
Walla Walla Joint Community Development Agency

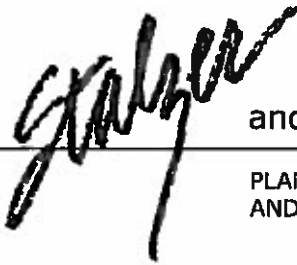
55 E. Moore Street, Walla Walla, WA 99362 / 509.524.4710 Main

WALLA WALLA COUNTY PLANNING COMMISSION AGENDA

Meeting Location: Board of County Commissioners (BoCC) Meeting Room
County Public Health and Legislative Building
314 W Main Street, 2nd Floor

May 7, 2014
7:00 p.m.

- A. CALL TO ORDER
- B. ROLL CALL
- C. ESTABLISH A QUORUM
- D. CONFLICT OF INTEREST / APPEARANCE OF FAIRNESS
- E. APPROVAL OF MINUTES – April 2, 2014
- F. APPROVAL OF AGENDA
- G. STAFF UPDATE / DISCUSSION
 - 1. Review and discuss Recreational Marijuana Regulations as a result of I-502.
 - Follow-up on work items from April meeting
 - Update on status in other jurisdictions and legal situation
 - Discussion of preliminary staff recommendations
 - 2. Review the submitted the 2014 Comprehensive Plan and Development Regulations Amendment applications.
 - P14-010 – A Zoning Code Text Amendment from Bernardo Lopez to allow art production facilities in the Rural Residential zone.
 - P14-056 – A Zoning Code Text Amendment from Bernardo Lopez to establish a definition and the front property line for flag lots.
 - P14-058 – A Zoning Code Text Amendment from the Port of Walla Walla to amend the Light Industrial zoning district by allowing a wider range of uses and to eliminate size limitations.
- H. NEW BUSINESS
- I. ADJOURNMENT



and Associates

PLANNING, LAND USE
AND DEVELOPMENT SERVICES

Memorandum

Date: May 1, 2014
To: Walla Walla County Planning Commission
From: Bill Stalzer, county planning consultant
Cc: Jesse Nolte, Deputy Prosecuting Attorney, Jon Maland and Steve Donovan, Walla Walla Joint Community Development Agency
Re: Workshop on Recreational Marijuana Regulations Recommendations

The purpose of the workshop this month is to consider the recommendations in this memorandum and decide on proposed amendments to county development regulations for the implementation of Initiative 502 that will be the subject of a public hearing on the preliminary docket in June.

Background

Summary of Washington State Liquor Control Board Recreational Marijuana Facilities in Walla Walla County

- The WSLCB has allocated 2 retail "at large" sales locations to the county
- The number of recreational marijuana production and processing facilities is not limited by the WSLCB
- The WSLCB has received the following number of applications for recreational marijuana facilities in Walla Walla County:

Producers: 20

Processors: 21

Retail Sales: 9

According to the WSLCB website, all applications are pending.

The City of Walla Walla has allowed marijuana uses within certain districts by an interim zoning ordinance. The City of College Place has a moratorium in place for marijuana uses.

April Planning Commission Workshop

At the April Planning Commission workshop meeting, in addition to my presentation, Sheriff Turner presented remarks about the law enforcement implications of Initiative 502 to the County Sheriff's Office, the primary ones of which were:

- Marijuana facilities will lead to increased demands on the County Sheriff's staff
- There is not enough experience with legalized recreational marijuana to determine the most effective measures to prevent or reduce crime
- Given the size of the county, it is preferable to locate marijuana facilities to avoid long response times
- Outdoor production facilities would present more potential demands on law enforcement than would indoor facilities

Jesse Nolte presented a brief overview of the legal environment, the conclusion of which was that none of the legal issues have been resolved definitively to this point.

After the presentations and discussion among commission members, it was the sense of the commission that recreational marijuana production, processing and sale facilities should be limited in size and located only in buildings in the heavy industrial zones in the county near the central, populated urban areas.

