

Mason County Planning Advisory Commission

September 15th, 2014

(This Document is not intended to be a verbatim transcript)

1. Call To Order

Bill Dewey called the meeting to order at 6:06 PM.

2. Roll Call

Members present: Steve Van Denover , Rob Drexler, Tim Duffy, Vicki Wilson, Kristy Buck, Bill Dewey.

Staff present: Barbara Adkins

3. Regular Business

I. Adoption of Agenda

The agenda was adopted.

II. Approval of minutes

The July 21, 2014 minutes were not approved. They will be approved at the next meeting September 29, 2014 once all members have read them and have no further corrections.

4. New Business

Bill Dewey brings forth suggestions for a new chair. Rob Drexler nominates Bill as chair. Kristy seconds it, and none oppose. Barbara asks if a new vice chair vote is needed. Bill nominates Rob as vice chair. Tim Duffy seconds it, and none oppose.

5. **Public Hearing**-*Continued from August 18th, 2014. Repeal of Recreational Marijuana Moratorium and direction to the Planning Advisory Commission.*

Presenter: Barbara Adkins, Mason County Community Development

Barbara began discussing the staff report dated 8/25/2014. She referred to the request to parse out “processors” from “producers” so they are not mutually inclusive, and reports that she has separated the two. Another request discussed was the density map. Barbara worked with GIS to put together a map divided into 5 categories based on the percentage of the total population in that area. She states that the map is somewhat difficult to read at this point, and will take more time to create a product that is easier for everyone to read. Bill stated he thinks it’s a worthwhile tool, but agrees it needs to be easier to use. Tim asked if the map would be used for somebody that was interested in a processing sight or a growing sight. Barbara responded, saying the map would be used for anybody who is proposing either sight in a residential area. Barbara continued with amendments in the code, including definitions for producer, processor and retailer. She noted the definitions are taken directly from the state.

- a) “Applicant” or “marijuana license applicant” means any person or business entity that is considered by the board as a true party of interest in a marijuana license, as outlined in WAC 34-55-035.
- b) “Business name” or “trade name” means the name of a licensed business as used by the licensee on signs and advertising.
- c) “Child care center” means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter under chapter 170-295 WAC.
- d) “Elementary school” means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.
- e) “Financier” means any person or entity that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.
- f) “Game arcade” means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.
- g) “Library” means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
- h) “Licensee” or “marijuana licensee” means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.
- i) “Lot” means either of the following:
 - 1) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or
 - 2) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.
- j) “Marijuana processor” means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package

and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

k) "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

l) "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

m) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

n) "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

o) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, and insecticides.

p) "Perimeter" means a property line that encloses an area.

q) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

r) "Public Park" means an area of land for the enjoyment of the public, having facilities for rest and recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, or federal government.

s) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route-to-route transfers.

t) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age.

u) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

v) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

w) "Unit" means an individually packaged marijuana infused solid or liquid product, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

Barbara mentioned there were also changes on the chart located in the code under section 17.17.005. The change limits Tier 1 to RR5 and allows Tier I,II, and III to go in RR10 and RR20 with a minimum of 10 acres. Processors have been removed from the residential areas. She also changed the buffers from 100 to 250 feet from neighboring residential dwelling units of adjacent parcels. In section 17.17.007 the language was changed to completely remove Rural Residential for marijuana processor licensees. Kristy asked if there was any standard key used for charts within the County Code. Barbara responded saying there is not, and noted there is a key with each chart that explains the letters and/or symbols. Bill and Kristy agreed that there should be some standard key for all charts within the code.

Public comment opened:

Bill announces that they will be hearing comments in order via the sign up sheet. He reports there are 11 people that would like to testify.

Alison Bowen began by saying she does agree with some of the amendments but has an issue with the RR5. She feels having a growing or processing area built in residential areas is going to effect real estate because people will not want to live by it. Alison is worried that people will stop moving to Mason County if they know they will be living close to marijuana.

Diane Edgin is worried about canopy space. She would like the county to think about whether or not they will be able to keep limiting the canopy space or if it will expand. Diane also brings up the fact that there are many homes with large families and home schooled children that could be troubled by allowing any marijuana manufacturing within a residential area.

Paul Williams owns a 5-acre parcel that he purchased for operations. He mentions that when rules are approved and changed, that creates a hardship. He asks that when rules are created, the objectives are clear from the beginning. Paul states that the buffer of 250 feet is quite a large area that should keep the smell controlled and also points out that if private property is fenced, children should not be entering the area.

