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To: Planning Commission Agenda of: August 8, 2013

From: Peter N. Maurer, Principal Planner Item No.: 10

Date: August 2, 2013

Subject: **OR13-0002 Medical Marijuana Outdoor Cultivation; Recommended Revisions**

Staff has provided a revised draft of the Outdoor Cultivation ordinance based on further review by the Sheriff, County Counsel, and Building Services, along with public comment received to date. The revisions are shown in underline and strikeout in the attached ordinance draft. Below is a brief summary of the recommended changes, identified by the subsection number in the draft ordinance:

- A. A purpose statement has been added. It was inadvertently left out in the previous draft.
- D.1 This section, which identifies the amount of area that may be cultivated, has been clarified so that more than 200 sq. ft. is permitted only if part of a collective cultivation.
- D.2 Any fence over 6' in height requires a building permit. Since marijuana plants can grow to well over 8' in height, the maximum fence height has been removed, but a statement that any fence must meet building and zoning code requirements has been added.
- D.4 The setback requirement has been clarified so that the prescribed setback is the minimum. This issue is one that will be discussed during the hearing, as several individuals have commented that it is either too great or too small, depending on their perspective. It is intended to limit growing on smaller lots in the county and provide some relief from odors. Public testimony will assist in establishing an appropriate limit.
- D.5 The residency requirement has been clarified with regard to collective cultivation.
- D.8 Disposal of waste material has been modified because even the stems and other parts of the plants that are not harvested are considered a controlled substance, and cannot be put into green waste recycling bins for collection. Burning will still be prohibited.

G.1, 2 & 4 The abatement provisions have been modified to be consistent with other provisions of the County Code and clarify the responsibilities of the land owner, cultivators, and enforcement personnel.

G.3 Specific reference to the Development Services Code Enforcement personnel has been removed. The Building Official has expressed concerns that any reference to County staff other than sworn law enforcement officers may require that other County staff would have to be involved in abatement proceedings for illegal marijuana cultivation. The intent of this provision is that in some cases there may be other code violations, such as electrical connections, hazardous waste, grading, or sewage disposal. The primary responsibility rests with the Sheriff, but other personnel may need to become involved if the violations go beyond their area of expertise.

H. A minor change has been made to the administrative relief/appeal provisions to clarify that the provisions apply to the whole ordinance, not just subsection D. Several people have commented that public notice should be provided to adjacent property owners. This is contained in H.2 and H.3. The referenced code section spells out the public notice requirements.

A few other grammatical and typographical errors have been corrected, along with minor formatting changes. Other issues raised by the public and comments by individual commission members are that the separation from youth oriented facilities requirements are vague and do not cover all possible facilities, that provisions need to be added to address odor complaints, pesticide drift restrictions should be enhanced, and the size of the cultivation area should be reduced. These will be among the topics that should be discussed in the public hearing.

Attachment:

Attachment 1.....Revised Draft Medical Marijuana Outdoor
Cultivation Ordinance (Section 17.14.260)