

## PLANNING COMMISSION MINUTES

City Hall Council Chambers

December 28, 2017

7:00 p.m.

The regularly scheduled meeting of the Pendleton Planning Commission was held December 28, 2017, at 7:00 p.m. in the City Hall Council Chambers with Commissioners Brian Currin, Ryan DeGrofft, Sunny Harmeson, Maureen McCormach, Joseph Hull, and Vincent Papol present. Commissioner Terry Clarke was absent. Staff members present were Planning Aide Julie Chase and Permit Technician Lora Elliott.

*Reminder: The Commission should speak up or speak into the microphones so that the audience can hear the Commission.*

**COMMUNITY DISCUSSION:** None

**CONSENT AGENDA:** Minutes of November 30, 2017, meeting were approved.

### **PUBLIC HEARINGS:**

- a. **AP17-02 (Burnswell Family Farms):** Appeal of Planning Commission denial on a Conditional Use Request to operate a marijuana wholesale and production facility at 2612 NE Nursery Lane, site of the Riverside Nursery, within the M-1 zone. The marijuana wholesale and production facility will operate within greenhouse structures. Marijuana wholesale and production sites are a Conditional Use in the M-1 Light Industrial Use zone. The property can be specifically identified on Assessor Map 2N32 01CD Tax Lot 00600, Umatilla County.

Order of Hearing was read into the record.

**Conflicts of Interest/Exparte Contact:** None.

**Staff report:** The Applicant came before the Commission in August and the application for Conditional Use was not approved due to a lack of majority vote. Afterward, Commissioners conveyed to Staff that ambiguous information about the land use from the Applicant informed their vote, and Staff worked with the Applicant to address those concerns. The Applicant filed for an appeal, and an additional staff report and testimony was heard by the Pendleton City Council on December 5, 2017, who referred the appealing decision to the Planning Commission. Any appeal to this decision will go before the City Council again, and subsequently, to the Oregon Land Use Board of Appeals (LUBA) if it is appealed again. The original application was for a Conditional Use to operate a marijuana wholesale and production facility at the previous location of Riverside Nursery at 2612 NE Nursery Lane. The property is in the M-1, Light Industrial zone, which conditionally allows marijuana wholesale and production businesses.

Staff apologized for discrepancies between the staff report presented to the Planning Commission and the one presented before City Council. The difference in the conditions are reflected in Condition #3, in the Staff Recommended Conditions on page 1, requiring shielded lighting on the property to avoid disturbing neighbors. The report also removed the consent to a Local Improvement District (LID) condition.

The facility would operate within existing greenhouses on Northern half of the property. The Southern half of the property would remain empty because it is in the floodplain for the Umatilla River, and it would remain open to the public for access to the river. The Applicant cannot sell his product directly to consumers, so traffic to the facility should be limited to employees and distribution. Surveillance will be present, and sight-obscuring fencing should be considered. The Applicant should also work with neighbors to mitigate other concerns. The Commission should formalize conditions using “should” by using the words “shall” or “must”.

**Applicant Testimony:** Brandon Krenzler, 3733 SW Court Avenue: He read from a letter provided at the end of the Staff Report to the Planning Commission. The Applicant referred to a site plan on the next page, stating that the business would start in two existing greenhouses on the property. Greenhouses #3 and #4 on the site plan would only be built and used in the long-term. The Applicant indicated he will pave parking areas to City standards. The southern half of the property will be maintained to create a park-like atmosphere open to the public for river access and to reduce flood risk to the business because the property partially lies within FEMA floodplains. The Applicant has also met with neighboring property owners and plans to address their concerns by planting trees and putting up

fencing to create a visual barrier. The facility will mitigate at least 85% of their odor using a carbon filtration system, along with planting other pleasant-smelling plants outside to help mask odors further. The Applicant is currently researching to find the best filtration system that will work with the greenhouse's existing fans, including looking into HEPA filters that could be more effective. The Applicant wishes to mitigate odor beyond Oregon state requirements, which do not require filtration systems. In addition to cyclone fencing around the entire facility for security, the greenhouse structures will be reinforced with additional fencing inside the structures to prevent break-ins.

