



Planning Commission Minutes

January 23rd, 2017

Members of the Planning Commission met this day in regular session at City Hall, Brownsville, Oregon at 7:00 p.m.

Present: Commissioners Don Andrews, Doug Block, Gary Compton, Tricia Thompson, Rob Wingren, Josh Kometz, Bryan Wyant, Scott McDowell, & Administrative Assistant Elizabeth Coleman.

Absent: None.

Public: Randy Simpson, Gayle Ashford, Debbie Jensen, June Schlosser, Kaye Fox, Jerry Papineau, Gian Mercurio, Teri Davis.

Presiding: Gary Compton.

The Pledge of Allegiance was recited.

The meeting was called to order at 7:02 p.m.

PUBLIC HEARINGS

221 W Bishop Way – Medical Marijuana Facility

Chair Compton explained the required statutory statement regarding appeals. Commission Chair Compton asked if there were any conflicts of interest, biases, or ex parte contact. There were none.

No letters in favor or in opposition were submitted prior or during the public hearing process.

Chair Compton explained the process of the hearing. Mrs. Coleman summarized the staff report; Mr. Simpson & Ms. Ashford came before the Planning Commission on December 14th, 2015 to request approval of a Conditional Use Permit to operate a medical marijuana facility in the Volume Commercial Zone. The application was denied, as Medical marijuana is still considered a Schedule 1 Controlled Substance on the Federal level therefore a business registration could not be obtained under Brownsville Municipal Code Ordinance 15.111.020.B.2 & 5.20.030.A, which states no business shall sell, distribute or offer products, services or materials that are considered illegal by the Federal, State, County or Local government. The November 2016 election precipitated a change to the Business Registration, where the federal portion would be removed. Mr. Simpson & Ms. Ashford were before the Planning Commission once again to apply for a Conditional Use Permit.

Chair Compton explained the criteria used to determine the final decision for Conditional Use application. Chair Compton asked if the Commission had any specific questions regarding the application or the staff report. Commissioner Wyant asked for more clarification on the 1000 feet from a park criteria; the Brownsville Municipal Code



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Chapter 15.111.020.B(c) does not allow a medical marijuana facility within 1000 feet of a public park, playground, recreational facility, or athletic field. The proposed medical marijuana facility is located less than 1000 feet from Blakely Park, which is considered a mini park or pocket park under **Park Classifications** in the City of Brownsville Park Master Plan. Brownsville Municipal Code 15.111.020 C (3) states **"Public park, playground, recreational facility, or athletic field" means a park, playground, recreational facility, or athletic field that is owned or operated by a government entity or nonprofit organization and that is open to the general public excluding mini parks or pocket parks as defined in the City's Parks Master Plan.** Mr. McDowell explained that this determination came before the Planning Commission and was recommended to City Council and approved in 2014. Discussion ensued.

Chair Compton gave the applicants an opportunity to speak regarding their submission; Mr. Simpson said the application speaks for itself. Chair Compton opened the floor to anyone who wished to speak in favor of the application; Debbie Jensen of Locust Avenue spoke in favor of the application. She stated the location near Kirk's Ferry would be better than the Downtown area; better for patients. Gian Mercurio of Oak Street also spoke in favor of the application, stating the business will be in a good, safe and secure location with good lighting. Ms. Mercurio also mentioned she was on the Parks & Open Space Advisory Board when the land was converted to a pocket park.

Chair Compton gave those in opposition of the application an opportunity to speak. Kaye Fox of Kirk Avenue relayed her concern that the applicants have shown behavior unbecoming of business owners to the staff and officials in the past and would like to see decorum exercised in the future; additionally, she would also like to see the business continue to be what it is intended. Jerry Papineau of Hausman Avenue was concerned that the proposed use may increase traffic and congestion along Hwy 228, namely during the peak event season, security issues, as well as whether there will be a financial impact to the citizens of Brownsville if the proposed use is allowed. June Schlosser of Amelia Avenue spoke in opposition of the application as well.

Chair Compton gave the applicants the opportunity to rebut the opposing testimony; Ms. Ashford spoke to the question of security stating the proposed use will have its own security in place, with 360 degrees of coverage. The proposed use is monitored by the State of Oregon, where random checks are allowed, their books are open to the State, and the products are certified by the State to be sealed and cannot be opened without the correct tool. The system for sales is heavily monitored by the State online. A medical marijuana card is required to get in, and no one under the age of 18 is allowed. Ms. Ashford re-iterated that the proposed use is a type of facility where people pick up their medicine; an alternative medicine to opiates, because they don't want to be addicted to opiate drugs. The average visit is 10-15 minutes. Ms. Ashford stated this is a medical product, not a recreational product, and people that buy their product realize this is a medicine that helps them.



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Chair Compton closed that portion of the hearing to allow the commission discussion and questions to the applicant. Commissioner Block asked about odor. Ms. Ashford stated there would be no odors as the product comes sealed and packaged from the lab and nothing is grown onsite. The product is stored in a safe or vault. Ms. Ashford stated the containers are only opened for selection, where the product is removed and placed inside of a different container. Commissioner Wingren asked if the applicants decide on recreational, will that be another conditional use; Ms. Coleman stated that would fall under a different use and would require the applicants to go through the process again.

