

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



*Si necesita ayuda para comprender esta informacion, por favor llame
503-588-6173*

DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE CASE NO. CU16-14

APPLICATION NO. : 16-120592-ZO

NOTICE OF DECISION DATE: JANUARY 24, 2017

SUMMARY: Conversion of an existing medical marijuana grow site to a facility for production of recreational marijuana, a conditional use in the IC (Industrial Commercial) zone.

REQUEST: An application for Conditional Use to allow a marijuana production facility occupying a 10,790 square foot building on a property approximately 0.78 acres in size, zoned IC (Industrial Commercial), and located at 1610 and 1639 Commercial Street NE (Marion County Assessor's Map and Tax Lot Number: 073W15DD09000 and 9400).

APPLICANT: OG Leasing LLC (Alan Robert Elkins, Douglas Paul Elkins, Joel Steven Taylor, Russell Dyer, Holly Audette Cagle)

LOCATION: 1610 & 1639 Commercial Street NE

CRITERIA: Salem Revised Code Chapter 240

FINDINGS: The findings are in the attached Order.

DECISION: The Hearings Officer **APPROVED** Conditional Use Case No. CU16-14, subject to the following conditions of approval:

Condition 1: With the exception of off-street parking spaces provided pursuant to Condition 4 or otherwise consistent with the development standards set forth in SRC Chapter 806, all uses accessory to the marijuana production facility shall be conducted entirely on the subject property.

Condition 2: Marijuana production shall be conducted indoors.

Condition 3: The marijuana production facility shall utilize an air filtration system to ensure that odor impacts upon neighboring properties are minimized.

Condition 4: Provide a minimum of 0.75 off-street parking spaces per employee through one of the methods set forth in SRC 806.020.

The rights granted by the attached decision must be exercised, or an extension granted, by February 9, 2019 or this approval shall be null and void. A copy of the decision is attached.

Application Deemed Complete: December 22, 2016
Public Hearing Date: January 11, 2016
Notice of Decision Mailing Date: January 24, 2017
Decision Effective Date: February 9, 2017
State Mandate Date: April 21, 2017

Case Manager: Chris Green, cgreen@cityofsalem.net, 503.540.2326 *CSG*

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, **no later than 5:00 p.m., Wednesday, February 8, 2017.** Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section in SRC Chapter 240. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

THIS IS A REQUEST FOR A CONDITIONAL USE)	CU16-14
TO ALLOW A MARIJUANA PRODUCTION)	
FACILITY OCCUPYING A 10,790 SQUARE FOOT)	
BUILDING ON A PROPERTY APPROXIMATELY)	FINDINGS OF FACTS
0.78 ACRES IN SIZE, ZONED IC (INDUSTRIAL)	CONCLUSIONS AND
COMMERCIAL), AND LOCATED AT 1610)	DECISION
COMMERCIAL STREET NE (MARION COUNTY)	
ASSESSOR'S MAP AND TAX NUMBER:)	
073W15DD09400))	

DATE AND PLACE OF HEARING:

January 11, 2017, Salem City Council Chambers, 555 Liberty Street SE, Salem, Oregon.

APPEARANCES:

Staff: Christopher Green, Planner II, Sally Long, Recorder

Neighborhood Association: Grant Neighborhood Association,
Sam Skillern, Eric Bradfield, co-chairs
(Letters of January 6, 2017 and January 16, 2017)

Applicant/Proponents: Douglas Elkins for OG Leasing LLC
Michael Junge, Carlson Veit Architects PC

Support: Ken Lovegrove, Meredith Lovegrove

Opponents: None

SUMMARY OF THE APPLICATION AND HEARING

Conversion of an existing medical marijuana grow site to a facility for the production of recreational marijuana, a Conditional Use in the IC (Industrial Commercial) zone.

The applicant requests approval of a Conditional Use to allow a marijuana production facility occupying a 10,790 square foot building on a property approximately 0.78 acres in size, zoned IC (Industrial Commercial), and located at 1610 Commercial Street NE (Marion county Assessor's Map and Tax Lot Number:073W15DD09400).