Barbara and Tom Acuña are worried because they have an operation going in next to their property. Barbara says she is especially worried because she and Tom had planned on selling their property when they are ready to fully retire and feel that having something that looks like a prison wall close to them will deter people from wanting to purchase their property. She feels that even though there is a buffer, the security lights and any noise will be bothersome. Barbara would like clarification in the rules regarding the buffer. She says that there is confusion surrounding the buffer because she is unsure if that means the fence has to be 250 feet back from the property line, or if he is just not allowed to grow that close to the property line. She also reports that a salmon stream runs through the property and she is concerned about any waste that will get into the stream and into Haven Lake.

Jeff Cezic currently lives in Allyn and has property around him zoned as business park. He says he recently found out the land sold to some investors looking to open a facility. He is concerned because though he is technically not adjacent to the parcel, he is across the road. Drainage concerns are a big issue because of the creeks that run into North Bay near Taylor Shellfish. Kristy

asks Barbara if the buffer is technically a radius and if it would affect Jeff. Barbara says any residence needs to be at least 100 feet from what they're doing. She also said that the language in the code might need to be cleaned up to make that clear.

Barbara Acuña asks if the board can clarify what constitutes "in holding" or resource land. Barbara Adkins explains that these lands are treated differently under the county code because they are meant to be used for crops and follow a different set of codes.

Nicole Sells feels that marijuana shouldn't be demonized but feels that this could potentially bring a major vice to Mason County for everybody. She too has land that she is working on to become her permanent home. She is angry that this parcel, which has been in her family over 100 years, is now going to fall prey to an experimental industry, which she says is unregulated by the county. Nicole feels that the suggested buffer is nowhere near adequate and that the aesthetics of a growing operation do not fit in a RR5 zone. Finally, she does think the idea of a density map is a good idea and should be worked on.

Tom Davis begins by backing up the exclusion of RR5 for any production. He reminds everyone that this law was already passed and that most of the people looking to open a business are complying with everything that has been thrown at them. With the high tax, Tom feels that the grower should be able to process on the same land as long as the lot is a minimum of 10 acres. He points out that statistics regarding changes since the beginning of 2014:

- Land sales in Mason County have increased
- The land sales are bringing in income
- The income coming in from new community members and land purchases are helping Mason County pay for the Belfair wastewater project
- New jobs are being created locally, which means less crime and money staying within the community

He does note that though it's not the most ideal crop to be growing, it is our best option right now and we should work to keep it here.

Unidentified gentleman commented saying this business needs to be allowed even in a Rural Residential zone. He asks the Board if marijuana was approved to grow because it was classified as agricultural. Barbara Adkins responds saying that had nothing to do with the original evaluation. He requests that the Board goes back and re-examines producing and processing as a business instead of a use. The gentleman states that when people move to a rural area, they do so intentionally. He says that the people purchasing the land to live on should be given more consideration than a business owner coming in. He states that he is not leaning one way or the other where this business is concerned.

Don Easton would like some language added to the code regarding the sales or transferring of the business to another person. He also touches on the subject of using either a conditional use or special use permit and how that triggers a requirement for SEPA.

Michael Tucker is a grower/processor and says he understands all of the unanswered questions and concerns coming up. He covers the fact that his business was not able to slide under the radar, as most aren't. He describes his process and reports he needed to have a land survey, had

to install a septic system, is not able to be near streams, and also that he is being monitored by the Liquor Control Board to make sure he is not using harsh chemicals of any kind. Michael reports that his business is under surveillance more than any other to make sure he is not breaking the law at any time. He has an indoor operation and agrees that outdoor operations need to be on large plots. He uses himself as an example to show that people are transplanting themselves to Mason County permanently because of their ability to grow and process here. Michael continues to describe his plot and says it is heavily secured but does not resemble a prison and admits that he does have motion sensor lights, but they are not the huge floodlights that would be a nuisance. He says there is not an issue with any smell because his grow area has advanced internal buffers that do not create exhaust. Michael assures everyone that all of these businesses are being so heavily regulated that many of them won't even open, or they will close quickly. He feels that Tier 2 or Tier 3 operations should be looked into even more because of their size. Vicki Wilson asks if Michael's business is currently on RR5, to which he says yes. She asks him to clarify what he means by his earlier statement regarding Tier 2&3 operations on larger plots. Michael clarifies saying Tier 3 should not be allowed to grow outdoors on RR5. Vicki asks Michael his thoughts on outdoor versus indoor growing, and what he thinks are the critical issues that distinguish the two. He says outdoor growing does create a smell and says they do use more lighting. Vicki asks if the lights would be different than the ones he uses. Michael says the outdoor lights are very bright. He says he is not in favor of doing outdoor growing and says this is not a good area to do it in and outdoor growing in general, is not friendly to any neighbors you may have due to the smell. Indoor growing is good for him, because he has control of clean crops and no smell. Bill Dewey asks if Michael will be processing any food items. Michael said yes. Bill asked how he plans to deal with industrial waste. Michael responds saying he would not be making any more waste than he does out of his house on a monthly basis cooking and baking. Vicki says she is still trying to make the distinction between indoor and outdoor growing. From the audience, Nick Sells says it's odd that one method is almost completely unregulated. Nick says indoor is regulated so heavily because you need building permits, which trigger reports. Outdoor grows he says, require no building permits. Vicki asks Michael if he would have concerns about a facility, such as his own, being allowed within RR5. Michael responded saying he wouldn't allow outdoor grows at all on RR5 because the property isn't big enough. He brings up details on transferring a license and states that the licenses cannot be transferred if the business is sold. He says there is currently a process and anybody holding a license has to go through a strict background check. Steve Van Denver asks what would happen if you wanted to transfer a license or hand the business down to a family member, such as a child. Michael did not have details at this time regarding this process. Regarding being a cash only business and more open to crime, Michael announces that he does have a bank account because the federal government has made that option available. Also, Michael goes on to say that in order to have his business insured, he is required to have a large safe in which he keeps his product. Michael closes by saying he is open to speak to anybody and would be happy to answer or research any questions.