**Proponents:** Erin Purchase, 3733 SW Court Avenue: She is the Director of Operations at KindLeaf Dispensary. She enjoyed going to Riverside Nursery as a child, and has fond memories of other buildings in town that have since fallen into disrepair. She stated that the Applicant's businesses are working to improve similar properties throughout the community because they view Pendleton as their home.

**Opponents:** Bonnie Bischke, 3137 SW Hailey Avenue: She read a letter submitted prior to the meeting into the record. KindLeaf Dispensary has increased traffic to the shopping center near Umpqua Bank. She was also concerned about the impact KindLeaf Dispensary has on the community, calling attention to a Christmas gift donation drive KindLeaf Dispensary held in December. The possible odor from a marijuana growing facility could be troublesome for the area with the potential to impact people as far as a half mile away from the facility. The visual impact of cyclone fencing and other surveillance requirements of a marijuana growing facility also pose an eye-sore for adjacent neighbors and for the residents of Riverview Mobile Estates across Highway 11 from the nursery.

Arlen Bischke, 3137 SW Hailey Avenue: He believed the Applicant is very interested in educating the public about marijuana, and questioned whether that was a good decision for the community. He was also concerned about the odor potential from marijuana cultivation.

**Other:** None.

**Rebuttal:** Brandon Krenzler: He clarified that KindLeaf Dispensary operates during hours they are legally allowed, and liquor stores have the same ability if they choose to. Additional cars in the area are also a sign of a successful business and should not be seen as a nuisance. People also sometimes sit in their car outside the dispensary due to disability, and KindLeaf patrols cars to make sure children are not being left inside. In December, the Christmas gift donation drive KindLeaf sponsored collected 172 gifts for local families.

The Applicant confirmed with the Commission that fencing around the property has existed for over a decade, and that other businesses in the area have similar lighting and fencing. The Applicant also plans to mitigate the unsightliness of the fence with small bushes and other plants that will preserve the line of sight for security reasons. The Applicant is also unable to consider many other locations for his business, such as the previous Pendleton Grain Growers or Alberton's sites because they are zoned incorrectly and less than 1,000 feet from a public park.

**Deliberation:** The Commission discussed changes to Condition #2 in Staff Recommendations on page 3 of the Staff Report, changing the word "storage" to "supplies." They also discussed removing the 4 to 6 week range from Condition #3 for placing a caretaker's RV at the site, and strictly limiting it to 6 weeks. Commissioners also discussed whether they wanted the Applicant to return before the Commission before expanding his business from two greenhouses to four greenhouses, and highlighted the fact they had not put similar constraints on other marijuana growing facilities previously approved for Conditional Use.

**Motions:** Commissioner Currin moved that the Commission **AMEND** Condition #2 in Staff Recommendations of Staff Report by changing the word "storage" to "supplies", as well as limit the time range in Condition #3 to 6 weeks. Commissioner Hull seconded the motion and the motion passed.

Commissioner DeGrofft moved that the Commission adopt the findings and conclusions prepared by staff and as amended by the Commission, as set forth in action **AP 17-02** above. He further moved that the request for a Conditional Use to operate a marijuana wholesale production facility at 2612 NE Nursery Lane, within the M-1 Light Industrial zone, as set forth in action AP 17-02 be **APPROVED**, based on the information, findings and conclusions set forth above and amended by the Commission, subject to the conditions of approval as recommended by staff and agreed upon by the Commission. Commissioner Harneson seconded the motion, and the motion passed 5-0.

**REPORT OF THE CITY PLANNER**

Brian Currin's and Terry Clarke's commission membership expires 12/31/17. Staff asked if Mr. Currin would like to continue as a member of the Planning Commission, and he indicated he would like to remain on the Commission. Mr. Clarke will be asked at the January 11<sup>th</sup>, 2018, meeting.

The meeting adjourned at 8:01 p.m.

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Chairman Maureen McCormach

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Date Approved