The Hearing convened approximately 6:13 PM. The Hearings Officer received a letter from the Grant Neighborhood Association at the beginning of the meeting. The Hearings Officer noted

the request to continue the hearing until after February 2, 2017, to give the Neighborhood Association time to meet and discuss the application. The staff report was presented, and the applicant's representatives spoke in favor of the application, as did the owner of the property. The Hearings Officer asked staff and the applicant about the request for a continuance, and its effect on the parties. The applicant's representative explained the applicant's reluctance to continue the meeting. Mr. Lovegrove spoke about his property and experiences with tenants, the lack of neighborhood issues with the grow facility, and the capacity for parking on an adjacent property also owned by him. Ms. Lovegrove spoke about the correct spelling of her mother's name, which was noted in the minutes. Based on the letter from the Neighborhood Association, the Hearings Officer kept the record open for one additional week, until 5:00 PM, January 18, 2017. Within that time the Neighborhood Association provided a letter dated January 16, 2017, expressing the association's approval of the application, as conditioned, and appreciation for the applicant meeting with them in that time period.

FINDINGS OF FACTS AND CONCLUSIONS

Based on the staff report, testimony and correspondence, the Hearings Officer makes the following findings and conclusions:

1. Salem Area Comprehensive Plan (SACP) Designation

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Industrial Commercial." The subject property is within the Urban Growth Boundary and the Urban Service Area.

2. Zoning and Surrounding Land Uses

The subject property is zoned IC (Industrial Commercial). The existing building that would house the proposed recreational marijuana production facility is within the IC zone. The adjoining property to the east, Tax Lot 9000, is under common ownership, but zoned CG (General Commercial). Marijuana production is allowed as a conditional use in the IC zone, but not in the CG zone.

The zoning and use of surrounding properties is as follows:

North:	IC (Industrial Commercial); single family residence
East:	CG (General Commercial); parking lot
South:	(Across Norway Street NE) IC (Industrial Commercial); auto mechanic
West:	(Across Commercial Street NE) IG (General Industrial); paint manufacturer

3. Site Analysis

The subject property (Tax Lot 9400) consists of the westernmost of two adjoining lots that

are under common ownership. These lots span the entire frontage of Norway Street, which forms an east-west side street between NE between Commercial Street NE and Liberty Street NE. The adjacent portions of Commercial and Liberty Streets are both designated as major arterials and form a couplet that serves as State Highway 99E.

Both lots are nearly square and approximately 0.39 acres in size each. The footprint of the existing building proposed to contain the marijuana production facility covers the majority of the subject property. A covered loading area is available at the southeast corner of Tax Lot 9400, with access available from an existing driveway from Norway Street. The other lot under common ownership, Tax Lot 9000, is developed with a paved parking lot with 25 spaces. Unlike the facility site, Tax Lot 9000 is zoned CG (General Commercial), which does not allow marijuana production. The split zoning of the block extends to abutting properties to the north. Likewise, the Comprehensive Plan Map designates properties facing Commercial Street NE (such as Tax Lot 9400) as "Industrial Commercial" and properties facing Liberty Street NE (such as Tax Lot 9000) as "Commercial." This reflects a transition in land use patterns across the Commercial-Liberty couplet from properties to the west of Commercial Street designated "Industrial" and lands to the east of Liberty Street designated "Multifamily Residential."

4. Neighborhood and Citizen Comments

The subject property is located within the Grant Neighborhood Association. Notice was provided to the neighborhood association and surrounding property owners within 250 feet of the subject property and adjoining lot under common ownership.

As of the date of the staff report, no comments have been received from the Grant Neighborhood Association or surrounding property owners.

5. City Department and Public Agency Comments

The Public Works Department and Community Development Department, Building and Safety Division reviewed the proposal and identified no issues.

Portland General Electric (PGE) reviewed the proposal and indicated that development costs are determined by current tariff and service requirements and that a 10-foot public utility easement (PUE) is required on all front street lots. Staff notes that the request for the 10-foot PUE is typically applied in the case of platting new lots or other development activity, rather than review of conditional uses.

6. Analysis of Conditional Use Criteria SRC Chapter 240.005(a)(1) provides that:

No building, structure, or land shall be used or developed for any use which is designated as a conditional use in the UDC unless a conditional use permit has been granted pursuant to

this Chapter.

SRC Chapter 240.005(d) establishes the following approval criteria for a conditional use permit:

Criterion 1:

The proposed use is allowed as a conditional use in the zone.

The Hearings Officer finds that SRC Chapter 551, Table 551-1 provides that Marijuana Production is allowed in the IC (Industrial Commercial) zone with a conditional use permit.

The Hearings Officer notes that the site plan submitted by the applicant also shows the existing parking area on the abutting parcel to the east, Tax Lot 9000. Tax Lot 9000 is under common ownership with the subject property, and connected with the subject property through a network of pedestrian walkways. Unlike the subject property, Tax Lot 9000 is located in the CG (General Commercial) zone. Marijuana production is not a permitted or conditional use in the CG zone. Therefore, despite common ownership of the two adjoining lots, marijuana production and accessory activities must be confined to the subject property (Tax Lot 9400) only.

