



**MEMORANDUM**

**TO:** Deschutes County Planning Commission  
**FROM:** Tanya Saltzman, AICP, Senior Planner  
**DATE:** October 6, 2022  
**SUBJECT:** Public Hearing Continuation – Psilocybin TPM Amendments

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On October 13, 2022 the Deschutes County Planning Commission will conduct a continuation of a public hearing at the Deschutes Services Center, 1300 Wall Street, Barnes and Sawyer rooms, to consider legislative text amendments for time, place, and manner (TPM) regulations for psilocybin (File no. 247-22-000676-TA). The initial public hearing was held on September 29, 2022,<sup>1</sup> at which time the Planning Commission voted to continue the hearing to October 13 in order to receive additional oral and written testimony. Background information and a summary of the amendments was provided in the agenda packet for the initial public hearing.

Staff submitted a 35-day Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) on August 25, 2022. Staff presented the proposed amendments to the Planning Commission at a work session on September 8, 2022.<sup>2</sup>

The record is available for inspection at the Planning Division and at the following website: <https://www.deschutes.org/cd/page/247-22-000676-ta-psilocybin-time-place-and-manner-tpm-text-amendments>.

**I. PUBLIC HEARING AND TESTIMONY**

Approximately a dozen individuals testified at the September 29 public hearing. As of that evening, 8 individuals provided written testimony. As of the date of submission of this memorandum (October 6, 2022), one piece of additional written testimony has been received after the initial public hearing date. That testimony consists of correspondence between Association of Oregon Counties Planning Directors (AOCPD) and Oregon Health Authority regarding questions about the program that were submitted by various Oregon planning directors. A summary of all general testimony will be provided in the memorandum for Planning Commission deliberations, scheduled for October 27. As a reminder, all written testimony is available for review at the above record link.

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<sup>1</sup> <https://www.deschutes.org/bc-pc/page/planning-commission-19>

<sup>2</sup> <https://www.deschutes.org/bc-pc/page/planning-commission-16>

Staff noted during the hearing that the Department of Land Conservation and Development (DLCD) provided brief written testimony concerning the agency's interpretation of certain sections of ORS 475A.570, which addresses psilocybin service centers. This testimony, available in the record, is reproduced below:

*After consulting with Department of Justice counsel, DLCD would not support an interpretation of ORS 475A.570(3) as allowing for a use that would not otherwise be allowable in the underlying zone. The structure of the statute does not appear to support an argument that psilocybin service centers are a new, stand-alone use. ORS 215.203 clarifies that land within exclusive farm use zones shall be used exclusively for farm use except as provided in ORS 215.213, 215.283 or 215.284. We have shared our view on this with the Oregon Health Authority.*

*Within that interpretation, a service center might be allowed in exclusive farm use zones if it can qualify under any other provision in Chapter 215. It is possible, for example, that a county might review a service center as a home occupation pursuant to ORS 215.213(2)(n)/215.283(2)(i) or as a commercial activity in conjunction with farm use as described in ORS 215.213(2)(c) and 215.283(2)(a). Whether or not the provision of psilocybin services could be licensed in structures normally permitted in the zone in conformance with ORS 215.448, would be determined by OHA and may be discussed in their upcoming rulemakings.*

Staff has invited DLCD to provide additional testimony at the continued hearing, as this interpretation may have a significant influence on options for allowing service centers and subsequent Planning Commission recommendations.

## **II. NEXT STEPS**

At the conclusion of the public hearing, the Planning Commission may:

- Continue the hearing to a date certain;
- Close the hearing and leave the written record open to a date certain; or
- Close the hearing and commence deliberations.

Currently, deliberations are scheduled for October 27.