

# CITY OF DUNDEE

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**Meeting:** Planning Commission Meeting  
**Location:** City Council Meeting Chambers  
620 S.W. 5<sup>th</sup> Street  
Dundee, Oregon 97115  
**Date:** February 17, 2016  
**Time:** 7:00 p.m.

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## **I. Meeting called to order.**

Vice-Chairman Michelle Kropf called the meeting to order. Commissioners present, which consisted of quorum, were Michelle Kropf, Francisco Stoller, Danny Sikkens, Isaiah Cox, Kevin Swanson, Dustin Swenson, Sara Whitfield. Staff members included City Administrator Rob Daykin and City Planner Jessica Pelz.

Members of the audience were Jim Maguire, Shelly and Troy Pigman, Margaret Shibel, Mary Jane Bachmeier Swanson, Shannon and Don Howland, Carl and Linda Miller, Geoff Sugerman, Alan and Alice Kluge, Kim Doades, Jeff and Lisa Peck, Terry and Debbie Newhouse, Tom Burns, Amy Caruso-Picker, Scott Bernhardt, Kathy Harris, Matthew Bilka, Noel Johnson, Jennifer Sitter, and Robin Sikkens.

## **II. Introduction of New Planning Commissioners**

New commission members Dustin Swenson, Sara Whitfield, and Kevin Swanson were introduced.

## **III. Election of 2016 Chairman and Vice-Chairman**

It was moved and seconded to nominate Commissioner Kropf as Chairman. Motion passed unanimously.

It was moved and seconded to nominate Commissioner Stoller as Vice-Chairman. Motion passed unanimously.

## **IV. Approval of Minutes from Previous Meeting(s)**

It was moved and seconded to approve the minutes from the November 18, 2015 Planning Commission meeting. Motion passed unanimously.

## **V. Public Comment**

There was no general comment from the audience; those in attendance were informed that there was a five minute time limit for public comments during the public hearing phase.

## **VI. Public Hearings**

### **A) Appeal – MP 15-13, CA 15-20 Herbert**

#### **1. Objections to Notice**

Chairman Kropf began by reading the statement of interest into record. She then questioned whether there were objections to notice. No objections were heard.

#### **2. Objections to Jurisdiction**

There were no objections to jurisdiction.

#### **3. Declarations of Ex-Parte, Bias, or Conflict of Interest**

There were no declarations of bias or conflict of interest. Commissioners Sikkens, Kropf, and Stoller declared ex-parte contact based on familiarity of property.

#### **4. Staff Report**

Planner Pelz read the staff report into record.

#### **5. Proponents**

The applicant, Richard Herbert, was not in attendance; there were no proponents.

#### **6. Opponents**

Alan Kluge, 209 SW Birch Street, spoke and stated that the appeal should not have been filed by Richard Herbert as he was not the original applicant of the partition. He also stated that the appeal did not address specific criteria. He concluded by stating that he agreed with the Administrative Decision.

Planner Pelz read in to record public comments received after the planning commission packet had been delivered. This included a letter from Kathy Harris and an email from Lynn and Randy Scott.

#### **7. General Testimony**

There was no general testimony.

#### **8. Staff Recommendation**

That Planning Commission consider the staff memo and public testimony; deliberate and make findings; and make a motion adopting the planning commission order which would deny the appeal of the partition decision and uphold the original decision of denial for a 3-lot partition at 400 SW 3<sup>rd</sup> Street.

#### **9. Deliberation**

Commissioner Cox stated that he had read the packet and it seemed there was a lot of contention, however he thought that the code spoke for itself.

Commissioner Swanson stated that it shouldn't be considered due to the property dispute. There was a general consensus for denial among the commissioners.

Chairman Kropf moved to deny. The motion was seconded and passed unanimously.

## **B) LURA 16-01, City of Dundee Marijuana Regulations**

### **1. Objections to Notice**

Chairman Kropf began by reading the statement of interest into record. She then questioned whether there were objections to notice. No objections were heard.

### **2. Objections to Jurisdiction**

There were no objections to jurisdiction.

### **3. Declarations of Bias, or Conflict of Interest**

Chairman Kropf asked if there were any Commissioners that needed to declare bias or abstain from the public hearing. She then stated that she had spoken with the Dundee Hills Wine Growers Association and various members of the public regarding the application.

