

PLANNING COMMISSION MINUTES

City Hall Council Chambers

May 25, 2017

7:00 p.m.

The regularly scheduled meeting of the Pendleton Planning Commission was held May 25, 2017, at 7:00 p.m. in the City Hall Council Chambers with Commissioners Brian Currin, Ryan DeGrofft, Sunny Harmeson, Maureen McCormach, Vincent Papol, and Ex-Officio Commissioner Lora Elliott present. Commissioner Terry Clarke was absent. Staff members present were City Planner George Clough, Planning Aide Julie Chase and Secretary Jutta Haliewicz.

COMMUNITY DISCUSSION: None

CONSENT AGENDA: Minutes of April 27 and May 11, 2017, meetings were approved.

PUBLIC HEARINGS:

- a. CUP17-04(Thurman):** Conditional use request to operate a recreational marijuana retail store at 1608-1616 SE Court Ave and 511 SE 17th Street, within the C-3 zone identified as 2N32 11AA Tax Lots 02800, 03200, 03300, Umatilla County. Recreational marijuana retail sales are a conditional use in the C-3 Service Commercial Use zone. (*postponed from May 11, 2017, meeting*)

The public hearing procedure was read into the record.

Conflicts of Interest/Exparte Contact: None

Staff Report: This request is to operate a recreational marijuana retail store at 1616 SE Court Avenue across the street from the old hospital property. It is a parking lot elevated above Court Avenue on the south side. It has access from either SE 16th or SE 17th Street. It will be up to the applicant to decide which side they want to use as their primary access. The applicant has been in touch with the City for a predesign conference, and it was indicated their primary access would probably be SE 16th Street. The City will require an appropriate driveway approach be constructed to City standard specifications and that the property owner irrevocably consents to participate in an LID for SE 16th and SE 17th. There's an existing City stormwater sewer, a catch basin and a storm line on the property. Staff is not sure if the new building will encroach on this or not. If it does, the applicant has stated they are willing to move it and to give the City an easement over the new storm line if it's required which is one of the conditions recommended for approval. The property will require 8 parking spaces and 1 bicycle space. It appears the property has adequate room to provide this. They are also looking at a concrete staircase on SE Court that goes from the street to the parking area so they will have access to SE Court at the same time. If there's a dumpster located on the property, it will be required to be fenced and screened as they do with all commercial dumpsters with a sight-obscuring fence. The landscaping requirement is 320 sq.ft. based on the required parking. They can meet this requirement with planter beds, shrubbery or if they choose to use shade trees, a shade tree is equal to 100 sq.ft. of landscaping so four shade trees would exceed the requirement. Staff is asking that the lighting on the parking lot be constructed in such a way that it's not shining on the neighbors' properties, and keep it on their own properties. The lot as it exists now was originally platted with the Reservation Addition and has underlying lots of record. Staff is requiring the applicant replat the lot to re-establish the exterior boundary and eliminate the underlying lots of record within the boundary of the lot and thereby be able to position the building most advantageously without crossing one of these underlying lots of record which is not permitted. The applicant has indicated he is willing to comply with the restrictions and conditions recommended by staff.

Questions: None

Applicant Testimony: Corrine Celko, Emerge Law Group, testified on behalf of the applicant. Approval or denial of this conditional use permit is based solely on the standards and criteria contained in the code. In this case, Section 4.5 deals with recreational marijuana retail stores and Section 11.06 deals with conditional use approval criteria. They are here tonight for a land use hearing and permit. The conditional use standards focus solely on the proposed and the physical suitability of the proposed use for the site. The site is well suited for a retail store. As staff mentioned, this has been a commercial parking lot for the former hospital and this would be a continuation of that kind of retail use. It would be a reuse of a vacant parking lot that's now been overgrown with weeds and foliage that could be utilized and revitalized for the economy of Pendleton. Mr. Bryson has met with the City for a pre design conference and is fully aware of the requirements that staff has suggested to make this appropriate for its use, and as the staff report points out, the site is adequate in size and shape to accommodate this type of use,

transportation could be accommodated for this type of use and any negative impacts of this use on adjacent properties can be mitigated through conditions of approval. Based on that, they ask the Commission to approve this conditional use permit.