Kathy Gerchak says she now has a view of a penitentiary. She says the operation by her put up a black fence. She says she appreciates Michael's comments, but as a former real estate agent there is similar property for sale in Elma, and McCleary she should have purchased instead. Kathy reports she and her husband moved to Shelton because they found a great house with acreage and a view for their family and she feels it is unfair that this business can move in next door in a residential area. She believes these operations are a huge demand on public services and says that while speaking to Commissioner Sheldon at a meeting, she found out there was a grow

operation that needed a new sub station put in from PUD. Also, she would like to know how this operation would affect her community well. Kathy declared that special use permits would be the best option because the applications are reviewed case-by-case basis. She uses Thurston County as an example saying since the liquor control board is out of Thurston County, and they are using special use permits which we should be doing also. Kathy goes on to say if we separate ourselves and not use the special use permits that will make us a target for the undesirables to come in and open shop.

Paul Vaughn begins by saying thank you to the board for getting to where we are today. He feels that this new business is good for Mason County and also that people who are worried about 60 new businesses opening within the county should not worry because it takes much more than just growing skills to open a business, let alone keep it open. Paul says he is looking to hire and wants to create long term jobs with benefits better than the city beginning at \$20 an hour. He reports that he and his wife are now looking at houses in Mason County so they can move here permanently. Paul understands that people are worried about processing centers because they hear and read stories on the news about places that blow up with butane. He describes the process as curing, drying and packaging. The baking methods are the same as baking any other time. Paul says some people are trying to do oil extraction and says the actual equipment necessary for extraction is so expensive and regulated that beginning growers are not most likely going to touch it. He agrees that there are zones where outdoor growing should not be allowed due to the odor and appearance. Paul also points out that this includes hoop houses and some greenhouses. He announces that, like Michael Tucker, he is available for any questions. Barbara Acuña asked what the state regulations say about in holding land. Paul answered saying the state does not have any rules about the zoning and leaves that up to each county or city.

Elise Vaughn owns property near Forbidden Farms. Elise says when she and her husband were looking for land, during the moratorium they only found 3 pieces of industrial property for sale and no agricultural zoning. She states that growers have very high expectations such as: no bugs in the crop, no harsh chemicals can be used, absolutely no runoff, employees need an extensive background check and every leaf pulled has to go into a hold for 72 hours. Also, your personal life and the personal actions of your investors are examined. Elise states that working at a grow location is nothing like you see in the movies. She reports that it is tedious and everything must be accounted for at all time.

Nick Sells points out that everyone from community members to growers and processors are all agreeing that there should be no outdoor growing allowed, including hoop houses, in RR5. He suggests that his property value and quality of life is going down because he now lives by a grower. Nick is concerned because the hoop house on his neighbor's property is near the edge of a stream that feeds on to his beach. He feels that the fertilizer will hurt the water or the oysters. Nick would like a regulation set to control the odor, and would also like to have a regulation set that makes transferring a growing/processing business to someone impossible.

Helen Thompson would like people to think about the current situation instead of the "what if". She would like rules and regulations set up now to deal with now.

John Thompson points out that like any industry there are good and bad practices. He states that the special use permit would be ideal because it does cause extra scrutiny and will cause people to be responsible.

Paul Williams returns to the podium to say that even though some bad growers did get in early, not everyone needs to be punished.

Alison Bowen has a concern about failing businesses. She would like to know what would happen with the properties once they are abandoned if a business fails. Also, she stated that the business owners who already invested money before the proposed changes should be grandfathered in. She does not agree with more businesses being opened within a RR5 though.

