

MINUTES

Creswell Planning Commission
Creswell City Hall Council Chambers -- 13 South First Street
Creswell, Oregon
December 16, 2014
6:30pm

PRESENT: Blake Oelke, Chair; David Christopher, Robert Grand, Gary Ludeke, and Lloyd Safley, commissioners; Madeline Phillips, staff.
ABSENT: Dan Stockbarger, and Dennis Grice
GUESTS: None.

Mr. Oelke called the meeting of the Creswell Planning Commission to order at 6:45pm.

I. MINUTES OF November 20 , 2014

MOTION: Mr. Christopher motioned, Mr. Ludeke seconded to approve the minutes from November 20, 2014. The motion carried unanimously (5:0).

II. AUDIENCE

No audience present.

III. COMMISSIONER COMMENTS

Robert Grand inquired about the new red barn building by the dentist's office on Melton Road. Lloyd Safley noted that the building is a fabrication lab for dental materials.

IV. POLL MEMBERS FOR CONFLICTS OF INTEREST

No decisions will be made this evening. This work session will discuss Medical Marijuana Dispensaries as a proposed use within the City of Creswell.

V. OLD BUSINESS

Kim Thorton's letter has been discussed in past meetings of the Planning Commission. No further action or comment was provided on this item.

VI. NEW BUSINESS

Medical Marijuana: Possible Development Code Amendment

Madeline Phillips summarized the timeline of legalization of medical marijuana, recreational marijuana, and the requested timeline of recommendations to City Council for Planning Commissioners, as well as the overseeing agencies (Oregon Health Authority, Oregon Liquor Control Commission). The focus of this conversation was solely focused on medical marijuana due to pending rule making on recreational marijuana has not been completed.

Ms. Phillips explained that Chapter 18 of the Creswell Municipal Code discusses the city's development code, which the Commission will potentially amend to include medical marijuana facilities. She refined that the discussion this evening will focus principally on the development code's scope: Land use, zoning, design standards, and review process. The Commission's discussion will be the basis of a recommendation to City Council in two parts: 1) Amendments to the Development Code and 2) Time, place, and manner discussion which will be left to the discretion of the City Council as a municipal action. The outline provided in the packet may serve as a starting point.

Commissioners discussed the timeline for providing a recommendation to City Council. Two meetings may be required. Ms. Phillips noted that there will be notice and public hearing requirements associated with this action.

Commissioner Oelke suggested the Commission start with where facilities could be allowed. The three schools in Creswell were identified as 1000 ft buffered locations to preclude location of a dispensary.

The conversation exchanged around the extent of limitations. Day care facilities, the Library, among other places that young people congregated were considered. Ms. Phillips demonstrated measuring 1000ft from different locations to better-understand the context.

Commissioners discussed the pros and cons of a dispensary locating in the downtown area.

Mr. Christopher discussed where the 1000 ft. buffer is measured from. Mr. Oelke wondered if the Middle School buffer would affect the Commission's decision.

Mr. Safley asked about the difference in restriction between medical and recreational marijuana facilities. Ms. Phillips reminded the Commissioners that the two have different agency oversight, and likely will have entirely different rules.

Discussion revolved around places minors congregate. Commissioners noted that access to medical marijuana that is illegally re-sold is more of a policing issue.

Mr. Safley noted that an party interested in opening a marijuana facility would likely look for existing buildings.

Mr. Oelke noted the places a marijuana facility could locate: Downtown, Mill St./Highway 99, commercial areas on the East side of Creswell.

Mr. Ludeke expressed a desire to ban marijuana all together. Commissioners agreed to some extent, in principle to this, but questioned the ability for such a vote to pass, as well as the legal implications of doing so.

Mr. Christopher, Mr. Oelke, and Mr. Grand put forward support for treating a marijuana facility like a liquor store with respect to restricted sales to adults, certain designated areas, etc.

Discussion entertained the idea of excluding medical marijuana facilities from downtown commercial areas. Commissioners agreed this could be more agreeable to Creswell's residents. General commercial zones are a viable option, particularly on the east side of Creswell.

