



## Planning Commission Minutes

November 13<sup>th</sup>, 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, Gary Compton, Tricia Thompson, Josh Kometz, Rob Wingren, Mike McDaniel, & Administrative Assistant Elizabeth Coleman.

**Absent:** Bryan Wyant.

**Public:** Bryn & Daniel O'Malley, Allan Buzzard, Lynlee Bischoff, Erica Harms, Michelle Smith, Michael Worthing.

**Presiding:** Gary Compton.

The Pledge of Allegiance was recited.

The meeting was called to order at 7:00 p.m.

### PUBLIC HEARINGS

#### **109 Spaulding Avenue – Conditional Use Permit – Vacation Rental as a Secondary Use to the Primary Commercial Use in the Old Town Commercial Zone.**

Chair Compton explained the process of the meeting and required statutory statement regarding appeals. Commission Chair Compton asked if there were any conflicts of interest, biases, or ex parte contact. Commissioner Wingren explained that he owns the building East of the subject property. Chair Compton asked if Commissioner Wingren could provide an impartial decision, based on findings of fact, and relevant policies and ordinances set forth in the Brownsville Municipal Code. Commissioner Wingren answered yes. Commissioner Thompson stated that she provides an Airbnb service as a home occupation within the city limits. Commissioner Thompson also said yes, she could provide an impartial decision based on findings of facts, and relevant policies and ordinances set forth in the Brownsville Municipal Code.

Mrs. Coleman provided a summary of the staff report. The applicants have submitted an application request to allow a vacation rental on the second floor of a commercial building as a secondary use to the primary commercial use in the Old Town Commercial Zone. The applicants recently opened the Brownsville Business Company in the commercial space of 109 Spaulding Ave. The focus of the business is the sale of local arts, crafts, collectibles. The storefront will also be used as a rental space for gatherings, meetings, events, etc. A vacation rental is not classified as an outright permitted use that provides walk-in services and retail goods in the Old Town Commercial Zone, therefore the applicants were required to go through the Conditional Use Permit process. Additionally, a secondary use is allowed only as long as the primary commercial use is operating. No letters in opposition or in favor of the application were provided in writing.



## Planning Commission Minutes

Chair Compton gave the applicants an opportunity to speak about their application. Mr. O'Malley explained that in addition to arts and crafts, the store will also provide retail items such as designer clothing and photography. The Brownsville Business Company will also be dba (doing business as) "the Brownsville Break Room", where the focus will be for patrons to "Shop, Stay, Play" in a casual format. The second-floor loft would be the location for the vacation rental and would be accessed through the main storefront. Vacation rental guests will be encouraged to eat and shop locally, as there are no kitchen facilities available (hot plate). Visual partitions will be used to delineate the space between the vacation rental accommodations and the public area. Hours of operation for the commercial business are 11am – 3pm, Wednesday – Saturday.

Commissioner McDaniel asked about access to the vacation rental, the applicant stated main access would be through the store front with available emergency access if needed. Chair Compton asked about vacation rental availability, applicant stated vacation rental would not be available Wednesday through Friday during commercial business hours.

Chair Compton provided those in favor or in opposition an opportunity to speak. Ms. Bischoff of 107 Coshow Avenue owns a business at 113 Spaulding Avenue. Ms. Bischoff stated the applicants have done a lot of work to the building and have been courteous in making sure that the work does not interfere with her business. She is in favor of the application. Mr. Worthing of 27887 Pine View Road owns a business across the street from the subject property and said the town needs more rooms for people to come and stay and spend money around town. He is in favor.

Mr. Buzzard of 220 School Avenue is an Airbnb Superhost, and is in favor of the applicants' request, stating it will add to the variety in town and will not impact him in any way. Ms. Harms of 620 Oak Street spoke in favor of the application. Ms. Harms spoke in favor of the application, stating it is positive to have other lodging opportunities in town, inviting people into the community to enjoy our services. No one spoke in opposition of the application.

Commissioner Andrews asked if the vacation rental is an Airbnb, the applicant's stated the Airbnb will be the platform used to advertise the vacation rental. Airbnb is a platform like vrbo, craigslist, etc.

