

## CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

### Study Session Worksheet Updated 5-5-2014

**Presentation Date:** 5/6/14      **Approximate Start Time:** 3:30

**Approximate Length:** 30 minutes

**Presentation Title:** Planning and Zoning Division Annual Work Program

**Department:** Department of Transportation and Development, Planning and Zoning Division

**Presenters:** Mike McCallister, Planning Director  
Jennifer Hughes, Principal Planner

**Other Invitees:** Barb Cartmill, Deputy DTD Director  
Dan Chandler, Strategic Policy Administrator

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### WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Staff requests the Board to consider adoption of the Planning and Zoning Division's 2014-2015 Annual Work Program.

### EXECUTIVE SUMMARY:

Every year the Planning and Zoning Division develops an annual work program for the following year that includes projects that need to be focused on during that year. The approved work program only includes a list of "projects." It does not identify the division's routine programs and responsibilities, including processing land use applications, providing public service in the permits lobby, intergovernmental coordination, staffing for projects in other divisions and other day-to-day activities.

Once again, in 2014-15 an important piece of the work program will be the five-year audit of the Zoning and Development Ordinance (ZDO). In 2012, the Board approved a five-year audit of the ZDO to update, streamline and clarify the County's land use regulations. Next year (2014-2015) will mark the third year of the five-year audit.

Attached is the proposed Annual Work Program for 2014-15 as well as the five-year work plan for the ZDO audit (2012-2017) and a review of the 2013-2014 work program, A status update for each project is provided.

In response to requests from the public and/or Commissioners, the Planning and Zoning

Division is proposing four additional projects be added to the 2014-2015 work program and one project be deferred to the 2015-2016 work program.

**Kennels:** A resident has asked that we consider the definition of “kennels” in the ZDO. Currently the ZDO defines a “kennel” as: “Any lot or premises on which four or more dogs, more than six months of age or with permanent canine teeth, are kept for purposes other than a veterinary clinic.”

In 1999, the Board considered an interpretation of this definition in the ZDO. The Board interpreted the word “kennel” and, in context, the words “dog kennel” to mean “..premises on which four or more adult dogs are kept as a commercial operation, defined as for the primary purpose of obtaining a profit in money from the breeding, raising, boarding or sale of dogs.”

This interpretation has been difficult to administer because many dog owners may train, breed and sell dogs and claim to not make a “profit.” Under those circumstances, there is no limit on the number of dogs on a given property. Most complaints associated with dogs are related to barking. The 2014-2015 work program includes a review of all the rural residential zoning districts and other special use standards. Staff believes it is appropriate to review the definition of a “kennel” in the context of this work program.

**Medical Marijuana Facilities:** The Board recently adopted a one-year moratorium on the operation of medical marijuana facilities. During those proceedings, the Board discussed the establishment of a committee or working group to consider time, place and manner restrictions for medical marijuana facilities. These regulations should be in place prior to May 1, 2015 when the moratorium expires.

The medical marijuana landscape is dynamic at this time, with pending ballot measures, potential litigation and potential legislative action in 2015. Staff recommends further policy discussion with the Board in the fall of 2014 to consider time, place and manner restrictions. This will allow time to consider impacts from a ballot measure to authorize adult recreational use of marijuana, and to gather information and examples from other cities and counties considering time, place and manner restrictions.

**Signs, Urban Livestock and Trees:** Last year, during the review of the annual work program the Board raised concerns about electronic signs, pygmy goats in urban residential zones (livestock standards), and repeal of the development restriction that is a consequence of certain types of tree removal. As the code audit is currently structured, signs and livestock would be considered in the next fiscal year (2014-2015) and trees the following fiscal year (2015-2016). The benefit of waiting to review tree removal restrictions until the scheduled year is that the specific concerns would be evaluated as part of a comprehensive review and analysis of broader regulatory issues.

Each of these topics would be responsive to a concern raised by residents or Commissioners. Each has the potential to raise public concern in opposition, as well. It

is difficult to predict the additional staff time needed for each of these tasks, as it will depend on the level of public interest.

### **FINANCIAL IMPLICATIONS:**

The projects identified in the annual work program are included in the Planning and Zoning Division's 2014-2015 proposed budget. No new funding is anticipated and the projects are predicated on current staffing levels which may change during the budget year.

