



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Meeting Minutes - Final

Planning Commission

Monday, August 8, 2016

7:00 PM

Commission Chambers

1. Call to Order

Chair Kidwell called the meeting to order at 7:05 PM.

Present: 5 - Charles Kidwell, Tom Geil, Paul Espe, Denyse McGriff and Damon Mabee

Absent: 2 - Robert Mahoney and Zachary Henkin

Staffers: 2 - Laura Terway and Pete Walter

2. Public Comments

There were no public comments on non-agenda items.

3. Public Hearings

3a. [PC 16-082](#)

Planning File LE-16-0001 - Adoption of Time, Place and Manner Regulations for Marijuana Businesses and Personal Cultivation.

Chair Kidwell opened the public hearing.

Pete Walter, Planner, presented the staff report. He reviewed what was discussed at the last Planning Commission meeting. Some issues that came up were personal outdoor cultivation with the direction for staff to draft regulations to allow personal cultivation outdoors, adding a 1,000 foot buffer around Clackamas Community College, and questions regarding what other jurisdictions did. Regarding personal outdoor cultivation, the concerns had to do with sight, smell, trespass, theft, and attractive nuisance. There was also a desire to follow the intent of State law to allow personal use and not regulate it. Staff proposed to allow personal outdoor cultivation per State law up to four plants per residence out of public view with a 10 foot setback that would be measured from the property line to the edge of the plant. If odor rose to the level of a nuisance, it could be pursued as a Code violation. Regarding the 1,000 foot buffer around the college, the concern was that there were students under 21 attending the college and could be influenced by the proximity of retail marijuana facilities close to the college. The 1,000 foot buffer was the same as what would be applied around an elementary or secondary school. Retail uses would be prohibited in all residential zones, abutting any residential zone unless the tax lot abutted a major street, prohibited within 250 feet of any public parks, licensed childcare or daycare facilities, and public transit centers, and prohibited within 1,000 feet of any public, private, or parochial elementary or secondary school and Clackamas Community College. He then showed a map of retailer permitted areas. Producers would be prohibited in all zones except for General Industrial. Wholesalers and Processors would be prohibited in all residential zones and all mixed use corridor and commercial zones. They would be permitted in General Industrial, Mixed Use Employment, and Campus Industrial zones.

There was discussion regarding adding a regulation that no marijuana businesses would be allowed within the waterways.

Mr. Walter discussed the proposed standards of operation. Marijuana businesses would have to be in compliance with other laws, would have to maintain registration compliance with State law, no portion of any marijuana business would be conducted outside, the hours of operation would be in compliance with OLCC or OHA, and the business would have an odor control system designed by a licensed mechanical engineer. The standard for judging an odor problem would be that of an average reasonable person with ordinary sensibilities after taking into consideration the character of the neighborhood in which the odor was made and detected. Doors and windows would remain closed except for the minimum time required for egress and ingress, there would be secure disposal of remnants and byproducts, there would be no drive through or walk up window, and they would maintain all of the applicable OLCC security requirements. He then described what Portland, Gladstone, Lake Oswego, Milwaukie, and West Linn were doing for marijuana regulations. Staff recommended approval of the Code amendments.

There was discussion regarding these businesses meeting Business License regulations.

Doug Neeley, resident of Oregon City, was representing Oregon City Together. He had put forward the recommendation for a buffer around the college due to the number of high school students who took classes at the college. Those who rode school buses had to live at least a mile away, and there was potential for students to be walking by dispensaries to and from school at just 1,000 feet. He suggested the Commission consider adopting Lake Oswego's buffers, which were 1,500 feet from schools and 500 feet from daycares.

Commissioner Mabee said Lake Oswego also had a 1,000 foot separation between marijuana retailers. He thought that would be an equitable compromise so students would only be passing one retailer as opposed to several.

Mario Mamone, resident of West Linn, was a dispensary owner in Clackamas County. The City of Fairview was being sued for banning medical marijuana grows as there was no law that allowed cities to ban them. The odor issue had been settled in the appeals court who had stated that the smell of marijuana was not an offensive odor. Just because people did not like it, that did not make it an offensive odor. He suggested the Commission rethink the odor nuisance regulation as it might be something that ended up in court. He discussed the medical marijuana growers and patients in Oregon City. He wanted to make sure they were being represented fairly. To minimize access to their medicine was not right or responsible. The Commission would be forcing them to go someplace else to get their medicine and many were low income who did not have the means to go somewhere else. These people had medical reasons to use the marijuana and they should not be denied their medicine. The Commission needed to allow these businesses to succeed in Oregon City.

Mr. Walter said there would be a City Commission Work session on these regulations on August 9 and the first City Commission public hearing would be August 17.

Chair Kidwell closed the public hearing.

There was discussion regarding the retail permitted areas map and mixed use employment areas.

Commissioner Mabee was concerned about allowing retailers in the Canemah National Historic District. He thought it should be excluded as it was a special place and needed extra protection.

