

## **HOUSE COMMITTEE ON LAND USE**

**March 07, 2005 Hearing Room 50**

**1:30 P.M. Tapes 34 - 35**

**MEMBERS PRESENT: Rep. Bill Garrard, Chair**

**Rep. Gordon Anderson, Vice-Chair**

**Rep. Mitch Greenlick, Vice-Chair**

**Rep. Robert Ackerman**

**Rep. Mary Nolan**

**Rep. Patti Smith**

**Rep. Mac Sumner**

**STAFF PRESENT: Sam Litke, Committee Administrator**

**Lindsay Luckey, Committee Assistant**

### **MEASURES/ISSUES HEARD:**

**HB 2582 – Public Hearing and Work Session**

**HB 2268 – Work Session**

**Introduction of committee measures**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
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## **TAPE 34, A**

002            Chair Garrard            Calls the meeting to order at 1:35 p.m. and opens a public hearing on HB 2582.

### **HB 2582 – PUBLIC HEARING**

005            Sam Litke                    Committee Administrator. Introduces the provisions of HB 2582.

021            Rep. Wayne Scott        HD 39, Sponsor of HB 2582. Explains background of HB 2582.

048            Brett Kacalek            Earthworks Landscape Services. Speaks in support of HB 2582. Describes his intention of running a nursery as a primary use and a landscaping company as a secondary use out of existing buildings. Explains the history of their situation and frustrations with current zoning laws.

099            Rod Kacalek            Earthworks Landscape Services. Reiterates B. Kacalek's testimony. Reports their desire to operate legally and their frustration after exhausting all other avenues.

109            Rep. Sumner            Asks if they plan to operate a retail operation from their site.

111            B. Kacalek            Responds it would be a whole sale nursery.

113            Rep. Sumner            Asks what additions would be outside of a normal nursery operation.

145            B. Kacalek            Responds that there would not be anything not on a normal nursery operation but the change would allow them to grow for their own wholesale needs. Gives the example of aquatic plants.

121            Rep. Anderson            Asks how many other operations might be able to use provision.

123            B. Kacalek            Responds that he doesn't know. Comments on four to six other owners in his areas currently running a joint operation but out of compliance.

130            Rep. Anderson            Asks what specific changes would be made.

135            R. Kacalek

		Explains that the only change from a standard nursery operation would be a few more trucks and equipment coming from and going to their property. Points out that the increased traffic is significantly less than a large scale nursery operation.
152	Rep. Anderson	Asks if it would also include row crops operations.
155	B. Kacalek	Ask for clarification of the question.
157	Rep. Anderson	Asks what difference there is between what they intend to do and someone operating a wholesale operation for carrots as an example.
161	B. Kacalek	Responds that Anderson's example is already permitted under state law. Continues that the difference is running a commercial business that is not directly tied to agricultural commodities off the same property.
169	Rep. Anderson	Asks if most would be off site.
170	B. Kacalek	Responds affirmatively.
173	Chair Garrard	References the history of their situation noting that their application for a conditional use permit was approved by Marion county planning staff as a commercial activity in conjunction with a farm use and on appeal the county officer denied the request. Asks why the permit was appealed.
178	B. Kacalek	Responds that the property owner who appealed the decision was against any development of the property. Explains that only legitimate challenge raised was the conflict between Marion County zoning laws and State of Oregon zoning laws.
210	Chair Garrard	Asks if they appealed the hearings officer's denial.
211	B. Kacalek	Responds that they were advised not to and were unable to invest more time and money.
215	Chair Garrard	Asks if that process would include going through Marion county commissioners.
220	B. Kacalek	Responds affirmatively. Reiterates broader benefits of bill.

230	Bill Cross	Oregon Landscape Contractors Association. Speaks in support of HB 2582. Speculates on number of operators effected beyond Kacalek situation.
254	Jerry Ingle	Owner, Living Color Nursery LLC. Describes his landscape and nursery operations from single property and explains the benefits of co-location. Urges support of HB 2582.
373	Chair Garrard	Closes public hearing on HB 2582 and opens a work session on HB 2582.