Questions: None

Testimony in Favor: Cody Servi, 891 SE 9th Street, Pendleton. Bryson has gone out of his way more than anyone else to put up a business. He's bought property that he was told would be ideal for a dispensary on Tutuilla and planned on it but has had so many issues there that he actually bought an entirely different property just to keep the whole town happy. He is a good person to have in our community and he wants to see this business go in there.

David Moore, 891 SE 9th Street, Pendleton. Bryson has gone out of his way to be where he is today. He bought a new property and has done a lot of things. He's a good business owner. He hopes they approve his conditional use permit.

Testimony in Opposition: Dennis Duchek, 516 SE 16th Street, Pendleton. He and his wife are opposed to the location of a retail recreational marijuana store because they live at 516 SE 16th which is directly above the address, and they can see this location from their living room window. Also, he appealed that it will detract from their property values in the event they would want to sell their property in the future. Also, it will increase crime in the neighborhood, and the location is just over a 1,000' from a public grade school.

Rebuttal: Ms. Celko provided rebuttal. Mr. Duchek discussed the speculation that his property values may decline. Again, that is not a factor for consideration for approval; moreover, it is simply speculation that the property value would decline. By rejuvenating and revitalizing a vacant spot, there's actually speculation that the property values in the area could increase. As Mr. Duchek pointed out, this site is in fact over 1,000' from any public school meeting both the City's code and State law. Regarding crime, as this Commission has heard before, the State puts in some very vigorous robust regulatory requirements for security. There's an argument that this site could actually be made to be more safe due to the lights that would be brought up in the area instead of having a vacant dark parking lot and to the cameras that would be recording the area making sure that any crime that could be occurring in the area was recorded and potential assailants caught. In addition, the State requires that the retail store have commercial grade locks, an alarm system and that any marijuana items located inside the store are secured in a vault. Having this site with a new retail store environment could benefit the area and make it less susceptible to crime.

Questions: The Commission asked Ms. Celko to explain if someone wants to go to a retail marijuana store to buy a product, what the process is that they go through?

Ms. Celko replied if someone were to enter the retail store there would initially be a vestibule. You would open the exterior door and show your state ID to show that you are 21 years of age or older before you can even enter the store. Once you've shown the ID, you may enter the store. There are no marijuana items that are able to be picked up or touched by customers. All of these items are contained either behind the retailers who man the store or are in a separate vaulted area. If a customer wanted to actually see a product that they wanted to purchase, then the retail employee would be there to show them whatever marijuana item they were interested in seeing. They cannot touch it until the customer goes to the point of sale area with a register. They have to show their ID again to prove that they're over 21 years of age. The transaction takes place and the customer is finally handed the product in a child proof bag container and able to take their product and leave. There is no consumption allowed on site.

The Commission asked if your name and identification information is recorded at the check in window and if they maintain a log?

Ms. Celko replied yes. The State does require that your name and ID information be recorded and reported to the OLCC.

The Commission asked about the hours of operation and if it would be seven days a week.

Mr. Thurman replied he planned on opening at 8 a.m. and closing at 10 p.m. which is allowed by State law. However, on Sundays it would most likely be 10:00 a.m. to 10:00 p.m. and Saturday might be the same or 9:00 a.m. to 10:00 pm.

The Commission asked about the lighting that has to be shielded from the residences.

Ms. Celko replied they can be subject to conditions of approval that would require that any lighting be directional. There are lights that have hoods on them that would make sure the light is only focused in one direction, and they can make sure the directional lighting is focused away from the residences and towards the street and the same thing for the recording cameras. They would certainly ensure there would be no recording devices focused on the residents but would only be on the inside and outside of the retail store facing towards the street. Surveillance cameras are required by State law.

The Commission questioned the air filtration system. Do these retail operations tend to emit an odor that is noticeable outside of the premises? Is there such a thing as a special air filtration system?

Ms. Celko replied in general the stores that she has dealt with have the same sort of commercial hvac systems that any other store would. Commonly they use carbon filters.