Chair Compton closed the public hearing for Commission discussion. Commissioner Wingren was concerned the space would look like a residential living room and stated his concern was alleviated when the applicants' said a partition for separation of the commercial and vacation rental spaces will be provided. Commissioner Kometz said more opportunities for people to stay and spend money is a good fit. Chair Compton asked if the commercial space would have access to the kitchen area (hot plate & mini fridge), the applicant's said yes.



## Planning Commission Minutes

*Commissioner Wingren moved to adopt the Findings of Fact and Conditions of Approval stated in the Staff Report and approve the application regarding a vacation rental as a secondary use to the primary commercial use at 109 Spaulding Avenue. Commissioner Thompson seconded, and the motion passed unanimously.*

### **October 16th, 2017 Minutes**

*Commissioner Andrews moved to approve the October 16<sup>th</sup>, 2017 minutes, Commissioner McDaniel seconded, and the motion passed unanimously.*

### **Other**

Mr. McDowell presented the Commission with new City of Brownsville lapel pins as a token of appreciation.

Mr. McDowell commended Chair Compton and the Commission on handling ex parte contact/bias/conflict of interest during the meeting. As a Point of Order situation came up at the October 16<sup>th</sup>, 2017 hearing, Mr. McDowell explained the rules of order for such a scenario. Points of Order, Parliamentary procedure, can only come from membership. Declaring any conflicts of interest, bias or ex parte contact is important, as is ensuring names and addresses are spoken when the public comes to the podium. Anyone on the Commission has the ability to call a recess if needed to gain order.

### **Adverse Impact**

There was a lot of inquiry as to what Adverse Impact means in relation to the Brownsville Municipal Code. Mr. McDowell explained how subjective the adverse impact context is and the importance of declaring bias/conflicts of interest/ex parte contact. The business of the planning commission is to look at applications & weigh the information against the criteria in the code. The difficulty lies in the fact that the State of Oregon has placed commissions, councils, & other governing bodies in quite a predicament by legalizing an illegal activity (under Federal law), something that has never been done in the U.S. Confusion, frustration & concern has been the result.

Mr. McDowell explained the planning commission decision on July 31<sup>st</sup>, denying the Conditional Use Permit application for a Recreational Marijuana facility, was appealed and heard by Council on September 19<sup>th</sup> & September 26<sup>th</sup>, where the planning commission's decision was upheld. The applicant's filed a Notice of Intent to Appeal to the Land Use Board of Appeals. The City Council, City Attorney and other opinions were heard, and Council came to the decision to remand the decision for further reconsideration. That hearing will be November 14<sup>th</sup>, 2017. Mr. McDowell explained that legal counsel advised the adverse impact argument is not strong enough to prevail at the Land Use Board of Appeals. The Council will likely accept the Conditional Use Permit application. Discussion ensued. The Commission discussed at length how to handle conflicts of interest & bias.




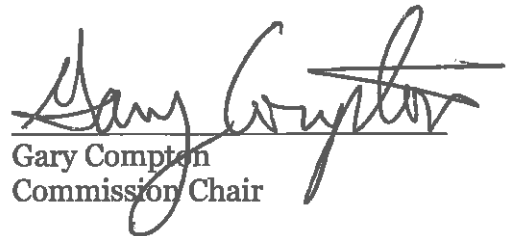
## Planning Commission Minutes

Mr. McDowell reported that Randall Raschein, a property owner on Gap Road, has submitted an application to Linn County Planning and Building Department for a Type II (outright permitted use) proposed land use action to construct up to eight 30'X90' greenhouses for marijuana processing and production. The property is located .06 miles from the city limits. Some property owners would like to see a two – three-mile buffer between production/processing buildings and the city limits. There are several arguments regarding odor and noise. Council will be asked to pass a resolution requesting the buffer. Discussion ensued.

There being no further business to discuss, the meeting was adjourned at 7:57 pm.

**ATTEST:**

  
Elizabeth E. Coleman  
Administrative Assistant

  
Gary Compton  
Commission Chair