



City of Oregon City

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

Meeting Minutes - Final

Planning Commission

Monday, September 11, 2017

7:00 PM

Commission Chambers

1. Call to Order

Chair McGriff called the meeting to order at 7:00 PM.

Present: 7 - Robert Mahoney, Zachary Henkin, Paul Espe, Denyse McGriff, Damon Mabee, Tom Geil and Vern Johnson

Staffers: 4 - Laura Terway, Pete Walter, Phil Lewis and Carrie Richter

2. Public Comments

There were no public comments on non-agenda items.

3. Public Hearing

3a. Variance from OCMC 17.54.110.(C)(1), to locate a marijuana retail dispensary ("The Green Planet") within 250 feet of a public park (Mountainview Cemetery).

Chair McGriff opened the public hearing and read the hearing statement. She asked if any Commissioner had ex parte contacts, conflicts of interest, bias, or any other statements to declare.

Commissioner Henkin had been to both retail businesses on the site.

Commissioner Espe had also been to both businesses.

Commissioner Johnson visited the site.

Commissioner Mabee drove by the site all of the time.

Commissioner Geil visited the site.

Chair McGriff was familiar with the site.

Pete Walter, Planner, delivered the staff report. This was a request for a variance from OCMC 17.54.110C1 to locate a marijuana retail dispensary within 250 feet of a public park, Mountainview Cemetery. He gave details of the site and showed photos. Public comments had been received from Larry Krause and Doug Neeley who were opposed to the application. He reviewed the approval criteria and staff findings. Staff found that the purpose criteria had not been met and recommended denial.

Corrinne Celco, representing the applicants, discussed the reasons for staff's recommendation for denial. They did not think the purpose of the regulations was

made apparent. Even if this variance was approved, the number of marijuana retailers allowed to be located in the City would not change due to the 1,000 foot buffer between marijuana retailers.

Travis Moffitt, one of the applicants, displayed a map and circles representing the 1,000 foot buffers showing how the application met the intent of the variance.

The Commission asked clarifying questions about the map and buffers.

Ms. Celco stated if one of the purposes of the code was to limit the number of marijuana retailers allowed in the City, approval of this variance met the spirit and intent. If one of the intents was to prevent locating retailers near where children congregated, the cemetery did not have a playground or recreational activities. There was no direct physical access within 250 feet of the proposed location. Regarding mitigation, there was limited access and no visual of the building from the cemetery and there would be robust security measures to keep children away from the products. All of the other criteria had been met, and she requested approval.

Larry Krause, resident of Oregon City, read his submitted written testimony in opposition to this variance.

Tracy Noble, resident of Oregon City, had attended the Barclay Hills Neighborhood Association meeting where this application was presented. More dispensaries would still be possible even if this was approved. Kids went to the cemetery and a fence was not a deterrent.

Lynne Delmore, resident of Oregon City, said there were 33 families that lived just a few hundred feet from this proposed dispensary. There were other dispensaries nearby and she did not think there was a need for another one. She was also concerned about protecting her property values.

Paige Hirt, resident of Oregon City, was representing Oregon City Together. She gave reasons for their support in denying the variance including public events that were hosted at the cemetery that were attended by families.

Tiffany Hicks, resident of Oregon City, read from the written comments submitted by Oregon City Together explaining the recreational activities that happened in this space. They were also concerned about setting a precedent for future exceptions.

Rocky Smith, resident of Oregon City, stated this was a City park and a place where children congregated and had activities.

Ms. Celco gave rebuttal. She discussed the differences between a cemetery and a park. It was not the Commission's duty to make sure no child was within 250 feet of a dispensary. Their duty was to ensure the variance met the purpose of the regulation. They had shown there was no direct physical access within 250 feet, there were security measures that would not allow minors to enter the store, the space would not be visible from the cemetery, and any potential impacts had been mitigated.

Mr. Moffitt said they were a family based company and would like to be part of the community.

Derek Metson, resident of Oregon City, confirmed there was no direct pedestrian access to the dispensary. He thought the variance was a reasonable request.

Chair McGriff closed the public hearing.

There was discussion regarding the code regulations for marijuana facilities.

Commissioner Geil addressed the emotional stigma of marijuana due to it being illegal for so long. There was no direct access from the cemetery, and he was in favor of the variance.

The rest of the Commission were not in support of the ordinance for the following reasons: the Commission considered the cemetery a park, the application did not meet all of the variance criteria, the hardship on the applicant had not been demonstrated, and it would set a precedent.

Commissioner Mabee thought the intent of the regulations was to restrict the number of stores and where they could be located.

Commissioner Espe did not think they met Criterion A as well as not meeting Criterion C.

Chair McGriff thought the comments made by Ms. Hicks were credible and should be included in the findings.

A motion was made by Commissioner Mabee, seconded by Commissioner Espe, to recommend denial of the variance from OCMC 17.54.110.(C)(1) to locate a marijuana retail dispensary ("The Green Planet") within 250 feet of a public park (Mountainview Cemetery) subject to the adoption of the findings that would be brought back on September 25, 2017. The motion passed by the following vote:

Aye: 6 - Robert Mahoney, Zachary Henkin, Paul Espe, Denyse McGriff, Damon Mabee and Vern Johnson

Nay: 1 - Tom Geil

3b.

