

**MINUTES OF THE
LINCOLN COUNTY PLANNING COMMISSION**

MEETING OF NOVEMBER 14, 2016

Chair Johnson called the meeting to order at 7:30 pm and asked for roll call.

OTHER COMMISSIONERS PRESENT

BOB PORCH
ANDRA BOBBITT
MARK MCMAHON
PHIL SPULNIK
MARK ESTES

COMMISSIONERS ABSENT

JUDITH PELLETIER

STAFF PRESENT: Senior Planner Joshua Shaklee, Planning Director Onno Husing, Permit Specialist Josh Bacher.

1. CALL TO ORDER

With Commissioners present a Quorum has been reached for the November 14, 2016 Planning Commission Meeting.

2. APPROVAL OF MINUTES

Commissioner Bobbitt motioned to approve minutes from August 8, 2016.

Commissioner Porch seconded. **Commissioner McMahon** abstained (he did not attend the August 8, 2016 meeting).

Chair Johnson asked for a vote on the motion and the Planning Commission voted to approve the minutes for August 8, 2016.

Commissioner Spulnik motioned to approve minutes from August 12, 2016.

Commissioner Bobbitt seconded. **Commissioner McMahon** abstained (he did not attend the August 12, 2016 meeting).

Chair Johnson asked for a vote on the motion and the Planning Commission voted to approve the minutes for August 12, 2016.

3. ITEMS FROM THE AUDIENCE

Audience member inquired whether his group could voice their concerns now. **Director Husing** clarified that this time is only for discussion of items not on the agenda tonight.

4. PAST ACTIONS REVIEW FOR PLANNING COMMISSION

None. **Director Husing** took the opportunity to recognize the passing of long time **Planning Commissioner Sam Galasso**, and requested that Commissioners sign a card that would be circulating throughout the evening.

5. UNFINISHED BUSINESS

There was none.

6. ACTION ITEMS

There were none.

7. PUBLIC HEARING

7.1 Case File #02-TA-16: The Lincoln County Board of Commissioners has initiated a text amendment to Ordinance #484, which placed temporary regulations marijuana facilities in unincorporated Lincoln County, to address specific issues with the original ordinance. The narrow request is that minimum acreage requirements for outdoor production of marijuana on properties zoned Agricultural Conservation (A-C) and setbacks from residentially zoned property for recreational marijuana wholesalers and retail outlets be reconsidered.

Chair Johnson stated the format for the hearing and asked for the Staff Report.

STAFF REPORT

Senior Planner Shaklee thanked the Commission for the opportunity to present the staff report. The previous December (2016), Lincoln County hurriedly adopted Lincoln County Ordinance #484, which put in place temporary regulations for Recreational Marijuana facilities in unincorporated areas of Lincoln County. The purpose of the ordinance was to have time, place, and manner regulations in place prior to January 2016 when Oregon Liquor Control Commission (OLCC) began accepting applications for licenses to establish recreational marijuana facilities. Unfortunately, expediting the adoption of the regulations resulted in a number of oversights that the County is looking to correct with the proposed amendments. There are three amendments for the Planning Commission to consider. Each amendment addresses an issue brought to light as Planning and Development staff administered the regulations and worked through the provisions of Ordinance #484 with members of the public.

On October 15th, 2016, the Lincoln County Board of Commissioners initiated the text amendments to address a number of unintended consequences resulting from the provisions of Ordinance #484, and to further align the two Ordinances regulating medical and recreational marijuana facilities. Ordinance #484 was meant as a placeholder until the State of Oregon settled on more permanent regulatory framework. At the conclusion of this hearing, the Planning Commission will be asked to make a finding that the proposed amendments are consistent with comprehensive plan goals, Statewide Planning Goals, and other applicable statutes and regulations. The Commission must also find that there is a public need for the requested change and that need will be met by the changes proposed.

There are three amendments for Planning Commission consideration:

First, Ordinance #484 placed a restriction on the minimum acreage necessary to produce recreational marijuana on Agricultural Conservation A-C and Timber Conservation T-C zoned properties. Any property less than 20 acres in size is not currently eligible to grow recreational marijuana outdoors. Mr.