Ms. Phillips raised the point that visibility of such a marijuana business might help monitor areas where medical marijuana facilities are located. Commissioners noted that many of the general commercial areas have available buildings to locate in. Discussion continued regarding the eventuality of medical facilities becoming recreational marijuana sales locations.

Mr. Grand asked and Ms. Phillips answered as to whether a grow site and a medical marijuana storefront may be located together (a warehouse growing marijuana, a commercial storefront selling it). The two must be separated by at least 1000 ft (part C of the OHA regulations).

Ms. Phillips noted that the Planning Commission could explore using the land use process as a means to appropriately locating a medical marijuana grow facility in Creswell.

The Commissioners noted consensus that a Type III Conditional Use Permit would provide the oversight appropriate for locating a medical marijuana facility in Creswell.

Mr. Ludeke inquired as to why medical marijuana is not considered and dispensed like a regular drug at a pharmacy. Ms. Phillips rejoined that it is likely due to the lack of approval by the FDA, as well as marijuana's continued listing at the Federal level as an illegal substance and can't be sold as a medicine. Mr. Oelke agreed, and discussed the challenges of banking and security for medical marijuana businesses, since the substance is still illegal at the federal level making it impossible for banks to hold their accounts.

Mr. Grand noted continued support for locating a medical marijuana facility in a visible area. Mr. Oelke noted that this criterion can be included in the review process. Commissioners speculated where a facility could locate and how visible the speculative locations would be.

Commissioners briefly deviated from the topic to discuss the stormwater facility associated with a proposed industrial/commercial building on N. Mill St.

Commissioner Ludeke left the meeting at 7:23pm

Ms. Phillips confirmed consensus of commissioners' support for restricting medical marijuana facilities to General Commercial, Industrial Commercial, and General Industrial. She provided updated information regarding the City Council's proceedings related to taxing marijuana – City Council passed an ordinance to tax marijuana, but set the rate to 0% knowing there would be legal questions that arose from the exaction of a tax and that additional staff resources and infrastructure would be needed to carry out collection.

Mr. Grand noted that restricting locations to general industrial only would significantly restrict medical marijuana facilities, wondering if there would be legal recourse for that level of restriction. Ms. Phillips noted that cases are currently in various levels of legal appeals for those communities in Washington state that banned locating marijuana facilities from their jurisdictions (Wenatchee, Centralia); though the action is not impossible, it could lead to legal contest. Mr. Safley noted a similar example in Cave Junction, OR. Ms. Phillips provided a parallel example of adult shops as a type of controversial business that has legal precedence. Mr. Oelke noted that taking the restrictions this far may not be the course of action the Planning Commission would want to take. Ms. Phillips noted that there may be potential for a marijuana business to sue the city for a perceived over-restriction, in the interest of setting precedence, that could be backed by interest groups. Commissioners agreed that some of these interest groups could have deep pockets.

Mr. Grand discussed how many medical marijuana facilities could be located in the City. Mr. Christopher noted that by his count the City could potentially have 3: the new building on N. Mill Street, south of the B&B on South Front Street, and in the commercial complex by the former Ray's building. Mr. Oelke noted that economics would be the limiting factor, as the community was unlikely to support that number of shops. He noted further that a community closer to the California border (like Ashland) could support more shops.

Mr. Christopher and Mr. Grand discussed the thought of restricting locations to only general commercial. Discussion followed around more potential locations. Ms. Phillips was asked for her input; She noted that there are different levers to pursue if the Commission wishes to restrict the location of medical marijuana facilities, the most effective of which is the Type III Review process. This will require the Commissioners to develop discretionary design standards. She suggested that keeping industrial

areas (as well as commercial, as discussed) on the table could keep the City's options open, should land have the potential for redevelopment. She provided examples of an entryway to a public street, lighting, screening, etc. Mr. Safley noted support for this type of discretionary role of the Commission to help make these facilities safer.

