

# Mason County Planning Advisory Commission

August 18<sup>th</sup> 2014

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

---

## 1) Call To Order

Kristy Buck called the meeting to order at 6:07pm. She explained the PAC would not have a quorum for the meeting due to excused absences and Bill Dewey's expired term.

## 2) Roll Call

**Members Present:** Vicki Wilson, Kristy Buck, Rob Drexler and Bill Dewey (expired) **Excused:** Tim Duffy, Steve Van Denver

**Staff Present:** Barbara Adkins

## 3) Regular Business

- I. Adoption of Agenda
- II. Approval of Minutes

*-Consider amendments to Title 17 of the Mason County Code adding section 17.90 establishing a Multi-Family Housing Tax Incentive Program under the authority of Chapter 84.14 RCW.*

*-Requesting that one 26.80 acre parcel, currently designated as rural residential 20 (1 dwelling unit per 20 acres), be rezoned as Rural residential 10 (1 dwelling unit per 10 acres)*

Kristy explained that the two public hearings would be continued on September 29<sup>th</sup>, 2014. The PAC was in agreement. The adoption of the agenda and the approval of the minutes could not be done either with no quorum. Kristy stated the PAC would continue on with the Workshop on the Repeal of Recreational Marijuana Moratorium and listen to any public comment.

## 4) Public Meeting

Barbara explained this workshop came as a result of the Commissioners repealing the moratorium of recreational marijuana, which in turn sent everything back to the way it was originally adopted. The Commissioners have given direction to the PAC on items they would like them to discuss. These include:

- a) Increasing buffers between operations and neighboring residential dwelling units from 100 feet to 250 feet.
- b) Limiting Rural Residential 5 districts to allow Tier 1 level operations only.
- c) Limiting Tier 2 and Tier 3 level operations in Rural Residential districts to a minimum of ten acres.

In addition to those it was suggested during regular briefings that there might be some way to limit the allowance of producers and processors in the residential areas based on housing densities of the adjacent properties. Barbara expressed that the forth option would be difficult to accomplish and would take extra staff time to make the determination. Barbara encouraged the public to attend the Public Hearing on September 15<sup>th</sup>, 2014 that way the comments would become official public testimony.

Don Easton came forward and voiced his concerns, Aesthetics: Don's property looks directly down into the production and processing facility. The fencing, building, lighting and personnel are not obstructed from his view. But the buildings and infrastructure do not present themselves in a pleasant manor. Noise: the facility rests within a section of rural neighborhood that is similar to an amphitheater. Residents can hear vehicles pulling into driveways, closing doors and most of the time people carrying on conversation. Lighting: Security lighting for the facility will be visible from neighboring properties, which will reflect into homes. Security: Don's property has a large section of forested area to the north that traverses parallel to his property, the marijuana grow and production property, and other neighbors' property. Lynch Road is to the north of the property and Sells Drive is located on the east and west side, connecting to Lynch Road. Anyone wishing to enter the production property through the forested area would have hidden access to the property, and paved roads for quick exiting. Transient Traffic: The state has documented that marijuana grow operations attract individuals of questionable character that look for ways to obtain free product. These individuals would be in the neighborhood sizing up neighboring properties. Odor Mitigation: Marijuana is known as "skunk weed" Don is concerned the odor control measures either will not be put into place or will not work. Concerns for the county: lost tax revenue the money generated from production and processing of marijuana will not go to the county for services such as police, fire, roads and schools. Increase in service demands for law enforcement as well as increase wear and tear of roads from heavy trucks, equipment and personal vehicles traveling to the production and processing facility. Don also provided his insight of what some possible solutions could be.