Public Comments

Comments have been received from two citizens:

1. Emails containing numerous articles and internet postings highlighting the various issues that have arisen since Colorado legalized marijuana.
2. Written comment sheet expressing concern about the law enforcement costs to the county.

Recommendations

After conducting additional research into the number and location of heavy industrial zones, ownership patterns within the zones, and county code development standards, the following amendments to the county zoning code are proposed:

1. Expand the zones in which marijuana facilities would be allowed to include the Light Industrial zone.

Discussion:

There are four heavy industrial zones in the county, one of which may be infeasible for marijuana uses due to its small size and location near Mill Creek, and one of which is located in the Burbank urban growth area on property owned by the Port of Walla Walla. The two most feasible heavy industrial areas are located in the county and adjacent to the Walla Walla city limits, but having only two areas available poses the potential for the concentration of recreational marijuana facilities in just a few ownerships.

There are five light industrial zones in the county, one of which is entirely within the WSLCB 1,000 foot restricted area. Of the four remaining areas, two small and medium sized areas are located entirely within the county; one large area is located in the county and adjacent to the Walla Walla city limits; and a second large area is located in the county and adjacent to the College Place city limits. Adding the light industrial zone as a zone allowing marijuana facilities could reduce the potential for concentrating all marijuana facilities in a few ownerships without greatly expanding the number of potential locations for marijuana facilities.

The purposes of the light industrial zone are consistent with the small-scale limitation desired by the Planning Commission and the concern over impacts (See Attachment 1 with proposed amendment).

The types of buildings, security measures, and impacts of the kinds of uses allowed in the two industrial zones differ only in scale.

"Growing of crops" and "storage/packing of agricultural products" uses currently are allowed in the light industrial as well as in the heavy industrial zone. Only the third marijuana related use--processing-- is allowed only in the heavy industrial zone (See Attachment 2 for the definitions of relevant uses.)

2. Allow marijuana production and storage/packing in the heavy industrial and light industrial zones under specific conditions.

Discussion:

Consistent with the WSLCB rules and the direction of the Planning Commission, marijuana production would be allowed only in a secure indoor facility. To minimize the impact of the facilities on surrounding uses, they would be limited to the smallest category of production facilities (Tier 1) allowed by the WSLCB rules.

Storage/packing facilities would be allowed only in a secure indoor facility. The size of storage/packing facilities in the Light Industrial zone is currently limited to 30,000 square feet (WWCC 17.16.014.D.4).

3. Allow marijuana processing facilities only in the heavy industrial zone under specific conditions.

Discussion:

Consistent with the WSLCB rules and the direction of the Planning Commission, marijuana processing would be allowed only in a secure indoor facility.

4. Allow recreational marijuana retail sales in the heavy and light industrial zones under specific conditions.

Discussion:

Neither the heavy industrial zone nor the light industrial zone allow miscellaneous retail sales, of which recreational marijuana sales would be one. Because of the high security measures required for marijuana retail stores, including extensive outdoor lighting, they would have a physical appearance similar to the buildings and sites in both industrial zones. Additionally, heavy and light industrial zones are located in areas appropriate for uses that have impacts on the surrounding areas similar to those anticipated with recreational marijuana retail sales facilities.

5. Allow recreational marijuana production, processing, and retail facilities only as conditional uses.

Discussion:

Because the production, processing, and retail sale of recreational marijuana are unique uses that have a number of impacts on properties in the area, these uses should require a conditional use permit. Marijuana uses are examples of the types of uses for which a conditional use permit is designed (see Attachment 3). To provide ample notification and opportunity for public comment, the process should require a public hearing (Type 3 process).

6. Review the Establishment of Uses Section of the County Code.

Discussion:

After the Planning Commission meeting in April, a Code Provision in the Walla Walla County Code was found that would need to be changed if recreational marijuana uses are to be allowed. That Section reads:

17.16.010 Establishment of uses.

The use of a property is defined by the activity for which the building or lot is intended, designed, arranged, occupied or maintained. All applicable requirements of this code, or other applicable state or federal requirements, shall govern a use located in unincorporated Walla Walla County. (Ord. 269 (part), 2002; Ord. 312 (part), 2005; Ord. 343 §§ 1, 2, 2007)

Whether or not this section should be changed would be part of the recommendation to the Board of County Commissioners. Alternatively, it could be possible to make the zoning changes described above, with a specific reference to Section 17.16.010.