Shaklee referred to exhibits to illustrate the number of properties subject to A-C zoning that would be affected should the 20 acre minimum be revised. The options to renegotiate the 20 acre minimum are to reduce it, eliminate it, or leave the requirement as is.

A question and answer period ensued between the Planning Commissioners and Mr. Shaklee and Director Husing regarding A-C and T-C land, regarding the relative abundance of T-C properties in the County 20 acres or more in size.

The **second** amendment before the Commission addresses provisions found in sections 4 and 6 of Ordinance #484, which require that a recreational marijuana production site (RMPS) be located at least 250 feet away from a residence not on the subject property, regardless of the zoning designation of the property. This type of facility is allowed in Planned Industrial, General and Retail Commercial, Rural Residential 5, Rural Residential RR-10, Farm, and Forest zones. The provisions were intended to mitigate adverse impacts from marijuana production, including noise, odors, and allergens.

Under the proposed amendments, facilities in the RR-5 and RR-10 zones would apply a 250 foot separation; in A-C and T-C zones a 500 foot separation would be applied. No specific separation requirement would apply to a facility in the I-P zone, because every use in the I-P zone is subject to conditional use approval. This provides Planning and Development staff or the Planning Commission with an opportunity to review each proposal for compatibility with surrounding land use and apply additional conditions addressing any separation issues.

The third amendment addresses standards for siting recreational marijuana retail outlets and wholesale facilities. Under Ordinance #484, a minimum distance of 250 feet is required between any residentially zoned property and a property on which a retail outlet or wholesale facility is located, as measured from property boundary to property boundary. Mr. Shaklee recommended that these distances be removed all together, which will make it consistent with Ordinance #479 regulating Medical Marijuana facilities.

In conclusion, Staff finds that the proposed amendments align with comprehensive plan goals, Statewide Planning Goals, and other applicable statutes and regulations. Staff also finds a public need for the requested change has been demonstrated and that the need will be met by the changes proposed.

OPPOSITION

NONE

APPLICANT REBUTTAL

NOT APPLICABLE

DELIBERATIONS

Chair Johnson closed the hearing at 8:04 pm and asked for comments from the Planning Commission.

Commissioner Spulnik motioned that the Planning Commission recommend to the Lincoln County Board of Commissioners that Amendment #1 for case file #02-TA-16 be rejected and that the 20 acre restriction for producing marijuana outdoors in the A-C and T-C zones remain as originally codified in Ordinance #484.

Commissioner Porch seconded the motion.

The vote was taken and the motion passed with all in favor.

Commissioner Spulnik motioned to recommend that Amendment #2 for case file #02-TA-16 be approved by the Lincoln County Board of Commissioners, as was described by Planning and Development staff.

Commissioner McMahon seconded the motion.

The vote was taken and the motion passed with all in favor.

Commissioner McMahon motioned that Amendment #3 for Case File #02-TA-16 be recommended for approval by the Lincoln County Board of Commissioners per staff recommendations.

Commissioner Bobbitt seconded the motion.

The vote was taken and the motion passed with all in favor.

MOTION TO RECOMMEND THAT THE BOARD OF COMMISSIONERS APPROVE THE AMENDMENTS PROPOSED IN CASE FILE #01-LUPC-ZC-16 WITH THE EXCEPTION OF THE 20 ACRE MINIMUM ACREAGE FOR OUTDOOR MARIJUANA PRODUCTION ON A-C AND T-C ZONED PROPERTIES.

Chair Johnson granted a 5 minute break between hearings from 8:19 pm to 8:24 pm

7.2 Case File #02-LUPC-ZC-16:

The Oregon Parks and Recreation Department (OPRD) is requesting approval of the Brian Booth State Park Master Plan as the applicable master plan for the properties comprising Brian Booth State Park (consistent with Oregon Administrative Rule 660-034-0000 and 736-018-0000). This request is concurrent with a request to change the for the majority of Brian Booth State Park from existing zoning (Agricultural Conservation A-C, Timber Conservation T-C, Public Facilities P-F and Rural Residential RR-2) to the Park Master Plan (PMP) zone, to be addressed at a subsequent hearing before the Planning Commission.

