



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Steve Wills, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816 Fax 541-926-2060
www.co.linn.or.us

NOTICE OF PENDING LAND USE ACTION

The following request has been submitted for review by this Department. Any comments you wish to provide must be received by 5:00 p.m., July 19, 2024. All comments will be appreciated; however, Oregon law requires that written comments specify which application criteria apply to submitted testimony.

APPLICANT: Real Eve, LLC

LANDOWNER: Donald Lee and Loretta Jean Pearce

FILE NUMBER/TYPE OF REQUEST: PD24-0097; a site plan review to establish a recreational cannabis producer operation

PROPERTY LOCATION: The property is located at 31066 Cartney Dr, Harrisburg, located 2.55 miles north of the City of Harrisburg, and .67 miles west of Highway 99 East. (T14S, R04W, Section 35, Tax Lot 600)

PLAN DESIGNATION/ZONE DESIGNATION: Agricultural Resource / Exclusive Farm Use (EFU)

URBAN GROWTH AREA/PLANNING AREA: N/A

SUMMARY OF REQUEST: The applicant is requesting a site plan review to establish an indoor recreational cannabis production operation as a farm use under LCC 928.310(B)(1). The use requires a site plan review in accordance with standards found in LCC Chapter 940. The purpose of this notice is to solicit comments and input from surrounding property owners and affected agencies regarding the applicable decision criteria (attached) so the Department can make a final land use decision.

COMMENTS:

BY AGENCY (IF ANY) DATE

STAFF CONTACT PERSON: Alyssa Boles; (541)967-3816, ext.2360 or aboles@co.linn.or.us

Table with 4 columns: Linn County, State of Oregon, and Other. Rows include various departments like EHP, Parks, Assessor, GIS, Sheriff, Bldg Official, Roads, Surveyor, Flood Official, DEQ, DOGAMI, DSL, Water, ODFW, ODOT/OSHD, ODSF, DLCD, Parks, State Fire Marshal, School, Landowners, City Of, Other: OLCC, Dept. of Ag, RFD: Harrisburg.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

1. Oregon law [ORS 215.416(5)] requires that local governments make copies of applicable decision criteria available to any participant in a land use hearing. This application will be reviewed, and a decision made, using the decision criteria listed below.

Section 940.400 of the Linn County Land Development Code contains the standards specified for use with this application.