- During plan review, require a bond of at least \$5 million dollars for all marijuana grow and/or production facilities. Call it a "Mitigation Bond" and have it in effect for 5-years. Residential construction has had similar bonds for new construction. They are referred to as "Completion Bonds". Funds from the Mitigation Bond would be used to pay for negative impact items that occur over the 5-year period of time. Should things such as property values decrease, foul production/processing, oyster beds that have become polluted by runoff, illegal activity that may have created demand for public services. This way there would be money for correcting the issues. Don mentioned a 5-person committee comprised of two reps from the production/processing business, two from the neighborhood and one from an outside source could regulate the bond. They would discuss any issues and concerns and the best way to correct them.

- Condition new developments for Mitigation Impacts-Developments that have a negative impact on public services can be directed to help offset the costs of their services.
- Don't allow production and processing operations within a 1000-foot circumference of a residence.
- Post projected development sites during permitting process.
- Require production and processing sites to be encompassed by tall trees, shrubs that will prevent viewing of business operations.
- Have outdoor operations with temporary structures for growing (hoop houses) be limited to the same floor area ration restrictions as other Tier 1, 2, and 3 operations.
- Place a decibel limit for noise emitting from the site.
- Any marijuana production, processing, cooking or sales business approved prior to the date of the proposed changes whose business fail; the new tenant wishing to occupy and run a new marijuana business shall meet the new requirements prior to permit approval.

Diane Edgin explained that Don Easton had already expressed many of the concerns that she had. Water usage and runoff are her major concerns. Diane felt the grow operations are an industrial operations and would have a big impact in residential areas. She added lastly there needs to be future guidance because this issue will not just go away.

Nicole Sells stated this is the law now and we need to find ways to accommodate the business as well as the citizens. She referred to various counties and different regulations that had been implemented. Multiple counties will not allow outdoor grow operations. Thurston County requires a Special Use Permit. Nicole expressed she would like to see Mason County require a SEPA when within close proximity to working beaches. As well as ventilation systems be required, there should be no odor! Cowlitz County requires I-502 businesses to alert the neighbors prior to any development. Nicole finished by stating there is a way for both to coincide there just has to be specific measures for this to happen.

Nick Sells referred back to previous Commissioners Meeting minutes. He stated that from what it sounded the BOCC were under the impression that Washington State would be regulating majority of things. In all actuality the state does little to no regulation. Majority of the time the State refers back to what the county has implemented. The three main points Nick would like to see implemented are increasing buffers possibly 350-400 ft, limit odor and environmental impact.

Tom Davis commented that if he could make this go away he would love to see that. Unfortunately that isn't an option, and everyone now needs to look forward with it as an economic venture. He referred to a 5-acre lot; many of the lots in the county are not conducive to a 250 ft buffer due to odd shapes. Tom is on board with the idea of 5 acre lots being restricted to Tier 1 operations do to the fact that they would all most likely be indoor grow operations. If it's inside you have the ability to control the odors as well as any runoff. Tom voiced an idea that a committee of some sort ran by people from the public could help review each new grow operation on a case-by-case basis.

Kathy Gerchak is the closest neighbor to Forbidden Farms located on Sells Dr. She stated that it's unclear why there has to be a 1000 ft buffer from schools, playgrounds, amusement parks and etc but there is no regard to a child's home where majority of their time is spent. She would like to see 1000ft setback from a residence as well. She would like to see the grow operations be required to obtain a Special Use Permit, which would allow each operation to be looked at case-by-case.

Allison Bowen, piggybacked the concerns of the speakers before her. Allison would like Rural Residential 5 be taken off the map for growing, production and processing options.

Jean Leonard felt the 4 points that the commissioners wanted the PAC to address were irrelevant because she would like to see it not be included in residential areas at all. Jean hoped to see these businesses be a viable, legal marketplace that way the black market would be run out of business. She felt strongly that a SEPA could be a valuable piece of information. Jean referred to some of the checklist items. She spoke aloud, would we need additional public services? Can the roads handle the traffic? In her opinion, everyone thought they were doing what was best but all questions have not been fully addressed. Jean felt the proponents were not forth coming with what there were doing. With the research Jean has done majority of the counties are not allowing the operations within residential areas and are requiring a Special Use Permit, which is a key element she would like to see in place. Alison Bowen would like to know what happened if the grow operation was in a neighborhood on a community well what measures would be taken. Barbara stated that issue would be one that Health Department would need to handle.