STAFF REPORT

Planning Director Husing explained that Oregon Parks and Recreation Department (OPRD) will ultimately apply to rezone the properties comprising Brian Booth Park from the current zoning to Park Master Plan zone. Before that can happen, however, the master plan for the park must be adopted by Oregon Parks and Recreation Department. Testimony and Planning Commission input will be relayed to OPRD as part of the process to adopt the master plan. This process requires that a public meeting be held to solicit comment on the draft plan. OPRD staff were present and available to address any questions and concerns expressed during the course of the hearing. The goal of the hearing is to hear from State Parks and the community, sift through what the community would like to see, and formulate recommendations. If the Planning Commission is comfortable, a set of recommendations can be formulated and forwarded to State Parks. Director Husing invited OPRD representatives to address the Planning Commission for a formal exchange of views.

Chair Johnson asked about the comments from Seal Rock Water District, Lincoln County Public Works, and ODOT, and if they needed to be addressed.

Planning Director Husing stated that those comments are part of the record, and can be discussed with those agencies.

Ian Matthews, Park Planner with OPRD, signed in and offered to walk the Planning Commission through the primary aspects of the Park Master Plan.

Ron Campbell, retired Park Master Planner with OPRD, accompanied Mr. Matthews and stated his role in the hearing is as a resource, and he was directly involved in the development of the draft master plan.

Mr. Matthews produced three exhibits and briefly addressed the contents of the maps. He explained that Brian Booth State Park is made up of three pieces: Ona Beach, the Beaver Creek area, and a large property acquired by OPRD that has been proposed as an upland campground with a total of 164 campsites. OPRD started a public planning process for the three parcels in 2012 and hosted three rounds of public meetings over the years. It was discovered well into this process that the proposed improvements to the park would not be permitted under current County zoning code. Upon this discovery, OPRD worked with the County to revise the zoning code to establish a new zoning designation, the Parks Master Plan zone, which allows public parks with master plans to be developed to a greater extent than is currently permissible.

Mr. Matthews asked the Planning Commission if they have specific questions about what is proposed. A question and answer period ensued regarding the existing entrance to the future campground and the intersection with Highway 101. Kittleson & Associates, a traffic consultant working with ODOT, is developing a design exception request for ODOT.

More discussion ensued regarding speed limits, large RVs, utility hookups, signs, and speed zones.

Planning Director Husing asked if the entrance was going to be the same, excluding additional turn lanes, and Mr. Campbell replied in the affirmative.

Chair Johnson asked if there were any more questions.

Commissioner Bobbitt spoke about the letter that the Planning Commission received that evening about the activities in the park and also a letter in the packet about the service road access, and would like to know about plans for the service road.

Mr. Campbell clarified that the access road in question is on South Beaver Road and is retained for maintenance purposes. Visitors are allowed to walk in but there is no vehicular access. He discussed that there have been discussions to upgrade the service road but nothing has materialized.

Chair Johnson asked for attention to comments from the public on page 64 and page 65, and wanted to know if State Parks is addressing those comments.

Mr. Matthews replied that OPRD staff has been working with neighboring property owners to address the concerns raised in the letters. There is no written agreement, but there have been informal meetings in attempts to resolve the issues.

Mr. Campbell stated that OPRD is looking for the right solutions to these problems. OPRD acknowledges that three issues need to be addressed: nutria control, trespass, and drainage. He recommended that the Planning Commission request that OPRD adds language to the Master Plan to address the issues.

A brief discussion ensued regarding plans for public beach access from the park and equestrian activity on the beach.

Chair Johnson then requested that any public testimony be provided.

PUBLIC TESTIMONY

Jim Provance addressed the Planning Commission. Mr. Provance lives on Riggen Avenue, just south of the Oregon Department of Transportation (ODOT) cell tower. He characterized communication between residents of the neighborhood and OPRD as very poor. They finally met a week and a half ago, but there are still concerns over noise and a fence or physical barrier. Mr. Provance mentioned crime and traffic as ongoing problems, and asks if OPRD will provide personnel to patrol the Park.