The Hearings Officer notes that Tax Lot 9000 is developed with a 25-space parking lot. Because there is no retail activity associated with the agricultural (marijuana production) use proposed for Tax Lot 9400, no minimum parking is required. The Hearings Officer finds that pursuant to SRC Chapter 523, Table 523-1, Commercial Parking is a permitted use in the CG zone.

The Hearings Officer notes that SRC 400.055(b) describes the characteristics of the "Commercial Parking" use as "parking facilities contained within structures or on surface lots, where such parking is not exclusively accessory to a specific use, or uses, on the same lot."

The Hearings Officer finds that with marijuana production activities limited to Tax Lot 9400, the existing parking area on Tax Lot 9000 could remain under lawful use as a standalone commercial parking facility. The Hearings Officer notes that Staff recommend a condition requiring the applicant to provide off-street parking based on the number of employees at the site. Parking spaces serving the marijuana production use could be provided within a delineated portion of a commercial parking lot on Tax Lot 9000, or elsewhere, as allowed under SRC 806.020.

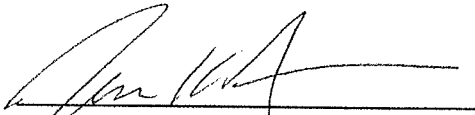
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DECISION

The Hearing Officer APPROVES the request for the conditional use for a recreational marijuana production facility for property located at 1610 Commercial Street NE, subject to the following conditions of approval:

- Condition 1: With the exception of off-street parking spaces provided as required by Condition 4, or otherwise consistent with the development standards set forth in SRC Chapter 806, all uses accessory to the marijuana production facility shall be conducted entirely on the subject property.
- Condition 2: Marijuana production shall be conducted indoors.
- Condition 3: The marijuana production facility shall utilize an air filtration system to ensure that odor impacts upon neighboring properties are minimized.
- Condition 4: A minimum of 0.75 off-street parking spaces per employee shall be provided through one of the methods set forth in SRC 806.020.

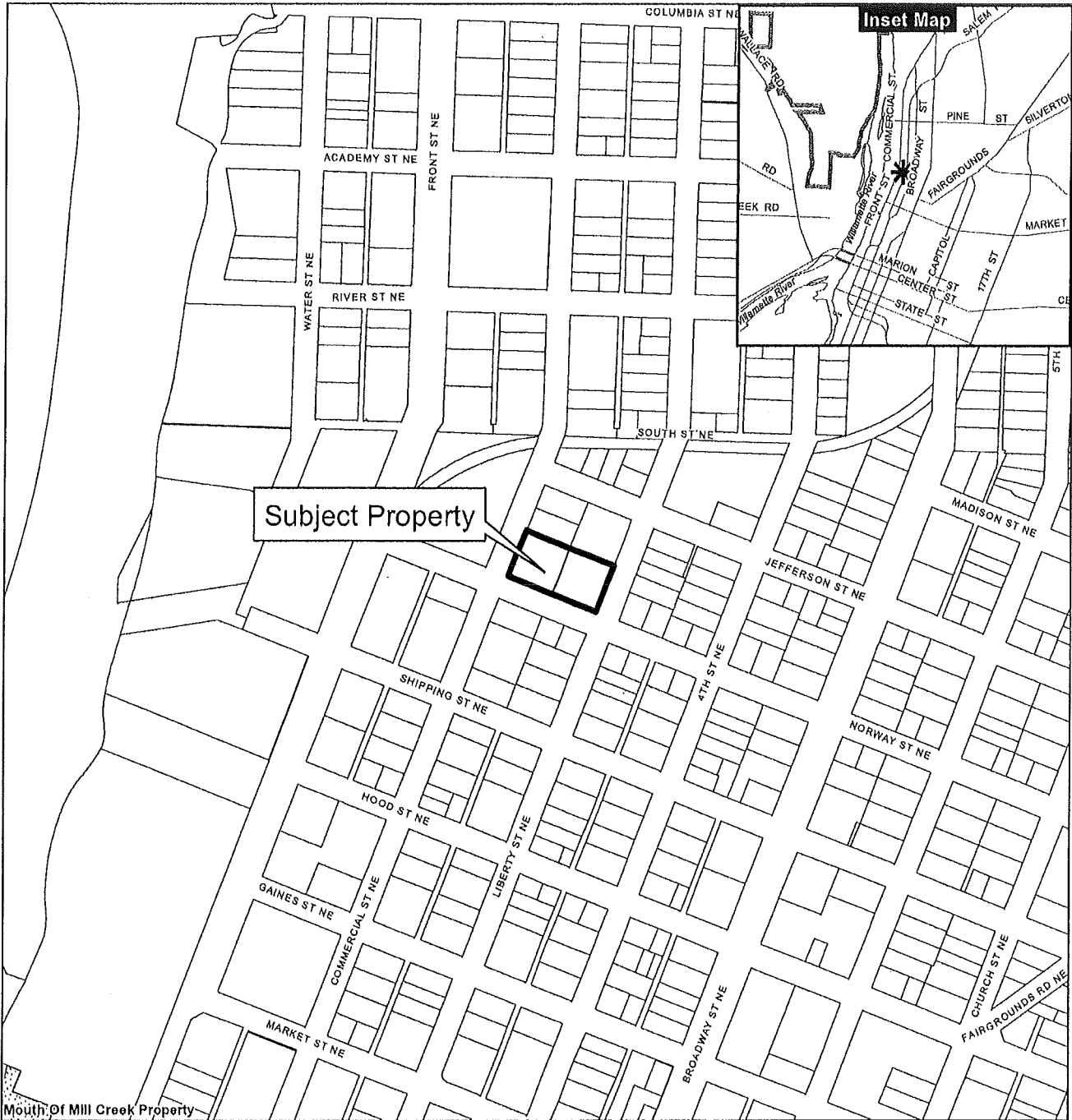
DATED: January 24, 2017.



