

## MINUTES

Creswell Planning Commission  
Creswell City Hall Council Chambers – 13 South First Street  
Creswell, Oregon

May 22, 2014  
6:30 p.m.

**PRESENT:** Blake Oelke, Chair; Dennis Grice, Vice-Chair; David Christopher, Robert Grand, Gary Ludeke, and Dan Stockbarger, commissioners; Denise Walters, staff.

**ABSENT:** Lloyd Safley

**GUESTS:** Ron Rice, owner, Geomax, Inc.

Mr. Oelke called the meeting of the Creswell Planning Commission to order at 6:32 p.m.

### I. MINUTES OF APRIL 17, 2014 – REVIEW AND APPROVAL

**MOTION:** Mr. Christopher moved, seconded by Mr. Ludeke, to approve the April 17, 2014, minutes, as presented. The motion carried unanimously (6:0).

### II. AUDIENCE

There were no comments from the audience.

Christopher: used car lot that constituents said was looking like a wrecking yard has been cleaned up.

### III. COMMISSIONER COMMENTS

Mr. Christopher referred to a local piece of property as an “eyesore”—which, to describe its unsightliness, he joked was being utilized as a wrecking yard and used-car lot—and both Mr. Christopher and other members noted the property had finally been cleaned up.

### IV. POLL MEMBERS FOR CONFLICTS OF INTEREST

Mr. Oelke later recused himself from the discussion and vote on “Application A” (see below under agenda item “VI. New Business”).

### V. OLD BUSINESS

There was no old business.

## **VI. NEW BUSINESS**

**“Application A: Quasi-Judicial Decision (PUBLIC HEARING) on Case No. VAR-2014-01.** Geomax Inc., on behalf of Calvin and Beverly Taylor, has submitted a variance application for tax lot 15100, Assessor’s Map 19-03-11-34. The current tax lot is the result of a deed gap and, as such, is substandard, requiring multiple land use actions to correct. The variance request for reduced lot area and width is paired with a property line adjustment (administrative decision) that is one part of the corrective land use actions. The site is zoned Low Density Residential and designated as Residential on the Creswell Comprehensive Plan Land Use Map.

Mr. Oelke summarized the variance application (see above) and referred to the Creswell Development Code boilerplate requirements to meet the standard(s) under which the application would be considered. [See handout(s): “Creswell Planning Commission Findings of Fact/Final Order – Taylor Variance to Lot Width and Lot Area (VAR-2014-01),” 6 pp.; and see also: “Creswell Planning Commission Staff Report – Taylor Variance to Lot Width and Area (VAR-2014-02),” 4 pp.] [Supporting documentation included Mr. Rice’s (the applicant’s) “Development Application – Type III,” 6 pp. (but numbered 1 through 4); and Geomax, Inc.’s one-page illustrative detail, “Proposed Property Line Adjustment for Taylor.”]

Mr. Oelke self-identified as “having ties to this matter” and recused himself from the discussion and vote on the application.

Ms. Walters presented the Creswell PC’s findings of fact and proposed final order for “Application A.” She noted that the current configuration of the tax lot 15100 resulted from a deed gap/survey error. She said staff recommended approval of the application, underscoring that approval of the variance would not have adverse effects on surrounding properties and would in fact provide improvements. She added that, conversely, by not approving the variance, the commission would be placing an obstacle to the subdivision and the “effective, efficient use of the property.”

Mr. Rice, representing Geomax, Inc., and the applicant, said he had no issues with staff’s findings of fact.

**MOTION:** Mr. Christopher moved, seconded by Mr. Grice, to approve “Application A,” and as amended.

**VOTE:** The motion carried unanimously (5:0), with Mr. Oelke having recused himself.

## **VII. OTHER**

### **--Medical Marijuana and Land Use**

Ms. Walters referred commissioners to two single-page maps. [See “City of Creswell Zoning Map”; and “Schools and Library 1000 ft Buffer.”]

