSTRUCTION – SUB & VA #2014-01). City Planner Joseph Shearer reminded the Planning Commission they had approved the subdivision a year ago, and the final plat was now being presented. J. Shearer reported there were some last minute issues, but Public Works Superintendent Jaime Estrada said he was ok with the Planning Commission approving and signing, contingent upon satisfaction of the City Engineer and himself. He added J. Estrada would be approving the changes prior to the Mayor signing the final plat.

MSA/Planning Commissioner Dan Estes/Planning Commissioner Harold Anderson moved to approve and sign the final plat, contingent upon the satisfaction of staff. Planning Commissioners Glenn Holum, Dan Estes, Harold Anderson, and Kevin Nelson were in favor. Motion passed.

REQUEST FOR EXTENSION OF TECHNICAL REVIEW #2013-01 (AXIS CRANE – 2500 INDUSTRIAL AVENUE). City Planner Joseph Shearer reported Axis Crane is approaching the expiration for their technical review and recommended granting a one-time one year extension, as allowed per the City's Development Code.

Planning Commission Chairman Glenn Holum mentioned it's a little worrisome that a large company hasn't been able to complete their process in two years.

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J. Shearer said there are only a couple items that still needed to be addressed to complete their technical review process.

Planning Commissioner Harold Anderson commented he didn't see a reason to hold them up and not allow an extension.

MSA/Planning Commissioner Harold Anderson/Planning Commissioner Kevin Nelson moved to approve a one year extension for Technical Review #2013-01. Planning Commissioner Dan Estes, Kevin Nelson, Harold Anderson, and Glenn Holum were in favor. Motion passed.

OTHER BUSINESS.

Planning Commissioner Dan Estes said he has heard the City Council was recently discussing the topic of medical and recreational marijuana facilities in the City of Hubbard. He said he has strong feelings about the issue and information coming from Colorado and Washington shows it doesn't bring the cities as much revenue as expected. D. Estes believes the City will absorb additional risk and it sends a bad message to kids, that anything is acceptable as long as the government makes it legal. He said studies show increased access to drugs will result in increased use among kids. D. Estes stated he feels the community should be giving some input, not just letting the issue slide past the City Council. D. Estes commented that it is his understanding the topic will come before the Planning Commission at some point, and asked the Planning Commissioners to research the pros and cons prior to formally meeting and discussing it. He asked the City Planner if other cities are experiencing the same issues Hubbard is facing.

City Planner Joseph Shearer replied that many cities in Oregon are in the same situation as Hubbard, and are scrambling to put things in place. He said there may be an option to opt out of having marijuana facilities, but that may need to be done by voters.

Planning Commissioner Harold Anderson mentioned the porta potty is still on-site at the drive thru coffee shop. He asked for clarification on what the Planning Commissioner had decided on it.

D. Estes said he looked at the minutes from the meeting and it appears the direction to remove the porta potty was to be done prior to issuance of a building permit.

J. Shearer said there were two potential violations, and the hope was it would be taken down when the business went through the building permit process, which was never completed. He reminded the Planning Commission that code violations are complaint driven.

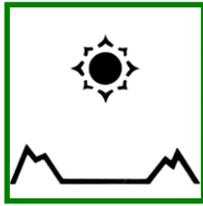
ADJOURNMENT. (The next scheduled Planning Commission Meeting will be October 20, 2015, at 6:30 p.m.) MSA/Planning Commissioner Kevin Nelson/Planning Commissioner Dan Estes moved to adjourn the meeting. Planning Commissioners Glenn Holum, Dan Estes, Harold Anderson, and Kevin Nelson were in favor. Motion passed. Meeting was adjourned at 6:53 p.m.

Glenn Holum, Planning Commission Chairman

ATTEST:

Vickie L. Nogle, MMC
Director of Administration/City Recorder

Lucy T. Astorga, Admin Asst.
Recording & Transcribing



Mid-Willamette Valley Council of Governments

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October 5, 2015

TO: Hubbard City Council
Hubbard Planning Commission

FROM: Joseph Shearer, City Planner

RE: Regulated Marijuana Activities

ATTACHMENTS: Zoning Map

This memo presents a summary of planning and land use implications of the evolving regulation of marijuana-related activities in Oregon. Administrative rules developed by the Oregon Liquor Control Commission (OLCC), court decisions, and additional legislation will continue to shape the applicable regulations, so this summary represents only a snapshot of where things stand today.

Legislation passed earlier this year, namely House Bill 3400, both altered and clarified the landscape of marijuana regulation.