James K. Brewer, Hearings Officer

Vicinity Map

1610 & 1639 Commercial Street NE



Legend

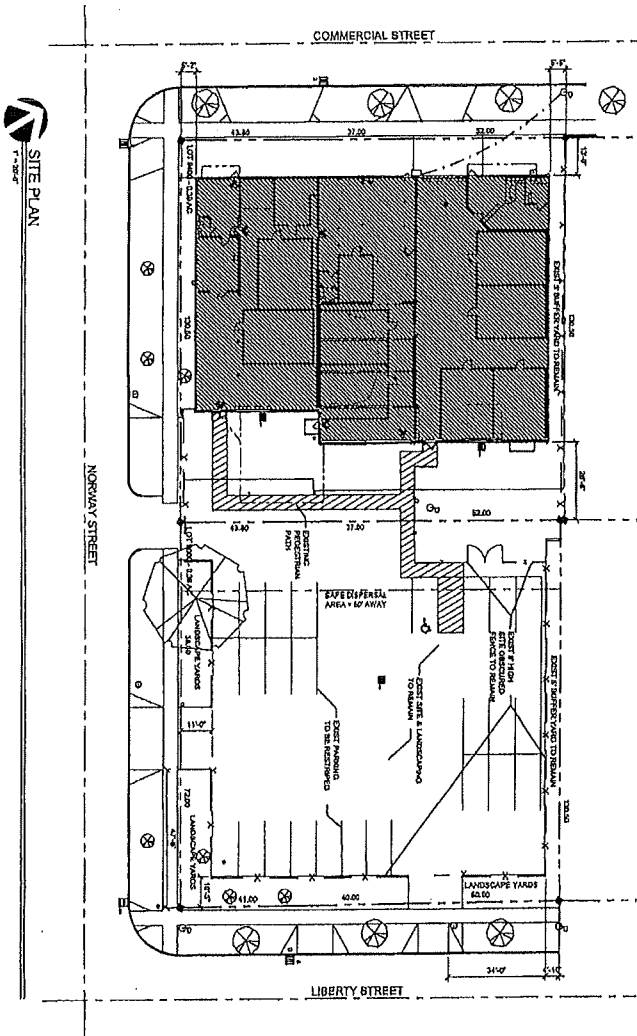
Taxlots	Outside Salem City Limits	Parks	 CITY OF Salem AT YOUR SERVICE Community Development Dept.
Urban Growth Boundary	Historic District		
City Limits	Schools	<div style="border: 1px solid black; padding: 5px;"> <p>This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.</p> </div>	

CODE SUMMARY

ZONING: IG - GENERAL INDUSTRIAL
 EXISTING USE: AGRICULTURE - MEDICAL MARIJUANA PRODUCTION
 PROPOSED USE: AGRICULTURE - RECREATIONAL MARIJUANA PRODUCTION

BUILDING AREA: 10,790 SF
 SITE AREA: .78 ACRES

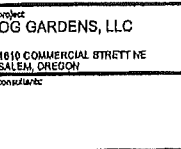
NO RETAIL SALES ON SITE ALLOWED PER STATE LAW.
 PER UDC 806, NO PARKING OR BIKE PARKING MINIMUM.
 NO CHANGES PROPOSED TO SITE.
 NO INTERIOR CHANGES REQUIRED.
 NO BUILDING PERMIT REQUIRED.



