



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

April 21, 2017

The Honorable Ginny Burdick and Ann Lininger, Co-Chairs
Joint Committee on Marijuana Regulation
900 Court St. NE, S-407
Salem, Oregon 97301

Re: Deschutes County Marijuana Public Records

The purpose of this letter is to respond to testimony provided to this Committee on April 18, 2017 and to clarify statements made in the Board of County Commission's letter to this Committee on April 12, 2017 stating that the Community Development Department (CDD) does not make building plans available to the public for marijuana or any other buildings.

CDD protects building plans submitted to the **Building Safety Division as required by law**. Most local governments, Deschutes County included, consider building plans – typically prepared by an architect or engineer – to qualify as “trade secrets” and thus conditionally exempt from disclosure as per ORS 192.501(3). Additionally, and depending upon the level of detail, the building plans may be considered “security measures” and thus conditionally exempt from disclosure as per ORS 192.501(23). In this context, **plans submitted to the County's Building Safety Division are not available to the public.**

However, CDD's **Planning Division** staff does not independently review land use planning documents submitted by applicants and other interested persons for possible exemption status, but instead relies on the applicant and/or other interested persons to request non-disclosure of specifically identified documents. In such cases, planning staff, on advice from County Legal Counsel, ascertains if the requested non-disclosure is authorized by ORS 192 or some other applicable statute. The reason is that land use planning applications are a matter of public record because they provide the basis on which land use actions (ministerial) and decisions (discretionary) are made. The public has a right to the information relied on to make decisions. The Planning Division does not treat marijuana land use planning applications differently from any other commercial land use planning application.

The Planning Division does not make documents available to the public if applicants, businesses, or property owners identify the specific document(s) and request that same be exempt from public disclosure consistent with applicable ORS. On Wednesday, April 19, 2017, the Planning Division received a list of building floor plans available online for 10 marijuana land use planning applications provided to this Committee on April 18, 2017. Planning staff has contacted each of these property owners to ask if they want their building floor plans removed from the County's online property records consistent with ORS, and has removed the records upon request. Staff will also share the same public disclosure information with existing and future applicants.

Deschutes County is committed to being one of the most transparent local governments in Oregon and across the country. We have the best and most robust online property records system in the state. These are clearly values shared by the Governor's Office and Legislature as demonstrated by pending Public Records Reform Legislation, SB 41, which aims to make access to public documents faster, cheaper and subject to fewer exemptions.

Sincerely,

A handwritten signature in black ink that reads "Nick Lelack". The signature is written in a cursive style with a long horizontal stroke at the end.

Nick Lelack, AICP
Community Development Director