Paul Rimola next addressed the Planning Commission. Mr. Rimola submitted a letter for inclusion in the record (noted as Exhibit B) and also submitted a letter from four other people that were unable to attend the hearing. His property is immediately adjacent to the park and his was the first home to be burglarized. He wrote a letter to Ron Campbell on July 1st, 2015, warning OPRD that the burglars accessed his house from the Park and lived in his house for three days. Rimola stated that a fence was promised before he moved in, but all of a sudden the fence has magically appeared in two days. He stated that in his opinion, OPRD has forfeited the right to have any more property transferred to them, in reference to crime in the area, and asked whether the State will hand over money to mitigate that.

Rich Hale addressed the Planning Commission. Mr. Hale noted that he lives on the same street as the previous two speakers, and has a home under construction that was broken into a few weeks ago. He stated that Mr. Provance has been attending planning meetings for several years and has warned OPRD of the potential problems due to trespassers. Bernard and Riggen Streets have become an unofficial access point, there is a path cut big enough for horses to access the park property. There is currently a lot of traffic going through with no fence to stop it. This has also created a secondary problem of crime. He witnessed footprints from his house to the State Park (following the unlawful entry into his home). There is a documented report with the Sheriff with photographs showing foot traffic to and from the park right where the homeowners said it would be, right where they requested a fence.

A short discussion ensued about access to and from the Park from a criminal element and others.

Sue Birge provided testimony next. Ms. Birge has lived on Huckleberry Hill for four years and expressed concerns about the “curves”, the extent of Highway 101 adjacent to Ona Beach. She stated that the intersection works well now, and there are currently two turn lanes. She asked questions about cabins and the campsite plan, which Mr. Campbell answered. She is also concerned about getting across the highway, and stated that once the Park officially establishes access, some people will still use the access they have already been using for years.

Paul Rimola interjected from the audience that gate access is restricted with a key, but all that does is block people from getting into an official entrance. If there is no barrier, signage, or enforcement, park users will just go there. There has to be a patrol there, or the County will be paying to do State business, and he doesn't want to pay for the State to do that or have his property taxes increased.

Steven Desgrosellier addressed the Commission. He purchased property off Curtis Street near Thompson and started building a home there three years ago. There is a primitive road that has been widened, and the gate is open all the time. Humans and horses will just walk down there. A barrier is needed, in his opinion. The Park needs to provide notice, or don't provide access to the beach.

Chair Johnson stated that testimony has primarily centered on access to the Park, and would like to give OPRD opportunity for rebuttal.

Rich Hale replied from the audience that first there was a meeting about a week and half ago with Park personnel about the intersection of Riggen and Bernard, and Riggen and Curtis, and was told that those places have not been ruled out as authorized access points.

Chair Johnson requested comments from the Park about how they will address those issues, specifically page 64 and 65 in the Plan.

A discussion ensued between the Planning Commission and Mr. Matthews and Mr. Campbell. Mr. Matthews and Mr. Campbell stated that the Park is not officially open and will not be fully staffed until it is officially opened. Having full time staff on the site will reduce some of the issues being addressed, including access to the neighborhood from the park. The fence has been planned all along. They are interested in exploring a mutual agreement on specific things to be done in the Park Master Plan.

Chair Johnson asked if we can go through and make a list of concerns that have been presented, write them down, summarize them to come up with real suggestions.

A brief discussion ensued between the Planning Commission and Director Husing in regards to laying out the problems, using Staff time to visit the area and meet with concerned property owners, and following up on the letters and testimony that has been received.

Commissioner Porch motioned to table the discussion until OPRD had addressed a number of the issues identified by adjoining property owners.

Commissioner McMahon seconded the motion.

Chair Johnson asks the Staff to put together a list of the complaints, meet with the Owners, and draft recommendations, within a timeframe of four weeks.

8. PLANNING COMMISSION CONCERNS

None

9. ADJOURNMENT

Chair Johnson adjourned the meeting at 9:55 pm to be continued at a later date.

Respectfully Submitted,

Joshua B. Bacher

Lincoln County Permit Specialist