Barbara Acuña says that her neighbor who is planning on growing currently has pending permits and she would like to prevent this from happening before it begins.

Bill Dewey announces that public hearing is now closed and no more comments from the public will be accepted.

8:46-8:57
Break

Steve Van Denover begins by referring to the staff report dated 07.29.14 on page 7, paragraphs 3 and 4. He discusses the impact of odor and lighting on neighboring plots. Discussion is had regarding public comments on failure of business and what would be done with the property. Rob Drexler asks Barbara Adkins what constitutes a closer, in depth look at the permitting process. Barbara responds by first noting that not all buildings trigger SEPA but says the more you build, especially from scratch, the more you're going to trigger a SEPA. Vicki Wilson asks for a description of what is involved when a SEPA is required. Barbara gives a basic outline:

1. The application is submitted
2. Once the application is decided to be complete, it is then determined by the county if the project is significant or not
3. The information then goes out for review to adjacent counties, state agencies and parties of interest
4. There is then a public comment period
5. Depending on the comments, the applicant may be denied or be asked to provide more information

Kristy brings up conditional use permit versus special use permits, asking if they are the same thing. Barbara says they are not because conditional use permits are only for shoreline work. The board discusses nuisance codes regarding smell and light. Currently there is not an adopted code for either within Mason County. Barbara states that some codes or recommendations can be embraced from state agencies and uses the current county noise ordinance as an example due to the fact that it was adopted from the Department of Ecology.

Steve asks Barbara if a special use permit would require a buffer of 250 feet or more. Barbara explains that there would not be a default buffer. The hearing examiner and the applicant's proposal would determine that. Bill inquires as to why the buffer is measured from the dwelling unit

instead of the property lines. Barbara answers, stating that was what the commissioners decided at the time the code was written. Bill states that may be something to revisit because most of the people with concerns aren't just worried about their homes, but their entire property. He believes that any buffer set up should be from the property line and not just the dwelling unit. The board continues discussing lot sizes and zoning. Barbara suggests a minimum of 10 acres and anything between 5-10 acres would require a special use permit. In discussing if outdoor growing would be allowed, Vicki brings up the issue of odor control. She reads WAC 173-40-00405, which gives clean air agencies the authority to regulate odors that "may unreasonably interfere with another property owners use or enjoyment of his property." It is suggested that the Mason County clean air agency gets involved with further enforcement of this area. Kristy proposes that any outdoor growing is only allowed on 10 acres or more, which brings up the question of whether or not greenhouses are considered outdoor or indoor growing. Michael Tucker speaks saying his greenhouses are currently considered outdoor. He says his greenhouses are actual structures with cement slabs and are hooked to the septic. Michael brings up the subject of lighting and suggested the motorized black out curtains.

Vicki asks for a recap and Kristy states that any outdoor growing proposal between 5-10 acres will require a special use permit, and indoor growing can be done on 5 acres or more. Rob makes a motion to change the setback requirements to 150 feet from the property line to the grow operation. All in favor except Steve. The next motion brought forward is in regards to the minimum acreage. Bill says there needs to be a minimum of 5 acres for production and processing, and outdoor grow operations under 10 acres will require a special use permit. Kristy motions and Steve seconds. Vicki clarifies and recaps that the 5-acre minimum is for indoor operation and the special use permit would only be required for outdoor operations. She then says she is in favor of the motion at this time but that it may need to be revisited. Bill suggests that anything less than 10 acres should only be a Tier I. Barbara asks if there will be separate zoning codes for producers versus processors. The board agrees that at this time it is not necessary. Vicki then reads the WAC outlining what a producer can do with a state processor license:

A marijuana producer license allows the licensee to produce, harvest, trim, dry, cure and package marijuana into lots for sale at wholesale to marijuana processor licensees.

Bill discusses the issue of grandfathering or transferring land to another person. He reiterated that a license cannot be transferred and also that if someone wants to purchase that land, they will have to get a license of their own through the state. He brings up the issue of zoning saying that if someone wants to buy that land for that use after the zoning changed, the new person would not be able to get his or her license. Barbara states that they would in fact be able to and would be considered legal non-conforming and could continue that business there unless otherwise noted. Vicki asked if any of the acreage requirements would also pertain to other zoning types such as in holding land. Kristy mentioned that the only zoning type covered at the meeting was Rural Residential. Bill asks if Barbara could explain in holding land to everyone. She discussed that they are a special class, and at this time was not sure if the parcel had to be a minimum acreage to be considered in holding, or if the parcel just had to be surrounded by long term commercial forest. It was suggested by Bill to speak to Michael MacSems regarding in holding land.

6. Adjournment

At 10:22 PM Bill moved to adjourn. None oppose.