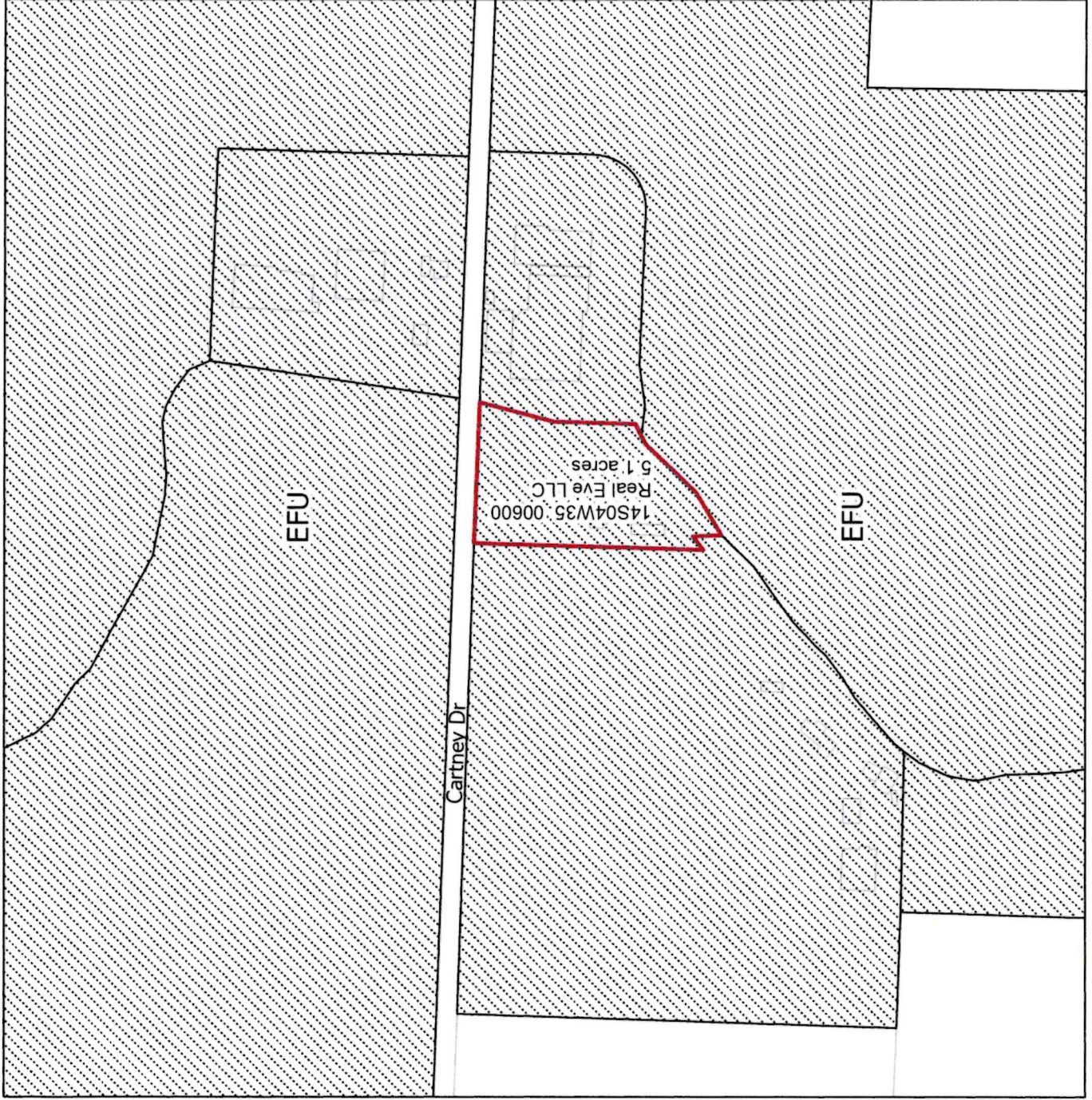
940.400 – Marijuana Production

- (A) Marijuana production is limited to the Agribusiness (AB), Freeway Interchange Commercial (FIC), Heavy Industrial (HI), Light Industrial (LI), Rural Commercial (RCM), Urban Development (UD-II), Exclusive Farm Use (EFU), Farm/Forest (F/F), and Forest Conservation Management (FCM) zoning districts and shall be subject to the following standards and criteria:
 - (1) Minimum lot size. For production in the EFU, F/F, and FCM zoning districts, the subject property shall be a minimum of two acres, except that if outdoor production is proposed, the subject property shall be a minimum of five acres.
 - (2) Setbacks. Outdoor production, as defined in LCC 920.100(B)(204), shall be a minimum of 100 feet from all property lines. Any structure used for indoor production, as defined in LCC 920.100(B)(147), shall comply with the structural setback standards of the underlying zone or be located a minimum of 100 feet from an existing dwelling that is not located on the same property as marijuana production use, whichever is greater.
 - (3) Access. The subject property shall have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. However, the easement standard will be waived if the property takes access via a private road or easement which also serves other properties and evidence is provided by the applicant, in the form of a petition, that all other property owners who have access rights to the private road or easement agree to allow the specific marijuana production described in the application. Such evidence shall include any conditions stipulated in the agreement.
 - (4) Lighting. Lighting shall be regulated as follows:
 - a) Light cast by light fixtures inside a building used for marijuana production shall not be visible outside the building between the hours of 7:00 p.m. to 7:00 a.m., except for the months of June, July and August, where light cast by light fixtures inside a building used for marijuana production shall not be visible outside the building between sunset and sunrise.
 - b) Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m., except for the months of June, July and August, where outdoor marijuana grow lights shall not be illuminated between sunset and sunrise.
 - c) Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject property.
 - (5) Odor. As used in this section, building means the building, or portion thereof, used for indoor production. This section does not apply to a building approved as part of outdoor production, as defined in LCC 920.100(B)(204).
 - a) The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.
 - b) The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 - c) The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every 365 days.
 - d) Negative air pressure shall be maintained inside the building.