Commissioner Espe said it seemed where the retailers were allowed were in far flung areas of the City and not conveniently located or easily accessible. He wanted to make sure Canemah Park was listed on the buffer map and wanted to know what the effect of a larger buffer would be as proposed by Mr. Neeley. He wanted to make sure children were being protected, the buffers were adequate, and that these facilities were centrally located.

Mr. Walter stated adding another 500 feet to the buffer would further shrink the available areas. The impact on children had been heavily discussed. Staff thought the buffers proposed were adequate and an additional 500 feet would not do that much more.

Commissioner McGriff said not every community needed to have everything someone might want. Because of the nature of this particular retail product, there were additional regulations. People might need to drive further to get what they wanted. She thought Mr. Neeley had a sound basis for his suggestions. She was concerned about odor and how it affected residents. Some people had respiratory problems and to her it was a health hazard. She questioned if a ten foot setback for personal cultivation outdoors was adequate. She did not want people to be prohibited from using their property due to what someone was growing in their backyard. She thought personal cultivation should be indoors only.

Commissioner Geil did not think it would be a nuisance to have personal cultivation outdoors. He was allergic to pollen from plants next door to him and he did not tell his neighbor what they could or could not grow. He thought people should have the freedom to grow what the State allowed. This plant had a short growing season in this area.

Commissioner McGriff said it would depend on the market, but she did not think there would be a mad dash to fill every retail vacancy with a marijuana business.

Chair Kidwell did not think they were preventing the opportunity for these businesses with these regulations. He was opposed to having personal cultivation outdoors due to possible theft of the plants.

Commissioner Mabee thought if there was a problem with theft, people would stop planting marijuana outdoors or move the plants to a more secure location.

Commissioner Espe did not have a problem with personal cultivation outdoors as it would be a minimal impact.

There was consensus not to increase the 1,000 foot buffer to 1,500 feet, to require a 1,000 foot separation between marijuana businesses, to prohibit retailers in the Canemah Historic District, and to allow outdoor personal cultivation and that a 10 foot setback was not necessary, but plants should not be visible from public view.

A motion was made by Commissioner Geil, seconded by Commissioner Mabee, to approve Planning File LE-16-0001 - adoption of time, place and manner regulations for marijuana businesses and personal cultivation as amended. The motion carried by the following vote:

Aye: 4 - Tom Geil, Paul Espe, Denyse McGriff and Damon Mabee

Abstain: 1 - Charles Kidwell

4. Approval of the Minutes

4a. [16-454](#)

Approval of Planning Commission Minutes for May 18, 2015, June 8, 2015, August 24, 2015, September 14, 2015 and September 28, 2015.

A motion was made by Commissioner McGriff, seconded by Commissioner Espe, to approve the May 18, 2015 minutes. The motion carried by the following vote:

Aye: 5 - Charles Kidwell, Tom Geil, Paul Espe, Denyse McGriff and Damon Mabee

Commissioner McGriff said she had declared a visit to the Moss campus site, but it was not noted in the minutes.

A motion was made by Commissioner McGriff, seconded by Commissioner Mabee, to approve the June 8, 2015 minutes as amended. The motion carried by the following vote:

Aye: 5 - Charles Kidwell, Tom Geil, Paul Espe, Denyse McGriff and Damon Mabee

A motion was made by Commissioner Mabee, seconded by Commissioner McGriff, to approve the August 24, 2015 minutes. The motion carried by the following vote:

Aye: 5 - Charles Kidwell, Tom Geil, Paul Espe, Denyse McGriff and Damon Mabee

A motion was made by Commissioner Espe, seconded by Commissioner McGriff, to approve the September 14, 2015 minutes. The motion carried by the following vote:

Aye: 5 - Charles Kidwell, Tom Geil, Paul Espe, Denyse McGriff and Damon Mabee

A motion was made by Commissioner Geil, seconded by Commissioner McGriff, to approve the September 28, 2015 minutes. The motion carried by the following vote:

Aye: 5 - Charles Kidwell, Tom Geil, Paul Espe, Denyse McGriff and Damon Mabee

5. Communications

Laura Terway, Community Development Director, said the City was submitting an application for an equitable housing grant. Mr. Walter stated the City was requesting \$90,000 to look at potential changes to the City's codes and processes and to look at incentives and options for equitable housing. An advisory committee would be set up to give input on this issue as well.

There was consensus to pursue the grant.

Ms. Terway explained the upcoming Planning Commission meeting agenda items. The August 22 and September 12 meetings were cancelled. She then discussed recent issues regarding membrane structures and the proposal to streamline some applications to be Type 1 reviews.

Commissioner McGriff asked about regulations for short term rentals such as air b&b's. Ms. Terway clarified the regulation was in all residential zones if a place was rented out for less than 30 consecutive days it required a Conditional Use Permit. If it

*was rented for 30 or more consecutive days it did not require a Conditional Use.
There were not any bed and breakfasts or boarding houses in the City.*

6. Adjournment

Chair Kidwell adjourned the meeting at 9:18 PM.