Mr. Thurman replied they intend to use a carbon filter to remove any smell. It's a charcoal filter that the air runs through eliminating any smells attached to the hvac system.

The Commission asked how noticeable an odor would there be if that were not in place.

Mr. Thurman replied not very noticeable at all because everything is going to be packaged or sealed in jars. They probably would be able to smell it inside the store but he doubted anyone would be able to smell it outside the store. This carbon filtration system is just an extra layer of protection for the community.

The Commission asked if there is any evidence to date to their knowledge of increased crime, loitering, traffic problems?

Mr. Thurman replied not that he's seen. Probably if anything it's gone down.

The Commission asked Ms. Celko if this has become a noticeable issue at any other retail location?

Ms. Celko replied not to her knowledge. She has not heard of any reports or anything of that nature related to increased crime due specifically to any marijuana retail stores in the area. Also, the carbon filtration system is an industry standard filter. That is the most common type of filter used in the marijuana industry for eliminating odors.

The Commission asked how flexible his hours would be on the weekend. There is a church that is located within 1,000' and a church does not qualify as a public community recreational facility. Are they aware that there is a meeting held on the weekends, specifically on Sunday, where children from preschool to 5th grade meet on a weekly basis from 6:00 p.m. to 7:30 p.m.? Is he flexible with his Sunday hours?

Ms. Celko replied that a church is not one of the listed facilities under State law or within the City code that is required to be over 1,000' away from a recreational marijuana retail store. This is not that type of requirement. The 6:00 p.m. to 7:30 p.m. time is tough because on the weekend that is a prime time to be open. It would be difficult to close as early as 6:00 p.m. on a prime weekend spot for a retail store.

Commissioner Papol understood the findings for church services, however, had an issue with the children meeting on Sunday evenings so close to the facility.

The public hearing was closed.

Discussion/Deliberation: The Commissioners discussed the staff recommended conditions and the non-discretionary conditions of approval and the concerns about the church and location being up above Court Street. Commissioner McCormach mentioned the location isn't really all that visible from Court itself, and the church is down and across Court Street between SE 19th Street and SE 19th Drive. The church is further to the east. She didn't think that store would be particularly noticeable where it's going to be located. It would be much less noticeable than some of the other stores in the City such as on Southgate. Commissioner Papol questioned the lots of record which are required to be replatted. Can staff clarify this? Will someone be overseeing this to make sure that is followed through?

Mr. Clough replied what happens is the applicant will request a replat. The City will notify the affected properties, the applicant will retain a surveyor to do the actual survey work, establish the boundaries and write the legal description, staff will review the tentative plat submitted by the surveyor to see that it complies with City standards

and once satisfied, it is returned to the surveyor. The surveyor submits their final plat and it's at that point it becomes final as a new plat of the land. There is significant amount of overview.

Commissioner Harmeson discussed signage which was covered in the staff report.

Motions:

Commissioner DeGrofft moved that the Commission adopt the findings and conclusions prepared by staff, as set forth in action **CUP17-04**; Commissioner Currin seconded and the motion passed 4-1 with Commissioner Papol voting against.

Commissioner DeGrofft moved that the request for a conditional use to operate a recreational marijuana retail store at 1608-1616 SE Court Avenue and 511 SE 17th Street within the C-3 zone, as set forth in action **CUP17-04** be **APPROVED**, based on the information, findings and conclusions set forth above, subject to the conditions of approval as recommended by staff. Commissioner Harmeson seconded and the motion passed 4-1 with Commissioner Papol voting against.

REPORT OF THE CITY PLANNER

- a. Marijuana Workshop – Functions of the Industry: Brandon Krenzler provided detailed information regarding the path recreational marijuana business must take to legally operate in Pendleton and discussed what types of licenses/approvals a business needs to have; Oregon/OLCC fees; differences between dispensaries, wholesalers, producers, etc. and how a regular marijuana business operates such as the amount of traffic they likely receive, normal security measures, how deliveries are received, etc. He also offered to provide a tour to the Commissioners and staff of his recreational retail store, Kindleaf, located at 1733 SW Court Avenue.

The meeting adjourned at 8:24 p.m.

Chairman Maureen McCormach

Date Approved