John Thompson commented that his business is putting in radio towers. He mentioned that when you come into a community there are tools used to fulfill obligations. SEPA, public notification and visual impact studies are done. Commonly this addressed issues that the public typically has.

Helen Thompson expressed that she would like the PAC to visit the site and see how the grow operation really appears as a "mini prison". Helen stressed that fact that grow operations do not belong anywhere near neighborhoods and wished there would have been notification to property owners in regards to the new business.

Edward Melillo is a pending producer/processor. He quoted a section from the WAC, which in his eyes spelled out all the fine details. He mentioned, if you were to see any type of runoff that would be a red flag and should be reported to the Liquor Control Board. Edward feels that property rights are being affected. He expressed if you restrict property rights so much, it is a taking of the 5<sup>th</sup> amendment. He also voiced concern regarding equal protection for cannabis growers and the fact that they should not be treated differently from other agricultural groups. Edward also commented that the law has already been established, and it becomes a big problem when you try and go back to undo things. Lastly he stated that this is a new revolution and there needs to be a happy medium somewhere where all parties could be in agreement.

Don Easton asked when the PAC's public hearing would be held; Barbara confirmed that it would take place on Monday September 15<sup>th</sup>, 2014.

Kathy Gerchak asked what type of revenue is the county currently receiving as the applicants go through the vesting process. Barbara explained that all fees collected by the county are fees for processing the documents. Kathy asked, "So there is no additional revenue?" Barbara answered, "That's correct".

Edward Melillo stated local people are being employed by the operations. He explained that he just paid \$7500.00 to local contractors to help complete his project. The money will trickle into the county eventually things are just so new.

Barbara conversed with the PAC. She asked them if there were any suggestions they had for her to look into before the hearing on the 15<sup>th</sup>. Rob Drexler said that he agreed with the public and grow operations should not be in neighborhoods. He hoped that there might be some way Barbara could come up with some sort of density overlay, and if density reached a particular number it would trigger a Special Use Permit or something to that nature. Vicki commented that she struggled with where a neighborhood begins and ends. She also commented that part of the RCW referenced annual license renewals, in which the county held weight on the decisions. Vicki expressed to the public to stay aware of that comment window.

Edward Melillo spoke up and mentioned the possible idea of a clause, if a grow business were to "belly up" it would no longer be allowed to reopen within that RR5 area. Vicki expressed the idea of separating the two and not lumping the production and processing together. She worked through ideas as in which categories this would fall under if separated, possibly agriculture? Diane Edgin interjected and stated that there is a huge difference between agriculture and horticulture under IRS terms; she would like the PAC to be mindful of that when putting regulations into play. Vicki asked why would IRS terms be relevant. Diane explained that horticulture referred to "hoop houses" and agriculture is out in the open.

Nicole Sells added that there was a document recently signed by Governor Inslee that stated Marijuana couldn't be categorized as agriculture. Barbara and Jean Leonard discussed how a hoop house should be recognized as a structure. Don Easton expressed to the PAC the opportunity to visit his property, which overlooks Forbidden Farms to get some perspective. Kathy Gerchak said, marijuana grow operations need to be classified on their own she feels they had no business being lumped with "farms" in general because you have to be of legal age to enter the property.

Bill Dewey asked, what would trigger a SEPA? Barbara stated, location and building size. Nick Sells asked if any pot farm had to go through the SEPA process? Barbara replied the county has adopted the State Laws on SEPA Requirements and SEPA Exemptions. The operation on Sells did not trigger a SEPA therefore one was not required. Off the top of her head, Barbara was unaware if any other sites triggered them. Most of the work done was remodeling, therefore more than likely one was not completed.

