



# City of Prineville

## DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

### STAFF REPORT

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**HEARING DATE:** July 21<sup>st</sup>, 2015

**PROJECT NUMBER:** AM-2015-102

**APPLICANT:** Charles Laughlin (Get Some Meds)  
3433 SE 97<sup>th</sup> Pl  
Everett WA 98208

**OWNER:** Terry Sofich

**PROJECT REVIEWER:** Joshua Smith  
Senior Planner

**APPLICABLE CRITERIA:**

(1) City of Prineville Code of Ordinances, Title XV – Chapter 153A

**FINDINGS OF FACT:**

1. **LOCATION:** The proposed Amendment is located at 1190 NW Lamonta Rd. Map and Tax lot 14-16-31DB 0600.
2. **ZONING:** The subject property is zoned Light Industrial (M1) and designated Heavy Industrial on the Comprehensive Plan Map.
3. **SITE DESCRIPTION:** The property has been previously used as an equipment rental business. There is a single structure onsite and some paved areas. The picture below is a 2014 aerial view.



AM-2015-102

MM Overlay Expansion

4. **PROPOSAL:** To expand the Medical Marijuana Overlay zone with no restrictions to the property described above, to allow the approval of a medical marijuana facility.
5. **LOT OF RECORD:** The property has been determined to be a legal lot based on deed and a recorded boundary line adjustment survey recorded June 16<sup>th</sup> 2004 (CS-2353).
6. **COMMENTS:** No comments from the neighboring properties were received at the time this report was written. Some agency comments were received with no concern.

**FINDINGS SUMMARY:** Staff finds that the property meets all of the criteria necessary to expand the MM overlay zone to this property. Staff also finds it is unnecessary to restrict the property to a specific medical marijuana use. A Type 1 conditional use approval as well as State approval shall be required prior to occupancy and use as a Medical Marijuana Facility.

**Criteria: 153A.002 – GENERAL PROVISIONS**

*All Medical Marijuana activities shall comply with the provisions of this chapter and Oregon State Law as may be amended from time to time. State laws regarding Medical Marijuana can be found in Oregon Revised Statutes 475.300 through 475.346.*

*Medical Marijuana activities may be allowed, subject to the Medical Marijuana Overlay zone adopted as part of this Chapter and the underlying zone criteria in Chapter 153 of the Code of Prineville. No growing, processing or dispensing of Medical Marijuana shall be located within the City unless the reviewing authority finds that it satisfies all the requirements of this Chapter and State law.*

**Finding 1:** This amendment is being processed concurrently with the use change application Cu-2015-102, which is contingent upon this amendment being approved. The overlay zone is a City created zone that may be changed by City Council without State approval. The use itself will require State approval to be submitted prior to occupancy.

**Criteria: 153A.004 – STANDARDS FOR MEDICAL MARIJUANA ACTIVITIES**

*The following standards are in addition to laws and regulations set forth by the State of Oregon.*

**A. License/Registration.**

1. *An applicant shall provide proof of being registered with the State in accordance with the Medical Marijuana Act as stated in ORS 475.300 – 475.346 as amended.*
2. *An applicant shall obtain a license from the City of Prineville as applicable.*

**B. Location.**

1. *A MMA shall be located within the approved MM overlay.*
2. *A MMA shall not be mobile.*
3. *A MMD shall not be located at the same address as a MMG.*
4. *A MMD shall not be located within 1000ft. of another MMD.*
5. *A MMA shall not be located:*
  - a. *Within 1,000 feet of the real property comprising a:*
    1. *Public or private preschool, elementary, secondary or career school attended primarily by minors; or,*
    2. *Licensed daycare center; or*
    3. *County Court House or City Hall; or,*
    4. *Public library; or,*
    5. *Public park; except industrially zoned properties above the rimrock*

**C. Operation.**

- 1. Marijuana plants and products shall not be visible to the public other than within the facility itself.*
- 2. Marijuana products shall not be sold through a drive through window.*
- 3. There shall be no burning of plant waste. Plant waste may be composted or disposed of at the County landfill with the County's approval.*

**Finding 2:** Licensing, operations and most of the location criteria will be part of the use change application. Only the location of the property is of concern when expanding the overlay. The property is not within 1000 feet of another Medical Marijuana Dispensary and the property is not within 1000 feet of real property as list above in section(B)(5)(a). City Staff finds that the location meets the location criteria in 153A.004.