The amendments to the Zoning and Development Ordinance included in the annual work program are matters of public concern and participation, and include consideration by both the Planning Commission and the Board. Staff cannot predict the outcome of any proposed amendment package; however, at this point staff has not identified any increased costs to the public or to business that will result from the proposed projects

### **LEGAL/POLICY REQUIREMENTS:**

The adoption of the annual work program is not subject to any legal standards. All the projects identified in the work program will be processed under normal regulatory and public outreach protocols. Study sessions with the Planning Commission and Board will be requested where policy direction is needed to pursue each project. From a policy perspective, the Board can decide to amend the work program. Additions would require an analysis of the staffing and fiscal implications.

### **PUBLIC/GOVERNMENTAL PARTICIPATION:**

The audit and associated work program has been designed to be a comprehensive and orderly review of the ZDO. The response from the public, community groups and the business community has been quite positive. The Board of County Commissioners adopted the work program for the five-year ZDO audit in 2012. Prior to adoption, the Planning and Zoning Division conducted extensive outreach to CPO's, Hamlets and Villages, business and special interest groups, the Planning Commission and other interested parties. In 2013, the Board approved minor changes to the work program.

Since that time, information about the five-year audit has been the focus of two articles in *Citizen News* and is posted on the Planning & Zoning Division website. In the last six months information about the five-year audit has been presented to seven CPO's, the CPO Leaders, the Committee for Citizen Involvement (CCI), MAP-IT and MABA Committees, the Planning Commission, the Economic Development Commission, the Development Liaison Committee and the North Clackamas Chamber of Commerce.

Staff is planning to continue outreach throughout the process with presentations to and discussions with community and business groups, articles in County publications and on the website, and reports to County advisory groups and the Board of Commissioners.

**OPTIONS:**

1. Adopt the proposed 2014-2015 annual work program to include consideration of the definition of kennels, signs and urban livestock and consideration of time, place and manner restrictions for medical marijuana facilities.
2. Amend the proposed 2014-2015 annual work program to include a review of development restrictions for tree removal.
3. Direct staff to provide more formal opportunities for neighborhood groups, business organizations and other interested parties to comment on the 2014-2015 work program and the remainder of the five-year ZDO audit before taking final action on the recommended work program.

**RECOMMENDATION:**

Staff recommends Options 1 and 2: Based on the public outreach completed over the last two years and planned for the future, the Planning and Zoning Division respectfully requests the Board to approve the 2014-2015 work program, including the review of kennels, signs, and urban livestock and, beginning in fall 2014, consideration of "time, place and manner" restrictions for medical marijuana facilities.

If the Board finds that more formal public outreach is appropriate, staff will send out an official notice and provide an opportunity for CPO's, Hamlets and Villages, business organizations, County committees and other interested parties to comment on the 2014-2015 work program and five-year audit. Staff would then schedule a follow up study session to present comments received from the public and provide a final recommendation for Board action.

**ATTACHMENTS:**

- Planning and Zoning Division Five-Year Work Plan 2012-2017
- Planning and Zoning Division Annual Work Program 2013-2014
- Planning and Zoning Division Proposed Annual Work Program 2014-2015
- Letter from Paul Tabshy regarding Kennel Interpretation
- Board Order 99-177 Interpretation of Kennel

**SUBMITTED BY:**

Division Director/Head Approval   
Department Director/Head Approval   
County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact Mike McCallister @ 503-742-4522.