HB 3400 established restrictions and prohibitions on certain marijuana activities (discussed in more detail below), including limits on the size of medical marijuana growers. Generally, a medical

OREGON'S SEVEN REGULATED MARIJUANA ACTIVITIES

Marijuana Type	Grow	Make Products	Wholesale	Transfer to User
Medical <i>OHA Registration</i>	Marijuana Grow Site: Location for planting, cultivating, growing, trimming, or harvesting marijuana or drying marijuana leaves or flowers <i>Register under ORS 475.304</i>	Marijuana Processing Site: Location for compounding or converting marijuana into medical products, concentrates or extracts <i>Register under section 85 of HB 3400</i>	None	Medical Marijuana Dispensary: Transfer usable marijuana, immature marijuana plants, seed, and medical products, concentrates and extracts to patients and caregivers <i>Register under ORS 475.314</i>
Recreational <i>OLCC License</i>	Producers: Manufacture, plant, cultivate, grow, harvest <i>Obtain license under section 12 of HB 3400</i>	Processors: Process, compound or convert marijuana into products, concentrates or extracts, but does not include packaging or labeling <i>Obtain license under section 14 of HB 3400</i>	Wholesalers: Purchase marijuana items for resale to a person other than a consumer <i>Obtain license under section 15 of HB 3400</i>	Retailers: Sell marijuana items to a consumer <i>Obtain license under section 16 of HB 3400</i> *Certain employees must obtain an OLCC handlers permit under section 19 of HB 3400

marijuana grow site may have up to 12 mature plants if it is located in a residential zone, and up to 48 mature plants if it is located in any other zone. However, there are exceptions for certain existing, legal grow sites. People who own or work in the marijuana business must have been a resident of the state for two years. Investors can come from out of state.

CURRENT STATE RESTRICTIONS

The state has established place restrictions for certain marijuana activities. These regulations are in effect, regardless of restrictions at the local level. Per HB 3400, the following activities cannot be sited in a residential zone:

- Medical marijuana dispensaries
- Recreational marijuana retail stores
- Marijuana processors (extracts)

Furthermore, medical marijuana dispensaries and recreational marijuana retail stores are subject to the following place restrictions:

- Neither can locate within 1,000 feet of certain public and private schools, unless the school is established after the marijuana facility.
- Medical marijuana dispensaries cannot locate within 1,000 feet of another dispensary.
- Medical marijuana dispensaries cannot locate at a grow site.

Finally, before issuing any recreational marijuana license, the OLCC must request a statement from the city that the requested license is for a location where the proposed use of the land is a permitted or conditional use. If the proposed use is prohibited in the zone, the OLCC may not issue a license. A city has 21 days to act on the OLCC's request, but when that 21 days starts to run varies:

- If the use is an outright permitted use, 21 days from receipt of the request; or
- If the use is a conditional use, 21 days from the final local permit approval.

ESTABLISHING ADDITIONAL LOCAL RESTRICTIONS

In addition to the restrictions noted above, HB 3400 provides that cities may adopt reasonable time, place, and manner restrictions. Time restrictions may limit the number of days, days of the week, operations on holiday, and hours of operation. Place restrictions may limit licensed marijuana activities to certain zoning districts (i.e. only in the Commercial Zone) and/or geographic areas (i.e. not within a certain distance from schools, parks, etc.). Manner restrictions include regulations on how recreational marijuana is dispensed.

While other regulatory options may be available, HB 3400 expressly provides that cities may impose "reasonable regulations" on the following:

- The hours of operation of retail licensees and medical marijuana grow sites, processing sites and dispensaries;

- The location of all four types of recreational licensees, as well as medical marijuana grow sites, processing sites and dispensaries, except that a city may not impose more than a 1,000-foot buffer between retail licensees;
- The manner of operation of all four types of recreational licensees, as well as medical marijuana processors and dispensaries; and
- The public's access to the premises of all four types of recreational licenses, as well as medical marijuana grow sites, processing sites and dispensaries.

LOCAL OPT OUT BY VOTER REFERRAL

HB 3400 provides a process for Hubbard to ban six of the seven types of marijuana activities registered/licensed by the state via referral at a statewide general election, (i.e. a November election in an even-numbered year). Specifically, the six types of marijuana activities that cities can ban under HB 3400 are:

- Medical marijuana processors (preparing edibles, skin and hair products, concentrates and extracts);
- Medical marijuana dispensaries;
- Recreational marijuana producers (growers);
- Recreational marijuana processors (preparing edibles, skin and hair products, concentrates and extracts);
- Recreational marijuana wholesalers; and
- Recreational marijuana retailers.

Consult with legal counsel and/or the City Recorder for further information about local opt out requirements and procedures. Cities that adopt an ordinance prohibiting the establishment of medical or recreational marijuana businesses are not eligible to receive a distribution of state marijuana tax revenues or to impose a local tax under HB 3400.