**Abernethy Place Hotel and Mixed Use Development - Planning Files
CP-17-0002, DP-17-0003, and
NR-17-0004 (Continuance).**

Chair McGriff reopened the public hearing and read the hearing statement. She asked if the Commission had anything new to declare since the last hearing on this matter.

Commissioner Henkin had stayed in two Hilton hotels.

Carrie Richter, City Attorney, explained where they were in the process. The applicant had revised the application to include two additional adjustments and a supplemental staff report had been distributed.

Pete Walter, Planner, gave the staff report. He entered the following items into the record: additional comments and items from James Nicita, email comments from Mark Matheson, letter from Tom Sisul, and letter from Mike Robinson. He reviewed the two adjustments to the General Development Plan for Phase 1. One was to adjust the minimum wall articulation to reduce the depth of the required wall plane projections or recesses from 3 percent to 2.8 percent and the other was to allow an enhanced facade and pedestrian entryway facing Washington Street with a primary vehicular entry Porte Cochere on the side of the building. He showed drawings of the new elevations and

modified facades with these two adjustments. He then reviewed the criteria for approval of the adjustments. Staff recommended continuing the hearing to September 25, 2017.

Lloyd Hill with Hill Architects was representing the applicants. He reviewed the adjustments that had been requested at the previous meeting and the two new adjustments. He also addressed Mr. Nicita's sketch that proposed reorienting the hotel and pointed out the challenges of the flood elevations and sewer easement. He also explained the options that had been explored for the Hackett House.

Chair McGriff suggested Goal 5 analysis that needed to be included which explained the impact of the new construction on the site and in particular the Hackett House.

There was discussion regarding the design of the building and the site and the Commission gave suggestions for elements to add to give the development a sense of place.

William Gifford, resident of Oregon City, gave examples of other projects in the City that did not meet code for the main entrance orientation that were assets to the community. This proposal would not detract from the Hackett House and the orientation was a benefit to the End of the Oregon Trail Interpretive Center.

Claire Met, resident of Oregon City, thought the hotel was needed. The orientation reduced the impact of the hotel on Washington Street and the site had good access.

Carol Pauli, president of the Downtown Oregon City Association, read a letter of support from the Association. She agreed with the staff report that the criteria had been satisfied and was personally in support.

Jack Hammond, Clackamas Heritage Partners Board member, discussed the reasons the Board was in support of the application and how all of their concerns had been addressed in the conditions. The orientation preserved the view of the hoops at the End of the Oregon Trail Interpretive Center to vehicles traveling on I-205. It would benefit the EOT, other historical sites, and Riverwalk to have a large, modern hotel at this location.

Jerry Herrmann, resident of Gladstone, stated other surrounding buildings had a similar height as to what was being proposed. He then spoke about how the proposed design would improve the area through connectivity, natural resource areas, and heritage opportunities.

James Nicita, resident of Oregon City, explained the difference between variances and adjustments and how not all of the adjustments being requested were located in OCMC Chapter 17.65. Many applied to 17.62.015 including the primary entryway standard and height restriction. He referred to the vision of the End of the Oregon Trail Master Plan and how it was mentioned in other planning documents. He thought the design guidelines should be applied to this area, although a copy would need to be requested from the Clackamas Heritage Partners. He discussed court cases that showed how the Commission had deference in interpreting the criteria, however it was not absolute as the Commission had to take the context into consideration. It was the Comprehensive Plan that controlled and he thought that included the design guidelines which required that the hotel share the architectural style of the Hackett House. Regarding the Goal 5 resources issue, he pointed out other resources besides Abernethy Creek that needed to be taken into account. He then explained why he thought the design guidelines were legally applicable and how the materials proposed

to be used for the hotel were not historically authentic.

Derek Metson, resident of Oregon City, spoke about the facade articulation, Washington Street entrance, and historic appropriateness. He thought the adjustments met the intent of the code.

Michael Robinson, representing the applicant, referred to the letter he submitted that day that addressed Mr. Nicita's earlier testimony. The applicant agreed to extend the 120 day period. He discussed the End of the Oregon Trail Master Plan and why he did not think it was a regulatory document for this application. He also explained why the applicant was not required to make an application for variances and was instead requesting adjustments. The stormwater criteria had been addressed and he thought the criteria for the adjustments had been met.

A motion was made by Commissioner Mabee, seconded by Commissioner Espe, to continue the hearing for the Abernethy Place Hotel and Mixed Use Development - Planning Files CP-17-0002, DP-17-0003, and NR-17-0004 to September 25, 2017. The motion carried by the following vote:

Aye: 7 - Robert Mahoney, Zachary Henkin, Paul Espe, Denyse McGriff, Damon Mabee, Tom Geil and Vern Johnson

4. Communications

Laura Terway, Community Development Director, gave an update on the sanitary sewer moratorium and a subdivision application that was being called up to the City Commission.

5. Adjournment

Chair McGriff adjourned the meeting at 11:40 PM.