**HB 2582 – WORK SESSION**

375	<b>Rep. Greenlick</b>	<b>MOTION: Moves HB 2582 to the floor with a DO PASS recommendation.</b>
380	Rep. Anderson	Comments that this case is representative of their goal to help small businesses add jobs and be more efficient.
391	Rep. Sumner	States the importance of passing HB 2582, noting the detrimental effects of moving related commercials operation away from farms.
406	Rep. Greenlick	Stresses the need to review the language of conditional use in the future. Cites this and other specific cases and asserts that related businesses should be allowed to be zoned together.

**VOTE: 7-0-0**

**AYE: In a roll call vote, all members present vote Aye.**

435	<b>Chair Garrard</b>	<b>The motion CARRIES.</b>  <b>REP. SCOTT will lead discussion on the floor.</b>
440	Chair Garrard	Closes the work session on HB 2582 and opens a work session on HB 2268.

**TAPE 35, A**

**HB 2268 – WORK SESSION**

018	Sam Litke	Committee Administrator. Reviews the provisions of HB 2268, public hearing and work group formed. Introduces the -1 Amendments ( <b>EXHIBIT A</b> ).
044	Wendy Johnson	Deputy Director, Oregon Law Commission. Explains that the -1 amendments ( <b>EXHIBIT A</b> ) replace the word “served” in Section 8 of HB 2268 assuring that the documents would not require formal service.
058	Chair Garrard	Asks for a brief synopsis of the work group and why they were unable to come to consensus.
060	Wendy Johnson	Reports that HB 2268 and HB 2255 had different purposes. Explains that HB 2255 dealt with amending appraisals.
065	<b>Rep. Ackerman</b>	<b>MOTION: Moves to ADOPT HB 2268-1 amendments dated 3/4/05.</b>
		<b>VOTE: 7-0-0</b>
	<b>Chair Garrard</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
070	<b>Rep. Ackerman</b>	<b>MOTION: Moves HB 2268A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0-0</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>
	<b>Chair Garrard</b>	<b>The motion CARRIES.</b>
075	<b>Rep. Greenlick</b>	<b>MOTION: Moves HB 2268A be placed on the CONSENT CALENDAR.</b>
		<b>VOTE: 7-0-0</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>
078	<b>Chair Garrard</b>	<b>The motion CARRIES.</b>
115	Chair Garrard	

Closes the work session on HB 2268 and opens a work session to introduce committee measures.

### **INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION**

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|-----|----------------|---|
| 143 | Sam Litke      | Committee Administrator. Introduces LC drafts 1144 ( <b>EXHIBIT B</b> ), 1747 ( <b>EXHIBIT C</b> ), 2834 ( <b>EXHIBIT D</b> ), 3344 ( <b>EXHIBIT E</b> ), 2820 ( <b>EXHIBIT F</b> ), 2149 ( <b>EXHIBIT G</b> ). |
| 163 | Rep. P. Smith  | <b>MOTION: Moves LC's: 2149, 2834, 1747, 1144, 2820, 3344 BE INTRODUCED as committee bills.</b>   |
| 167 |                | <b>VOTE: 7-0-0</b><br><br><b>AYE: In a roll call vote, all members present vote Aye.</b>  |
| 170 | Chair Garrard  | <b>The motion CARRIES.</b>  |
| 172 | Rep. P. Smith  | Asks if there will be a Friday meeting.   |
| 193 | Sam Litke      | Committee Administrator. Responds affirmatively.  |
| 200 | Rep. Greenlick | Notes out-of-building meetings with other committees on Fridays.  |
| 209 | Rep. Nolan     | Requests that the Land Use Committee not schedule a meeting on April 22nd.  |
| 223 | Chair Garrard  | Adjourns the meeting at 2:19 p.m.   |

### **EXHIBIT SUMMARY**

- A. **HB 2268, -1 Amendments, Wendy Johnson, 1 p**
- B. **Introductions, LC 1144, Staff, 1 p**
- C. **Introductions, LC 1747, Staff, 10 pp**
- D. **Introductions, LC 2834, Staff, 11 pp**
- E. **Introductions, LC 3344, Staff, 4 pp**
- F. **Introductions, LC 2820, Staff, 2 pp**

**G. Introductions, LC 2149, Staff, 189 pp**