Consistency with "Principles for Recreational Marijuana Regulations":

The above recommendations are consistent with the following "Principles for Recreational Marijuana Regulations" (see Attachment 4):

Rural and Resource Areas are Protected

No marijuana facilities will be allowed on rural and resource areas.

Rural Activity Centers are Protected

No marijuana facilities will be allowed in rural activity centers.

Residential Urban Growth Areas are Protected

No marijuana facilities will be allowed in urban growth areas zoned for residential use.

Adjacent City, State and County Uses are Protected

The location of the heavy and light industrial zones, the special development conditions for marijuana uses, and the conditional use public hearing process provide assurance that adjacent city uses are protected.

Security Measures are Required

The WSLCB regulations require extensive security measures for all three types of recreational marijuana uses: production, processing and retail sale. No additional county code security measures are necessary.

Regulations are Specific

Specific conditions have been included in the development standards and all three types of uses must meet the specific criteria for conditional uses.

Administration and Law Enforcement Should Not be Negatively Impacted

To minimize the impact on law enforcement services, all marijuana facilities will be located near the central, populated urban areas where the offices of the County Sheriff are located.

The Process should meet County Code Requirements and Include Public Participation

The Planning Commission conducted three public workshop meetings at which the opportunity for public comment was offered and written comments were accepted. Additionally public comments were received on the county's and WWJCDA's websites. Finally, the amendment process followed the procedures for amending the county code in WWCC 14.xxxx.

Recommendations Conform to Applicable Laws and Federal Law Enforcement Priorities

The requirement that all marijuana uses shall be conditional uses that require a public hearing and the imposition of special conditions in the development regulations are measures intended to comply with the following federal priorities to the extent that county development regulations can affect them:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property

Table of Proposed Amendments to the Table of Permitted Uses (WWCC 17.16.014)

Attachment 5 is a summary Table of Permitted Uses for the production, processing and retail sale of recreational marijuana incorporating the above recommendations.

Enclosures:

Attachment 1 Walla Walla County Code Chapter 17.12.040 Proposed Establishment of districts

Attachment 2 Walla Walla County Code Chapter 17.08 Definitions applicable to the production, processing, and retail sale of recreational marijuana

Attachment 3 Walla Walla County Code Chapter 17.40 Conditional Uses Purpose and Permit Decision Criteria

Attachment 4 Walla Walla County Principles for Recreational Marijuana Regulations

Attachment 5 Walla Walla County Code Chapter 17.16.014 Summary Table of Proposed Permitted Uses applicable to the production, processing and sale of recreational marijuana

Walla Walla County Code
Chapter 17.12.040
Proposed Establishment of districts—Designated—General purposes.
Applicable to the production, processing, and retail sale of marijuana

Heavy Industrial District. This district is primarily for manufacturing, processing, fabrication and assembling of products or materials, warehousing and storage, and transportation facilities.

Light Industrial District. This district is ~~exclusively~~ primarily for limited assembly, fabrication, processing and service facilities involving small or portable machinery and regulated with regards to dissemination of atmosphere, pollutants, noise, vibration, odors and the creation of physical hazards to adjacent uses.

**Walla Walla County Code
Chapter 17.08**

Definitions applicable to the production, processing, and retail sale of recreational marijuana

Food and Kindred Products (Industrial/Manufacturing Land Use)

Food and kindred products manufacture. "Food and kindred products manufacture" means establishments manufacturing or processing foods and beverages for human consumption, and certain related products, such as manufactured ice, chewing gum, vegetable oils, and prepared feeds for animals and fowls.