Ms. Walters said the Creswell City Administrator had requested the Creswell Planning Commission’s assistance on the medical marijuana dispensary discussion. She informed commissioners that the Creswell City Council had voted on a one-year moratorium, and would then need to make decisions following the moratorium (set to expire on or about May 2015).

Ms. Walters identified three pathways under which the City Council might proceed:

(1) The city of Creswell could take no action, and thereby defer to governing Oregon state statutes;

(2) The city could establish its own regulations; and/or

(3) The city could ban dispensaries, and thus make Creswell consistent with federal law but in violation of state law. She also noted that there were several related subtleties and questions-at-issue (e.g., by establishing regulations, would the city thus be violating federal law—and what might be the potential federal repercussions?).

Members looked at the two maps identifying city zoning and schools-buffer zones. In response to Mr. Ludeke’s question, Ms. Walters clarified that state law required the 1,000-foot school-buffer zone to site medical marijuana dispensaries. She considered some other possible issues: e.g., how a dispensary’s “owner of record” versus the dispensary’s employees would be regulated vis-à-vis background checks and other oversight; and that although state law strictly regulated where to site dispensaries, the law was more “generous” in terms of where “the product” (i.e., the marijuana plants) could be grown, and thus, she posited, that marijuana might be cultivated in residential areas.

Ms. Walters noted that “grow operations” in residential neighborhoods were newly an issue in Colorado and Washington, both states which had recently legalized recreational use of marijuana. She said that, for example, Colorado had addressed this issue by requiring marijuana not be grown outdoors, but rather be grown either indoors or in an indoor structure (e.g., a greenhouse). She said that she had asked the City Administrator whether they would have different design standards for commercial development (i.e., commercial marijuana grow operations), and that the Administrator replied a possible solution might be requiring blacked-out or tinted windows. (Members questioned the aesthetic value of “hiding” a business in such an unappealing way.)

Commissioners had a general discussion in which they questioned: where current zoning rules might allow the siting of a medical marijuana dispensary; whether such siting would be any different than the siting, for example, of a liquor store; and whether a city the size of Creswell, and given the zoning rules, could accommodate more than one or at most two dispensaries.

Ms. Walters said she would let commissioners know when the City Council would next consider regulation of medical marijuana dispensaries.

Ms. Walters conveyed on behalf of the City Administrator that folks had been shy to express their opinions publicly on this issue, and that the city was looking at other means (e.g., anonymous online forums, etc.) to elicit people's input.

Mr. Christopher suggested that, like the use and regulation of other legal substances (tobacco, alcohol, etc.), medical marijuana should be regulated and taxed.

Mr. Oelke questioned why Creswell would want to be involved in regulating marijuana instead of adopting state law. He also wondered what other cities had decided in terms of a one-year moratorium on the siting of dispensaries.

Ms. Walters responded that she was not aware of what some cities had done, but that, for a few examples: Veneta had not issued the moratorium; Junction City had issued the moratorium; and Coburg was considering a land-use issue related to the matter. She also noted that cities feared potential loss of federal funding should the federal government decide at some future date to enforce federal provisions against marijuana. She reminded commissioners that Creswell had the year (i.e., until May 2015) to decide whether to develop and adopt local regulations or, otherwise, to defer to state regulations.

Mr. Oelke also asked whether the city had the right to tax marijuana—i.e., he wondered whether the city, should it decide to regulate medical marijuana dispensaries, could then tax the marijuana to pay for monitoring, licensure, and related expenses.

Ms. Walters responded that the federal government cautioned if the city were to make money from the medical marijuana enterprises, and if the federal government were then to begin enforcing regulations against marijuana, then the federal government might consider the city to be an “accomplice.”

Ms. Walters said she, per the City Administrator's request, would share commissioners' ideas and concerns; and that, currently, the commission was on hold concerning this matter until such time as there would be more information or considerations to address.

## VIII. ADJOURNMENT

Mr. Oelke adjourned the meeting at 7:08 p.m. The next meeting of the Creswell Planning Commission was scheduled for June 19, 2014, at 6:30 p.m.

*(Recorded by Bo Adan)*

  
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Blake Oelke, Chair

8-7-14  
Date