Chair Compton closed the public portion of the hearing for commission discussion. Based on the Findings of Fact, Chair Compton agreed that the applicant had met the criteria stated within, as well as the standard conditions of approval provided. Commissioner Andrews agreed that based on the applicable criteria the Planning Commission is required to use, the application fits. Regardless of his personal feelings, his decision must be based on those criteria. Commissioner Block said based on the questions and information provided he approved the application. Commissioner Wyant re-iterated his concern about the location being so close to one of the City's parks, Blakely Avenue Park, which is considered a pocket or mini park and is exempt from the "1,000 feet from a public park" classification. Mr. McDowell recapped the February 2015 Planning Commission hearing and the process that led the City Council and Planning Commission to make the decision on "time, place, & manner", where the State allows cities to have **time** to make a decision on the **place** a new use can be allowed and in what **manner** that use is allowed. In this case the manner is Conditional rather than Outright Permitted (Ordinance 751). Discussion ensued.

Commissioner Kometz was not in favor of the application but stated that based on the criteria and findings and the conditions of approval he agreed with the staff report. He stated that he did appreciate the security and the openness of the books kept for the facility. Commissioner Wingren stated that having the medical facility as opposed to the recreational store helps to allay some of the concerns of a lot of people. Commissioner Wingren said there are a lot of uses for medical marijuana and appreciated that staff was proactive in determining the location ahead of time. The use fits the criteria. Commissioner Compton also added that he appreciated the time Scott & staff put into the process. Commissioner Compton also thanked the applicants and public who attended the meeting for staying on focus and sharing their thoughts and concerns with the Planning Commission. *Commissioner Andrews made a motion to approve the application with the Conditions of Approval recommended by the City, based on the Findings of Fact. Commissioner Wingren seconded and the motion passed with a 6 – 1 vote in favor of the application. For the record, the current medical marijuana facility is licensed by the Oregon Health Authority; if the applicants decide to obtain a recreational license, the conditional use process will need to be completed to change that use.*



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432 Moyer Street – Home Occupation – Western Boutique

Mrs. Coleman summarized the application submitted to open a western boutique shop in an attached garage as a home occupation at 432 Moyer Street, located in the Medium Density Residential zone. As Moyer Street is a narrow street, Fire Chief Kevin Rogers reviewed the application for emergency vehicle accessibility. Chief Rogers determined that Moyer Street would not be an issue as that street is not used for emergency vehicular access. Chair Compton asked if there were any conflicts of interest, biases, or ex parte contact. There were none. Chair Compton gave the applicant the opportunity to speak about the boutique. Recently retired, Mrs. Davis would like the opportunity to provide good customer service to Brownsville. The attached garage is approximately 16X20 square feet. Commissioner Wingren asked about signage and where it would be located. The signage will be located on the premises and will be word of mouth advertising. Staff & the applicant discussed the sign ordinance in previous conversations. Commissioner Block asked about parking and ensuring customers weren't blocking the street at any time. The applicant provided a parking layout where several cars could be parked off-street and ensured she would do what was necessary to keep congestion down.

There being no one to speak in favor or against the application, Chair Compton closed the public portion of the hearing for Commission discussion. Commissioner Thompson appreciated new small businesses and what they add to Brownsville. Commissioner Andrews agreed that the application fit the criteria. Commissioner Andrews made a motion to accept the application, *subject to the Conditions of Approval and adopt the Findings of Fact provided in the staff report. Commissioner Wingren seconded and the motion passed unanimously.*

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Commissioner Kometz made a motion to approve the minutes with one name addition, Commissioner Wingren seconded and the motion passed unanimously.

Planning Commissioner Training

Mrs. Coleman spoke to the Commission about Planning Commissioner training with staff and Planning Consultant Dave Kinney. This is a good time to refresh the commission on the roles of a commissioner. A Doodle Poll will be sent out to schedule a time in February if possible. Discussion ensued.

Mr. McDowell thanked Commissioner Block for being on the Planning Commission, albeit a short time. Mr. Block has been appointed a City Council member. Development on Depot Avenue (Lepman & Associates) is in the process. The mini-storage units are considered a Use Permitted Outright, therefore the process does not go through the Planning Commission but is still subject to the planning, public works, civil engineering, and administrative review process. Currently, there are some issues with the adjacent property.

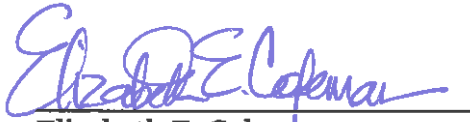


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It is important to understand that the issue is not City related but a private matter. The neighbor has encroached on the property for some time and it is up to both properties to determine the outcome; not the City. Discussion ensued. Mrs. Coleman & Mr. McDowell are looking at options for a buildable lands inventory, a lengthy and expensive process. The City will begin setting money aside for that in the next budget cycle. Residential land inventory is difficult, as there is still quite a bit that is inside the UGB.

There being no further business to discuss, the meeting adjourned at 8:12 p.m.

ATTEST:


Elizabeth E. Coleman
Administrative Assistant


Gary Compton
Commission Chair