An unknown woman voiced her concerns of a 10 inch well casing that was put in on the property. Barbara explained that would be a question that would need to be addressed by Public Health.

Nicole Sells expressed her gratitude to the PAC for allowing the public to be heard. She stated she has received nothing but the run around between the State and the County in regards to information. Barbara added unfortunately at this time the County does not have a lot of answers to supply to the public. This issue faced at least 5 public hearings without much public comment. Vicki asked Barbara if there were any types of setback requirements. Barbara responded that the set back requirements would have been for the fences, as well as the 100ft setback from a residence. Vicki asked aloud if there were types of mandatory signage, Nicole commented that per the Liquor Control Board only one sign is required. Diane Edgin referred back to the comment regarding the well. Barbara again expressed that the well was handled by Public Health. Barbara will extend an invitation to that department in hopes that there will be a contact at the September 15<sup>th</sup> meeting to answer questions. The group discussed and decided that they would start fresh with the discussion on September 15<sup>th</sup> when all members were present, that way the PAC will have a full grasp of the topic.

An unknown male asked how was it possibly that none of the residences were made aware of the grow operation. Rob stated that the PAC held 2 public hearings regarding the regulations prior to the Board of County Commissioners holding their own 2-3 meetings. The discussions were all in general terms there were no specifics on locations at that point.

An Unknown woman interjected and asked if the shellfish industry have any input. Bill responded, it's a challenge everyone is still learning and everyone is trying to get it right. Bill referred back to one of the questions that he raised at deliberation "why allow in residential areas?" when collective gardens were on the table and marijuana was not legalized the Liquor Control Board did not have any set of regulations. In turn the PAC decided not to allow them in residential areas. Recently when the question came up again they were lead to believe regulations would be handled by the state.

Kristy asked if anyone knew if Forbidden Farms had received their permit from the state. Nicole Sells responded its pending due to not meeting the fence standards. Bill stated that looking back on discussions they had in the past there was no distinction between production and processing. As things emerged they have shown to be very different things. Bill asked Barbara if she could come forward with a proposal that separated production and processing. Kristy asked if the PAC had the ability to make a recommendation of that nature. Barbara responded of course but would also like the PAC to be sure to address the items the BOCC passed along to them. Vicki agreed with Bill's direction to split up the activities.

Jean Leonard asked the question could the state come in on their own and perform SEPA analysis? Barbara stated if there were to come in and want to perform a SEPA they would have to coordinate with the county. Unless it was there project and would be taking over.

Vicki commented that Ecology is beginning to pick up on these things. On the website they explain the permitting process and what items trigger different reporting.

Kristy asked what does the applicants initial meeting with the county entail. Barbara replied the first thing they would have to do is schedule a pre-application conference. They would come in meet with one representative from each department. From there they would receive information on the types of permits they will need. Kristy asked when does the glare, noise and smell aspect get addressed. Barbara clarified those items would be addressed within the SEPA process if one was triggered. Vicki commented that public policy needs to be in place that balances the interests of all. Bill wanted to complement all the public who attended. The comments were very constructive he stated.

The group discussed amongst themselves the ideas that came forward. Vicki asked what would happen if the PAC wanted to make this use require a Special Use Permit. Barbara replied that the code would need to be amended to make this one of the uses that would trigger a Special Use Permit and they would need to have a hearing before the examiner.

Nick sells commented if you rule out RR5 or made it very restrictive it would take care of majority of the issues. Only RR5 land can fit in the middle of a "neighborhood". Vicki referred to the rezone on the agenda for reference she stated she saw verbiage related to density. Could there be criteria like this applied to production and processing? Barbara commented she worried that the more complicated a process starts the more trouble it would be in the long run. The entire room openly discussed the issues regarding property values decreasing.

## **5) Adjournment**

Kristy made a motion to adjourn it was 2<sup>nd</sup> by Vicki all were in agreement.