Mr. Oelke noted that he did not feel particularly compelled to restrict medical marijuana facilities from downtown, but he felt the community would not approve of it. Mr. Safley noted that the churches would not support a facility locating downtown.

Mr. Grand asked for more information regarding the Type III Review process. Ms. Phillips summarized that an applicant would be required to apply for a conditional use permit, then move through the site review process.

Commissioners noted consensus for locating medical marijuana facilities in General Commercial, Industrial Commercial, and General Industrial Zones. Commissioners also noted support for medical marijuana uses to go through a Type III Review process. Consensus was offered for the Oregon Health Authority Rules 333-008-1110 (3)(a) through (c).

Commissioners discussed including 1000ft exclusion buffers around churches, schools, and/or daycare facilities. Consensus was reached that excluding medical marijuana facilities from downtown would suffice.

In discussion of potentially co-locating uses in one building or one facility, Commissioners did not have an interest in allowing co-location of medical marijuana facilities with other businesses (i.e. bars, bakeries, or other facilities). In the interest of keeping Commissioners' options open, Ms. Phillips raised the question. Commissioners supported the requirement of a separate entrance for a medical marijuana facility.

Commissioners noted support for requiring a medical facility located in a non-mobile, fixed structure.

Mr. Christopher noted support for background checks for all employees and volunteers of the dispensary.

Commissioners discussed lighting requirements, landscape screening, etc to build in flexibility for the Planning Commission's decision. Mr. Grand noted that this level of complexity of process may deter operators from locating in Creswell.

Commissioners envision medical marijuana facilities in busier, retail areas, similar to a liquor store. Mr. Grand noticed a "green cross" facility in Cottage Grove (near the airport, bowling alley, and real estate office) that could provide a model or clean-looking example. He noted that the facility is non-profit.

Mr. Safley asked about hours of operation. Mr. Christopher confirmed that the City Council will be able to make these recommendations. Again, Commissioners confirmed that hours should mirror liquor store hours. Ms. Phillips confirmed this, and suggested that she bring back definitions for the code and some design standards that might match a parallel use. Mr. Oelke noted that Springfield restricts hours to 10pm to 7am.

RECAP – Commissioners are in agreement on:

- Definition of a medical marijuana facility as being similar to a liquor store as a retail use;
- Zoning would be restricted to General Commercial, Industrial Commercial, and General Industrial; restricted from Downtown Commercial and Residential;

- Buffers around schools and other medical marijuana facilities per OHA Regulation;
- A medical marijuana facility must be a separate entrance (not necessarily a separate building), as a separate use.
- Visible entrance, lighting, landscaping, security system should all be included in design standards;
- Type III Conditional Use Permit required for any medical marijuana facility.

Ms. Phillips will bring back some draft language to meet these agreed-upon criteria.

Questions still remain around:

- The ability to differentiate and require conditional use permits for: grow facilities, processing facilities, and dispensaries – could this be based on a building permit? Certificate/change of Occupancy?

Ms. Phillips will take a closer look at this question. Licenses granted by the State of Oregon are not shared with City Hall, but due to requirements on growing medical marijuana indoors, there may be an opportunity to identify a “marijuana-“ anything through a conditional use process.

Discussion continued around the types of products included at a medical marijuana dispensary.

The question about defining all medical marijuana facilities in a similar way to route them through a conditional use process will continue to press on smaller communities like Creswell as the demand for industrial facilities (regionally-speaking) increases. Mr. Oelke noted that this discussion could set the city up well for questions to come around recreational marijuana uses.

Commissioners noted consensus around routing processing uses through a Type III review.

Action: None

VII. OTHER

Ms. Phillips discussed the timeline and notice required for next steps towards amending the development code to include medical marijuana facilities in the city of Creswell.

VIII. ADJOURN

Mr. Oelke adjourned the meeting at 8:30pm. The next meeting of the Creswell Planning Commission is scheduled for January 15, 2014 at 6:30pm.

(Recorded by Madeline Phillips)



Blake Oelke, Chair

1-15-15

Date