IMPORTANT DATES

- July 1, 2015 – Personal possession of limited amounts of recreational marijuana is allowed for those 21 or older.
- October 1, 2015 – Sales of recreational marijuana from medical marijuana dispensaries begin.
- January 1, 2016 – Most amendments to Measure 91 go into effect. In addition, after this date, medical marijuana growers may apply for an OLCC license to grow recreational marijuana at the same site.
- January 4, 2016 – The OLCC must approve or deny recreational license applications as soon as practicable after this date (HB 3400).
- November 8, 2016 – Next statewide general election. Cities may refer measures on prohibition of marijuana activities and measures on local taxes at this election.
- December 31, 2016 – Early sales of recreational marijuana from medical marijuana dispensaries end.

HUBBARD DEVELOPMENT CODE

Anyone wanting to establish a marijuana-related activity in Hubbard would need to comply with the Hubbard Development Code in addition to state regulations. New development, changes of use, and/or changes in occupancy could trigger review. It would be incumbent on an applicant to demonstrate that their use either: 1) fits into one of the existing permitted or conditional uses listed in a specific zone; OR 2) meets the “similar use” criteria in Section 3.109. If an applicant meets one of these two sets of criteria, then they will also need to demonstrate that they can meet the applicable Site Development Review and/or Conditional Use criteria. Ultimately, this subjective criteria would be evaluated and decided on by the Hubbard Planning Commission with a recommendation from City staff.

“Medical grow site” or “recreational producer” are somewhat nebulous terms that do not speak to scale or operational characteristics. The growing of marijuana on someone’s residential property for their own personal use could be permitted as accessory to the residential use (much like a vegetable garden). No Hubbard zoning districts explicitly permits commercial agricultural uses. The Hubbard Development Codes does not otherwise differentiate marijuana-related uses from other processing, wholesale, or retail activities.

Generally, Hubbard’s zoning districts permit the following use categories which may correspond with one of the seven marijuana activities regulated by the state:

Zoning District	Permitted Use	Conditional Use
Residential (R-1, R-2, R-3)	Residential accessory structures or uses. Medical dispensaries, recreational retail, and marijuana processors (extracts) are prohibited	
Residential Commercial (RC)	Residential accessory structures or uses. Medical dispensaries, recreational retail, and marijuana processors (extracts) are prohibited	
Commercial (C)	Retail	Small-scale processing essential to permitted retail, subject to Section 2.304
Industrial (I)	Manufacturing, processing, distribution	Manufacturing, processing or storage of explosive or flammable products
Industrial Commercial (IC)	Manufacturing, processing, distribution, retail, wholesale	Manufacturing, processing or storage of explosive or flammable products

OPTIONS FOR CONSIDERATION

From a land use perspective, it appears there are three basic approaches to addressing the recent marijuana-related ballot measure and legislation. Staff recommends that legal counsel be consulted in conjunction with any of these three options:

- 1) DO NOTHING. In the absence of local land use regulations pertaining specifically to marijuana, a marijuana-related use would need to: A) Meet state law; and B) Demonstrate compliance with the Hubbard Development Code. The burden of proof is on the applicant to explain the proposed use and how it complies with applicable development criteria.
- 2) AMEND THE DEVELOPMENT CODE to include time/place/manner restrictions that apply to the seven regulated marijuana activities. Regulations could include specific zones which may accommodate such uses, hours of operation, or proximity to other conflicting uses.
- 3) PURSUE A LOCAL OPT OUT BY VOTER REFERRAL related to certain marijuana activities as provided by HB 3400.

Additional options that do not have a clear land use nexus may be addressed with city staff or legal counsel. Additional options may become evident as rulemaking, litigation, and/or further legislation occurs.

Legend

- Urban Growth Boundary
- City Limits
- Outside City Limits/UGB
- Low Density Residential (R1)
- Medium Density Residential (R2)
- High Density Residential (R3)
- Manufactured Home District
- Commercial
- Industrial
- Industrial Commercial
- Highway 99E Overlay Zone
- Residential Commercial
- Commercial General
- Public Use
- Parks/Open Space
- Urban Transition Farm
- Urban Transition
- Waterways

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CITY OF HUBBARD - Zoning/Address Map - Population 3185

CREATED BY: M. OLINGER
Hubbard Public Works
Last Revised: April 2013



- * PLEASE NOTE: Zoning designations outside the City Limits are maintained by Marion County and are provided as a courtesy only.
- * PLEASE NOTE: 4253 & 4215 3rd Street are currently part of Barendse Park.
- * PLEASE NOTE: 3522-3572 Hoodview Dr. on-site addresses are backwards.
- * PLEASE NOTE: New/Revised addresses are shown in red font.

