

February 10, 2016

Christopher. H. Foster  
15400 NW McNamee Rd.  
Portland, OR 97231

Joint Committee on Marijuana Legalization

Dear Chair and Committee Members,

I am writing you in my own behalf and as a member of the Multnomah County Planning Commission.

On February 8<sup>th</sup>, after work sessions and two lengthy hearings, we adopted a recommendation to be presented to the Multnomah County Board of County Commissioners implementing zoning code related to marijuana businesses. The hearings were well attended with over 200 citizens present at the February 1<sup>st</sup> hearing. Dozens testifying either orally or in writing. As farm use is an allowed use in likely 95% or more of our jurisdiction, the possibility of impact in some form or manner is widespread.

Safe to say, the majority present were opposed to the staff's recommendation that we not adopt local "reasonable" time, place or manner restrictions on exclusive farm use lands. Many citizens argued while in voting for Measure 91, H.B. 3400 delivered something much more in "right to farm" language. Section 33 of H.B. 3400 allows local adoption of reasonable restrictions only to be followed by section 34 that appears to take that ability away on lands governed by ORS 215. Proximity of schools (we have several that adjoin EFU lands) odor and noise without regard to setbacks were primary issues. Some of those testifying lived in densely populated urban neighborhoods adjoining EFU land. Production, commonly within industrial type buildings appeared to be the activity of most concern.

As you may be aware, Clackamas County took the lead in questioning the prevailing combined meaning of sections 33 and 34 of H.B. 3400 by adopting zoning regulations (significantly setbacks) on EFU lands. That ordinance is now past the appeal period, though likely still open to challenge upon application. After reconsidering, the Multnomah County Planning Commission is recommending to our Board similar restrictive EFU provisions. On that issue, and the overall package of zoning restrictions together, our planning commission was unanimous.

I would not characterize our planning commission action as one of defiance, but rather only providing a placeholder in sentiment on the hopes of getting some clarification or reaffirmation during this legislative session. The legal challenge path that might be ahead is one that benefits few. No doubt, we or the Board will adjust accordingly if we get prompt legislative clarification. State wide land use planning is held in high regard here.

In closing, I write not to engage the debate of whether or not the right to farm statute is appropriate in the case of marijuana. Such argument and testimony is already part of the record here. Regardless of the outcome of any further discussion on that issue, I only ask that you publicly reaffirm your original intention or make amendments in one of the remaining bills to clarify just what sections 33 and 34 of H.B.3400 in sum mean in the context of the right to farm statute.

Sincerely,

Christopher. H. Foster  
Multnomah County Planning Commissioner, rural resident & farmer.