**Planning and Zoning Division Five-Year Work Plan**  
**2012-2017**  
**(Updated 4/28/14)**

| <b>PROJECT DESCRIPTION: Five-Year Audit of the Comprehensive Plan and ZDO</b> |                       |  |
|---|-----------------------|--|
| <b>ORIGIN SOURCE</b>  | <b>FUNDING SOURCE</b> | <b>PROJECT SUMMARY</b>   |
| <p>Planning and Zoning Division/Strategic Policy Administration</p>           | <p>General Fund</p>   | <p><u>2012/2013</u>: Establish a new numbering system for the Comprehensive Plan. Repeal/amend obsolete and conflicting provisions of the Comprehensive Plan. Update and standardize existing Comprehensive Plan maps. Develop tables of allowed uses in various classes of zoning districts. Consolidate, simplify and revise industrial zones. Complete annual housekeeping and natural resource zoning district updates.</p> <p><b>Status: Work on the Comprehensive Plan is ongoing and is being coordinated with the ZDO audit. The remaining tasks scheduled for 2012/2013 are complete.</b></p> <p><u>2013/2014</u>: Consolidate, simplify and revise urban commercial, mixed-use and residential zones. Evaluate and refine application processing standards. Complete annual housekeeping and natural resource zoning district updates.</p> <p><b>Status: Planning Commission and Board of County Commissioners hearings are scheduled for June and July, 2014, to consider adoption of ZDO amendments to consolidate, simplify and revise urban commercial, mixed-use and residential zones and to evaluate and refine application processing standards. No annual housekeeping update was found to be needed this year. The annual natural resource zoning district updates are complete and took effect in March, 2014.</b></p> <p><u>2014/2015</u>: Consolidate, simplify and revise rural commercial and residential zones, development standards (excluding environmentally sensitive area and natural hazards standards) and special use standards. Consider adoption of a new commercial planned development ordinance or revision to existing related provisions. Review and amend the Parks standards in the Plan and ZDO, with emphasis on resolving conflicts between those standards and the North Clackamas Parks and Recreation District's master plan. Complete annual housekeeping and natural resource zoning district updates.</p> |

| <b>PROJECT DESCRIPTION: Five-Year Audit of the Comprehensive Plan and ZDO (continued)</b> |                |  |
|---|----------------|--|
| ORIGIN SOURCE   | FUNDING SOURCE | PROJECT SUMMARY  |
|   |                | <p><u>2015/2016</u>: Consolidate, simplify and revise environmentally sensitive area and natural hazards development standards and overlay zones. Complete annual housekeeping and natural resource zoning district updates.</p> <p><u>2016/2017</u>: Carry over from prior years. Final editing and organization. Review whether to include all of the County's discretionary development review provisions into the Zoning and Development Ordinance. Complete annual housekeeping and natural resource zoning district updates.</p> |

**Planning and Zoning Division Annual Work Program**  
**2013-2014**  
**(Updated 4/28/14)**

| <b>PROJECT DESCRIPTION: Phase Two of a Five-Year Audit of the Comprehensive Plan and Zoning and Development Ordinance</b> |                       |   |
|---|-----------------------|---|
| <b>ORIGIN SOURCE</b>  | <b>FUNDING SOURCE</b> | <b><u>PROJECT SUMMARY</u></b>   |
| Planning and Zoning Division  | General Fund          | <p>1. Consolidate, simplify and revise urban commercial, mixed-use and residential zones.</p> <p>2. Create a Table of Uses for each category of zoning district (i.e. commercial, residential)</p> <p>3. Review and revise as necessary development and dimensional standards.</p> <p>4. Evaluate and refine application processing standards.</p> <p>Required Action:</p> <p>Comprehensive Plan: Amend applicable policies.</p> <p>ZDO: Research, create tables of uses, amend text</p> <p><b>Status: Planning Commission and Board of County Commissioners hearings are scheduled for June and July, 2014, to consider adoption of ZDO amendments.</b></p> <p><b>Estimated Completion Date: August 2014</b></p> |
| <b>PROJECT DESCRIPTION: Annual Housekeeping Amendments to the ZDO</b>   |                       |   |
| <b>ORIGIN SOURCE</b>  | <b>FUNDING SOURCE</b> | <b>PROJECT SUMMARY</b>  |
| Planning and Zoning Division  | General Fund          | <p>Identify and complete priority housekeeping amendments to the ZDO.</p> <p>Required Action: ZDO text amendments.</p> <p><b>Status: Not undertaken due to lack of necessity. Many housekeeping amendments are occurring as part of the ZDO audit project.</b></p>  |