**Criteria:**

***D. Overlay Zone.***

- 1. The adoption of this Chapter includes adoption of the MM Overlay zone map attached to this code.*
- 2. The MM overlay zone is in addition to any requirements of the underlying city zone and shall not be interpreted to supersede any city code or ordinance.*
- 3. Annexation of property within the Urban Growth Boundary (UGB) does not automatically include the property within the MM Overlay. As part of the annexation process the City Council with a recommendation from the Planning Commission shall make the determination on whether to include the property in the MM Overlay using the same criteria listed in 153A.004 (B) and D.4.*
- 4. Approval of additional area or areas within the MM Overlay other than through an annexation process requires a zone change which places the overlay upon a property. The Zone Change process shall be in accordance with this Chapter and requirements found in Chapter 153 of the Code of Prineville. Requests for additional areas within the MM Overlay is at the discretion of the City Council, based on the criteria above in section (B) and the following:*
  - a. Shall ensure the health, safety and welfare of minors. The intent is to minimize the exposure of marijuana to minors.*
  - b. Shall only be located within commercial or industrial zones.*
  - c. Shall not be located on a commercially or industrially zoned property whose property line is 100ft. from a residential zone or property line of a residential use.*
  - d. Access to the property shall not be primarily through a residential neighborhood except for arterial or major collector streets.*
  - e. Overlay areas may be restricted to a specific type of use such as solely a MMD or MMG.*

**Finding 3:** When expanding the MM overlay zone additional criteria other than the location criteria in 153A.004(B) shall be met. Expansion of the MM overlay is at the City Councils discretion based on the criteria in 153A.004(D) listed above. The property is within the UGB and has already been annexed into City limits. The property is within an industrial zone and is not within 100 feet of a residential zone or residential use and is not accessed primarily through a residential neighborhood. It is also the opinion of staff that this area is not frequented by minors as it is in an industrial area on an arterial street with no pedestrian facilities. Staff finds that the location meets the criteria above and should not be restricted to a specific type of medical marijuana use.

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MM Overlay Expansion

**Criteria: 153A.006 – APPLICATION PROCESS**

*A. Applications shall only be processed for properties within the City approved overlay zone.*

*B. Application shall be processed by the City's Planning Department.*

*C. Applications for Medical Marijuana Activities within the overlay zone shall be processed as a Type 1 conditional use as defined in Chapter 153. Application fees shall be consistent with the City's fee schedule for the type of application; such as a change of use or new construction.*

*D. Notice shall be given to owners of record of property within 200 feet of property that is subject of the notice as shown on the most recent property tax assessment rolls.*

*E. The underlying zone criteria shall govern the construction of any new structures within the overlay zone, however the use of that structure as an MMA shall also meet the criteria of this chapter. Applications for new construction and use may be combined into one application with the fee being the greater of the two.*

**Finding 4:** The Type 1 conditional use application (CU-2015-102) is being processed concurrently with this amendment. A decision on the change of use application will be made by the Planning Commission with a condition that makes the approval contingent upon City Councils approval of this application.

**RECOMMENDED CONDITIONS OF APPROVAL:** Based on the foregoing Findings and those conditions contained within, application AM-2015-102 for an expansion of the Medical Marijuana Overlay zone is hereby **recommended for approval** with the following conditions.

1. The applicant shall comply with all applicable requirements of Chapter 153A and the M1 zone, Crook County Building Code and relevant portions of the City of Prineville Code of Ordinances.

**PLEASE NOTE: IT IS VERY IMPORTANT THAT THE WORDING OF A MOTION FOR DECIDING ON A LAND USE APPLICATION BE STATED AS PROVIDED BELOW, PRIMARILY TO ENSURE THAT THE STAFF REPORT AND PUBLIC RECORD ARE INCORPORATED INTO THE DECISION AS PART OF THE FINDINGS OF FACT.**

**MOTION IN FAVOR**

*The Staff Report and record of tonight's proceedings are hereby incorporated as Findings of Fact in Favor of this Application. I Move that the application be **APPROVED**, subject to the Conditions of Approval as they have been finalized, and based upon the Findings of Fact in favor of the application.*

**MOTION IN OPPOSITION**

*The Staff Report and record of tonight's proceedings are hereby incorporated as Findings of Fact in Opposition to this Application. I Move that the request be **DENIED** based upon Findings of Fact in opposition to the application.*

Date this 15<sup>th</sup> day of July 2015

Written By:

  
Joshua Smith  
Senior Planner