Growing of Crops (Resource Land Use)

Growing of crops. "Growing of Crops" means establishments primarily engaged in the production of crops, plants, vines, and trees (excluding forestry operations, retail nurseries, and commercial greenhouses); in the operation of sod farms; in the production of mushrooms, bulbs, flower seeds, vegetable seeds and seeds of field crops; and in the growing of hydroponic crops

Retail, Miscellaneous (Retail/Wholesale Land Use)

Retail, miscellaneous. "Retail, miscellaneous" means retail establishments not elsewhere classified, including, but not limited to, liquor stores, used merchandise stores, florists, news dealers and newsstands.

Storage/Packing Agricultural Produce (Industrial/Manufacturing Land Use): No definition

**Walla Walla County Code
Chapter 17.40
Conditional Uses
Purpose and Permit Decision Criteria**

17.40.010 Purpose.

It is the purpose of this chapter to establish decision criteria for those uses listed as conditional in the table of permitted uses (Section 17.16.014) and to specify the expiration date for approval of such uses. It is recognized that these uses which, because of their unique characteristics, cannot be properly addressed without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. (Ord. 269 (part), 2002)

17.40.020 Conditional use permit decision criteria.

A conditional use shall be approved, approved with conditions, or denied based on a determination:

- A. That the use will not endanger the public health or safety; and
- B. That the use will not generate significant nuisance conditions such as noise, dust, glare, vibration; and
- C. That the use meets all required conditions and standards set forth in the district where it proposes to locate;
and
- D. That the location and character of the use is compatible and consistent with the character of the area in which it is to be located; and
- E. That the use is in conformance with the comprehensive plan; and
- F. That the use will be supported by adequate public facilities or services. (Ord. 269 (part), 2002)

Walla Walla County Principles for Recreational Marijuana Regulations

The following project principles apply only to the land use regulation of recreational marijuana as permitted under the rules promulgated by the WSLCB in WAC 314-55. The planning commission shall provide a recommendation to the Board of County Commissioners that addresses the regulation of the production, processing, and retail sale of recreational marijuana and that meets all of the following principles. The recommendation should be consistent with the policies in the County Comprehensive Plan. The recommendation should also recognize that recreational marijuana facilities are a new, untested land use in the county and state, with uncertain potential impacts.

After reviewing the following principles, the Planning Commission should make a recommendation as to:

1. What zones recreational marijuana uses should be located in.
2. Whether additional regulations are necessary for recreational marijuana uses (i.e. Conditional Use Permits, use specific regulations, similar to the County's winery standards, etc), .

After receiving the Planning Commission's recommendation, the Board will review it, and also consider whether an outright ban, or prohibition on recreational marijuana land uses until the uses are allowed by Federal Law, is a preferred option to the options set forth above.

Rural and Resource Areas are Protected

Agricultural and rural uses define the character of Walla Walla County. Recreational marijuana production and processing facilities, if allowed, should not jeopardize the continuation of uses already allowed in agricultural and rural areas or the character of those areas. Retail sales facilities should not be allowed.

Rural Activity Centers are Protected

Rural activity centers are important small communities in the county. While limited in size, they contain a mix of residential, commercial, and industrial uses thereby providing a variety of functions for area residents that should be protected. Recreational marijuana facilities, if allowed, should not adversely impact the character of rural activity centers.

Residential Urban Growth Areas are Protected

Residential urban growth areas are zoned for urban-density residential uses to accommodate the planned population growth of the cities. Ensuring that these areas remain available for future urban residential uses is a requirement of both the comprehensive plan and the growth management Act. Recreational marijuana facilities are inconsistent with residential uses and should not be allowed in residential urban growth areas.

Adjacent City, State and County Uses are Protected

County, State and City lands that adjoin Walla Walla County lands contain a wide variety of uses. Recreational marijuana facilities, if allowed, should not adversely impact the continuation of existing uses on county or city lands adjacent to Walla Walla County lands.

Security Measures are Required

Security measures to protect both a property owner's investment and the general public should be required. Measures to prevent theft or the destruction of recreational marijuana facilities should be required.