| <b>PROJECT DESCRIPTION: Natural Resource Zoning District Updates</b>                     |                       |  |
|--|-----------------------|--|
| <b>ORIGIN SOURCE</b>   | <b>FUNDING SOURCE</b> | <b>PROJECT SUMMARY</b>   |
| Planning and Zoning Division   | General Fund          | <p>Update Natural Resource Zoning Districts to incorporate new law adopted in 2013 legislative session and other housekeeping amendments.</p> <p>Required Action: ZDO Text Amendments.</p> <p><b>Status: Complete</b></p>  |
| <b>PROJECT DESCRIPTION: General Goal 5 Work (Environmental Regulations and Overlays)</b> |                       |  |
| <b>ORIGIN SOURCE</b>   | <b>FUNDING SOURCE</b> | <b>PROJECT SUMMARY</b>   |
| Planning and Zoning Division   | General Fund          | <p>Revisit Statewide Planning Goal 5 and related environmental overlay zones to consider eliminating redundancies and ineffective standards and processes. Consider coordinating with Oregon Dept. of Forestry to regulate forest practices in stream and wetland buffers. Consider overhauling Open Space provisions in the Comprehensive Plan and ZDO.</p> <p>Required Action: Research and Coordination with Stakeholders</p> <p><b>Status: Minor amendments to Goal 5 ZDO provisions were completed last fiscal year and additional minor amendments will be proposed as part of this year's ZDO audit, but the larger task is ongoing throughout the Five-Year Plan and ZDO Audit. May culminate in additional proposed text amendments.</b></p> <p><b>Estimated Completion Date: Ongoing through Five-Year Plan and ZDO Audit.</b></p> |



**PROJECT DESCRIPTION: Adopt Mass Gathering and Event Code**

| ORIGIN SOURCE                | FUNDING SOURCE | PROJECT SUMMARY  |
|------------------------------|----------------|--|
| Planning and Zoning Division | General Fund   | Adopt a new code to address outdoor mass gatherings and events.<br><br>Required Action: Amendment to Clackamas County Code<br><br><b>Status: Tabled by the Board</b> |

**Planning and Zoning Division Annual Work Program**  
**2014-2015**  
**(Updated 4/28/14)**

| <b>PROJECT DESCRIPTION: Phase Three of a Five-Year Audit of the Comprehensive Plan and Zoning and Development Ordinance</b> |                       |  |
|---|-----------------------|--|
| <b>ORIGIN SOURCE</b>  | <b>FUNDING SOURCE</b> | <b><u>PROJECT SUMMARY</u></b>  |
| Planning and Zoning Division  | General Fund          | <ol style="list-style-type: none"> <li>1. Consolidate, simplify and revise rural commercial and residential zones.</li> <li>2. Create a Table of Uses for each category of zoning district (i.e. commercial, residential)</li> <li>3. Review and revise as necessary zone-specific development and dimensional standards.</li> <li>4. Consolidate, simplify and revise general development standards (excluding environmentally sensitive area and natural hazards standards) and special use standards.</li> <li>5. Consider adoption of a new commercial planned development ordinance or revision to existing related provisions.</li> <li>6. Review and amend the Parks standards in the Plan and ZDO, with emphasis on resolving conflicts between those standards and the North Clackamas Parks and Recreation District's master plan.</li> </ol> <p>Required Action:</p> <p>Comprehensive Plan: Amend applicable policies.</p> <p>ZDO: Research, create tables of uses, amend text</p> <p><b>Estimated Completion Date: June 2015</b></p> |

| <b>PROJECT DESCRIPTION: Annual Housekeeping Amendments to the ZDO</b>                    |                       |   |
|--|-----------------------|---|
| <b>ORIGIN SOURCE</b>   | <b>FUNDING SOURCE</b> | <b>PROJECT SUMMARY</b>  |
| Planning and Zoning Division   | General Fund          | <p>Identify and complete priority housekeeping amendments to the ZDO, if needed.</p> <p>Required Action: ZDO text amendments.</p> <p><b>Estimated Completion Date: June 2015</b></p>  |
| <b>PROJECT DESCRIPTION: Natural Resource Zoning District Updates</b>                     |                       |   |
| <b>ORIGIN SOURCE</b>   | <b>FUNDING SOURCE</b> | <b>PROJECT SUMMARY</b>  |
| Planning and Zoning Division   | General Fund          | <p>Update Natural Resource Zoning Districts to incorporate new law adopted in 2014 legislative session and other housekeeping amendments, if necessary.</p> <p>Required Action: ZDO Text Amendments:</p> <p><b>Estimated Completion Date: December 2014</b></p>   |
| <b>PROJECT DESCRIPTION: General Goal 5 Work (Environmental Regulations and Overlays)</b> |                       |   |
| <b>ORIGIN SOURCE</b>   | <b>FUNDING SOURCE</b> | <b>PROJECT SUMMARY</b>  |
| Planning and Zoning Division   | General Fund          | <p>Revisit Statewide Planning Goal 5 and related environmental overlay zones to consider eliminating redundancies and ineffective standards and processes. Consider coordinating with Oregon Dept. of Forestry to regulate forest practices in stream and wetland buffers. Consider overhauling Open Space provisions in the Comprehensive Plan and ZDO.</p> <p>Required Action: Research and Coordination with Stakeholders</p> <p><b>Estimated Completion Date: Ongoing through Five-Year Plan and ZDO Audit.</b></p> |