SITE PLAN
 11-12-18

Project: GG GARDENS, LLC
 1810 COMMERCIAL STREET NE
 SALEM, OREGON
 DRAWN BY: [Signature]
 DATE: 11-14-18
 PROJECT: 2018
 SHEET NO: 1
 SHEET TOTAL: 1
 CLIENT: GG GARDENS, LLC
 ARCHITECT: CARLSON VEIT ARCHITECTS PC
 3095 RIVER ROAD NORTH, SALEM, OREGON 97303

CONDITIONAL USE



CARLSON VEIT
 ARCHITECTS PC
 ARCHITECTURE • INTERIOR DESIGN
 3095 RIVER ROAD NORTH, SALEM, OREGON 97303
 503-382-0281 • FAX 503-390-2458 • WWW.CARLSONVEIT.COM
 MEMBER AMERICAN INSTITUTE OF ARCHITECTS

GRANT NEIGHBORHOOD ASSOCIATION

SALEM OREGON

January 6, 2017

Lisa Anderson-Ogilvie
Planning Administrator
City of Salem
555 Liberty Street SE
Salem, Oregon 97301

RECEIVED

JAN 11 2017

COMMUNITY DEVELOPMENT

Re: CU 16-14
1610 Commercial Street

Dear Lisa,

The Grant Neighborhood Association was recently informed by the City of Salem of a request for a Conditional Use allowing for the conversion of a medical marijuana production facility to a recreational marijuana production facility at 1610 Commercial Street NE. No member or representative of the applicant was present at our meeting on January 5th; nor has the applicant contacted the Grant Neighborhood Association. There are many questions that cannot be answered without meeting with the applicant or their representative.

Grant Neighborhood Association feels that the City's process did not allow sufficient time for us to assess this application or for the applicant to meet with the Association. The application was deemed complete on December 22nd, the day we received our first notice, and the staff report was issued on January 4th, the day before our meeting on January 5th. This timeline was 14 days - at least 6 of which were weekends and/or holidays. We feel that this is an unfair timeline to place on a volunteer neighborhood board.

It was moved, and unanimously approved, that the Grant Neighborhood Association request that the hearing or the decision on the proposed Conditional Use application be delayed until after our next meeting on February 2, to allow the applicant to meet, answer, and engage in a discussion about their application in order for the Neighborhood Association to make an informed decision.

Sincerely

/s/

Sam Skillern, co-chair
503-315-8924
sam@salem1f.org

/s/

Eric Bradfield, co-chair
503-508-7576
ebradfield@gmail.com

GRANT NEIGHBORHOOD ASSOCIATION

SALEM

OREGON

January 16, 2017

RECEIVED

JAN 16 2017

Lisa Anderson-Ogilvie
Planning Administrator
City of Salem
555 Liberty Street SE
Salem, Oregon 97301

Christopher Green
Planner II
City of Salem
555 Liberty Street SE
Salem, Oregon 97301

COMMUNITY DEVELOPMENT

Re: **CU 16-14**
1610 Commercial Street

Dear Lisa and Christopher,

The Grant Neighborhood Association convened a special board meeting this evening to meet with Doug Elkins, a member of OG Leasing LLC and the applicant in the above referenced case. Mr. Elkins was very forthcoming with answers to the many questions and concerns that the board raised in our last regularly scheduled meeting on January 5th. We appreciated his willingness to meet with us on such short notice and prior to the Hearings Officer's closing of the record.

The Board voted unanimously to "Support the proposed Conditional Use (CU 16-14) with the conditions attached by City Staff." The board suggested to Mr. Elkins that the business formally secure, by agreement or contract, the minimum number of parking spaces on the separate adjoining tax lot that are required to support their number of employees, since the business does not own the real property.

Sincerely

/s/

Sam Skillern, co-chair
503-315-8924
sam@salem1f.org

/s/

Eric Bradfield, co-chair
503-508-7576
ebradfield@gmail.com