Regulations are Specific

Recommended regulations should be specific enough that applicants, owners and the general public clearly understand what is expected for a production, processing, or retail sale facility to be allowed. Conditions, if imposed, should be easily understood and specific.

Administration and Law Enforcement Should Not be Negatively Impacted

Recommended regulations should be capable of being administered and enforced within the existing resources of the county. Public spending priorities for County services, including law enforcement, within

Attachment 3

Principles for Recreational Marijuana Regulations

rural areas are to maintain or upgrade services at rural level standards to existing, not new, development. Recreational marijuana facilities should not cause unmitigated impacts or otherwise encumber public services.

The Process should meet County Code Requirements and Include Public Participation

The process should be consistent with county code requirements for amendments to the comprehensive plan and development regulations, as applicable, and provide ample opportunity for public review and comment.

Recommendations Conform to Applicable Laws and Federal Law Enforcement Priorities

Recommendations must comply with WAC 314-55 and the following Federal law enforcement priorities in the August 29, 2013 U.S. Attorney memo:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property

Walla Walla County Code Chapter 17.16.014
Summary Table of Proposed Permitted Uses applicable to the production, processing and sale of recreational marijuana

	PA-40	EA-120	GA-20	AR-10	RR-40	RR-20	RA-10	RA-5	RRMC-5	RR-2	RR-5	RD-R	RD-CI	RFC	RAC	IA-M	IA-H	HI	LI	I/BP	NC	CG	BC	BR
Growing of Crops ¹	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Storage/Packing of Agricultural Produce ¹	P	P	P	P			P	P		P	P		P	P	P2	P	P	P	P	P				
Food and Kindred Products ²																P	P	P		P				
Retail, Misc ¹														AC	P1			P	P	P		P	P	

1. Marijuana production, storage/packing, and retail sale permitted only in the Heavy Industrial (HI) and Light Industrial (LI) zoning districts.
2. Marijuana processing permitted only in the Heavy Industrial (HI) zoning district.
3. Marijuana production permitted only within a fully enclosed secure indoor facility. The size of the indoor facility shall be limited to that necessary to produce up to one thousand four hundred square feet of plant canopy.
4. Marijuana storage/packing permitted only within a fully enclosed secure indoor facility.
5. Marijuana processing permitted only within a fully enclosed secure indoor facility.
6. Marijuana retail sales permitted only within a fully enclosed secure indoor facility.
7. Primary building not to exceed thirty thousand square feet per establishment

Industrial Uses Limits. Industrial uses shall be subject to the following conditions [WWCC 17.16.014.D.2]:

- a. The noise emanating from industrial activities shall be controlled so as not to become objectionable due to intermittent beat, frequency, volume and duration.
- b. Industrial and exterior lighting shall not produce glare on public highways and neighboring property. Arc welding, acetylene torch cutting or similar processes shall be screened from any point outside of the property.
- c. The storage and handling of inflammable liquids, liquefied petroleum gases, and explosives shall comply with rules and regulations of the state and other county regulations, the Uniform Building Code, and the Uniform Fire Code.
- d. Provisions shall be made for shielding or other preventive measures against electromagnetic interferences occasioned by mechanical, electrical and nuclear equipment, uses, or processes.
- e. The emission of odors shall be minimized and the emission of any toxic or corrosive fumes or gases shall be prohibited. Dust, smoke and other types of air pollution shall be minimized.
- f. Liquid and solid wastes, and storage of animal or vegetable waste which attracts insects or rodents or otherwise creates a health hazard shall be prohibited. No waste products shall be exposed to view from eye level from any property line in an industrial district.
- g. All storage shall be located within an area not closer than twenty feet from the street right-of-way line and shall be enclosed with a heavy wire fence or of a similar type, with the top of said fence not to be less than eight feet above the adjoining street level, or by an attractive hedge or board fence at least eight feet high. In the case of the open storage of lumber, coal, or other combustible material, a roadway shall be provided, graded, surfaced and maintained from the street to the rear of the property to permit access of fire trucks