- e) Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building.
 - f) The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with LCC 940.400(A)(5).
 - g) An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.
- (6) Noise. The applicant shall submit a noise study by an acoustic engineer licensed in the State of Oregon. The study shall demonstrate that generators as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control will not produce sound that, when measured at any property line of the subject property, exceeds 50 dB(A).
 - (7) Security Cameras. If security cameras are used, they shall be directed to record only the subject property and public right-of-way, except as required to comply with licensing requirements of the Oregon Liquor Control Commission (OLCC) or registration requirements of the Oregon Health Authority (OHA).
 - (8) Water. The applicant shall submit:
 - (a) A water right permit or certificate number for the proposed marijuana production;
 - (b) A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or
 - (c) Proof from the Oregon Water Resources Department that the water to be used for marijuana production is from a source that does not require a water right.
 - (9) Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant. Outdoor storage of marijuana waste is prohibited. Marijuana waste burning is prohibited.
 - (10) Fencing. Fencing, walls, or other barriers, as required by state law, shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc. Fencing shall not be electrified, use barbed wire, razor wire, concertina coils, anti-climb spikes or any other similar security feature designed to discourage ingress through the potential of causing bodily harm.
 - (11) Survey. Pursuant to OAR 845-025-1030(4)(c), a survey prepared by an Oregon licensed surveyor that accurately reflects the property lines of the subject property is required to be submitted as part of an application for outdoor marijuana production. The survey is required in order to ensure that the outdoor marijuana production operation is located entirely on the subject property and does not encroach onto adjacent properties.
 - (12) Marijuana production is subject to the size limitations found in OAR 845-025-2040.
 - (13) Marijuana production shall be subject to a Type IIA site plan review per LCC 921.080(B)(13).
2. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.
 3. Please note the deadline stated in the accompanying notice for submitting your written comments for decisions to be made by the Planning and Building Department.
 4. If a public hearing is scheduled before either the Planning Commission or the Board of County Commissioners, written and/or oral comments may be submitted either before and/or during that hearing. Please note the time and date of the hearing in the accompanying notice.
 5. A map(s) depicting the parcel under review and surrounding lands is attached to the notice.

6. A copy of the application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost. For applications scheduled for public hearing, a staff report will be available for inspection at the Department at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.
7. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 150-day time limitations of ORS 215.428.
8. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The decision maker shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the decision maker grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing.
 - (a) At the continued hearing, persons may present and rebut new evidence and testimony. If new written evidence is submitted, any person may request, prior to the close of the continued hearing that the record be left open for at least seven more days to submit additional written evidence or testimony to respond to the new written evidence.
 - (b) If the record is left open, it shall remain open for at least seven days. During the period the record was left open, any participant may file a written request with the local government for an opportunity to respond to new evidence submitted. If the record has been closed and such a request has been timely filed, the record shall be reopened. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. **If the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or decision criteria for the application.** Except when requested or agreed to by the applicant, the extension shall be subject to the 150-day limitations of ORS 215.428.
9. Appeals from Departmental decisions result in a hearing before the Planning Commission; appeals from Commission decisions result in a new hearing before the Board of County Commissioners.
10. Testimony or evidence previously submitted to the Commission must be **resubmitted** by the parties to the Board for the new hearing.
11. If this case is scheduled for a public hearing, the hearing will begin with a declaration of any ex parte contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision makers. This will be followed by the staff report from the planning department. Then the applicant will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision makers are free to ask questions of any person who has testified or of staff at any point during the hearing.

If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for resumption of the hearing and/or what limitations exist on further testimony or submittal of written materials. If a site visit is warranted, the chairperson will announce the time and date of such a visit. If the hearing and record are closed, the decision makers will begin deliberations and/or will announce the time, date and place when the decision will be made.



- Subject Property
- Notice Area
- Zoning Boundaries
- Taxlots

14S04W3500 00600
Real Eve LLC
31066 Cartney Dr
Harrisburg OR 97446
5.1 acres



1 inch = 450 feet

6/28/2024