March 6, 2014

Paul Tabshy  
PO Box 1584  
Sandy OR 97055

MAR 11 2014

To: The Clackamas County Board of Commissioners

cc: Mike McCallister, Planning Director

RE: Board decision File # Z0520-98-1, May 1999

I formally request the Board of County Commissioners re-visit and vacate the interpretations imposed by this fifteen year old decision.

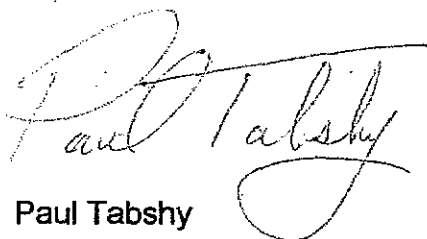
With this one order, the Board changed the accepted definition of what constitutes a commercial operation, redefined the meaning of a dog kennel and inappropriately changed the allowable uses within AG/forest zones.

There have been unforeseeable consequences as a direct result of the Board substituting its' own interpretations, not the least of which is the need for the Board to recently adopt a *continuous nuisance/barking dog ordinance*.

Clackamas County desperately needs a nuisance barking ordinance but that need is self-inflicted due to this fifteen year old decision.

In my particular case (in FF-10) there are 13 to 22 dogs kenneled on my west property line and another 12 dogs on the property to my east.....directly the result of an inappropriate decision made some fifteen years ago.

The Board should address this matter by abandoning these changes and stop trying to reinvent the dictionary.



Paul Tabshy

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Zoning and  
Development Ordinance  
Interpretation Request by  
Katheran Price

ORDER NO. 99-117

Applicant: Katheran Price  
File No.: Z0520-98-1

This matter coming before the Board of County Commissioners, and it appearing that Katheran Price made application for an interpretation of the Zoning and Development Ordinance relating to property described as T4S, R3E, Section 5, Tax Lot 601, located on S. Ridge Road; and

It further appearing that by Notice of Decision dated July 29, 1998, the Planning Director denied the requested interpretation; and

It further appearing that the Land Use Hearings Officer, in his October 14, 1998, Final Order, affirmed the Planning Director's decision and denied the requested interpretation; and

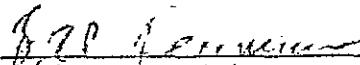
It further appearing an appeal was accepted by this Board, and after appropriate notice a public hearing was held before the Board in the Courthouse Annex at 906 Main Street, Oregon City, Oregon, on March 17, 1999, in which testimony and evidence were presented, and that a preliminary decision was made by the Board on April 21, 1999;

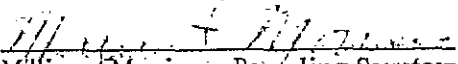
This Board makes the following interpretation:

1. The AG/Forest District (AG/F), in which the applicant's property is located, provides as one of its conditional uses "dog kennels" (ZDO 407.06(27)). ZDO 202 defines "kennel" as "any lot or premises on which four (4) or more dogs, more than six months of age or with permanent canine teeth, are kept for purposes other than a veterinary clinic."
2. This Board interprets "dog kennels", as used in ZDO 407.06, to mean premises on which four or more adult dogs are kept as a commercial operation, defined as for the primary purpose of obtaining a profit in money from the breeding, raising, boarding or sale of dogs. Therefore, more than three dogs may be kept on premises zoned Ag/F if they are not kept in conjunction with a commercial operation, subject to all other applicable laws and ordinances; the keeping of four or more dogs in conjunction with a commercial operation requires conditional use approval.

ADOPTED this 20th day of May, 1999.

BOARD OF COUNTY COMMISSIONERS

  
Bill Kennemer, Chair

  
Millicent Morrison, Recording Secretary