She then asked a question about why the regulations regarding distance a facility needed to be from a park was not included in the proposed standards. Planner Pelz responded that this would be discussed during the public hearing phase.

### **4. Staff Report**

Planner Pelz read the staff report into record.

Commissioner Swanson asked a question about the statement that the State would soon be issuing licenses, but he thought that there were already dispensaries selling recreationally. Planner Pelz responded yes they were, but that was only for a certain period of time. CA Daykin stated that the OLCC was late in formulating the rules and explained that they were worried about a black market forming so they allowed dispensaries that were already licensed to sell recreational. This law was effective to the end of 2016. He clarified that recreational and medical uses would not be allowed on the same property with the exception of this special circumstance ruling effective until the end of the year. Chairman Kropf stated that her understanding was that medical dispensaries could turn into recreational retail.

Planner Pelz continued with the staff report. She explained that the reason they took out the park provision was because the Planning Commission voted to opt out of the park regulation. City Council added it in. There was dissention from some commissioners that they did not opt out; it was clarified that the vote was in favor of taking it out even though there were some commissioners that objected.

Planner Pelz handed out maps showing potential locations based on current zoning guidelines and varying potential regulations. Chairman Kropf asked if the park provision could be added back in. The answer was that Planning Commission could recommend it to City Council.

Planner Pelz continued with the staff report (reading amended code provisions). She then explained the maps. CA Daykin added that the State would soon be issuing licenses. He informed the Commission that, if the City had not specified the zones where marijuana facilities were allowed, the current allowed uses in each zone would be looked at. For instance, a retail location could go in to any commercial zone.

Chairman Kropf asked again why the park distance regulation was taken out. CA Daykin explained that it went back to when the original recommendation was made to City Council the Planning Commission had voted to leave the regulation out. City Council put it in because they didn't like the idea of the Commercial area in the Riverside District being able to have these businesses. The "fix" was to limit the use to Highway 99W.

There was a question about why there was concern about keeping the Highway 99W regulation and adding the park distance regulation back in. CA Daykin and Planner Pelz responded that they were concerned that doing so regulated the uses out of the City. It was questioned about whether keeping the park regulation and the limitation to Highway 99W would still allow Chalice to operate. This was answered affirmatively.

It was noted that the closest park was Fortune Park and since it was separated by railroad tracks and a highway it seemed like having kids playing at the park being influenced by these types of business was limited. Chairman Kropf stated that there were sidewalks in town and that families and people cross them all the time to go to different parks and school. Commissioners started giving general agreement to this statement; Planner Pelz reminded them that this time was not for deliberation and they needed to move to public testimony.

## **5. General Testimony**

Chairman Kropf called Jim McGuire to speak.

Mr. Maguire stated that he managed Hawkins Cellars. He was on Planning Commission in Hillsboro and they just went through this process. He stated he was not opposed to marijuana businesses but he would recommend putting operating hours into the code. He also said that it was a good idea to put "active use" parks in as opposed to a walking trail. Further, he stated that he did not want the dispensaries limited to Highway 99W and noted that Dundee was going to grow in the future and to take this into account when considering the parks regulation.

Mary Jane Buchmeier-Swanson, an employee of Dundee Elementary and a citizen who lives on SW 7th Street, talked about traffic coming down 9<sup>th</sup> and the concern about the increase if a marijuana facility should be allowed there (in the old Riteway building). She believed that there should be a traffic study if a business were proposed. Commissioner Stoller asked staff if a traffic study was required for a new business. Planner Pelz responded that this applied to

businesses that might incur more than 40 trips during peak periods. She also noted that it was zoned for business, it was a business, and that a business would go in again. She did note that if improvements were made to the building one of the requirements would be street improvements. Since it was a collector street this would likely include road and sidewalk enhancements.

Geoff Sugerman talked and stated that they had purchased the old Riteway building with the purpose of putting a medical or recreational business in. He acknowledged that the building was approximately 800-feet from Fortune Park. Mr. Sugerman stated that he liked the proposed regulations. He noted that there was a fire station in between them and the park and that there was no direct line of sight or direct access from the park. He felt that the location on the corner of SW 9<sup>th</sup> was the only other building that would be able to have a marijuana retail facility on Highway 99W. He addressed the concerns expressed that if another marijuana retail location came in to town would impact either the neighborhood or community. He did not feel this would happen with two marijuana retail shops in Dundee. He again noted that he liked the proposed regulations and hoped that they could remain as is, since they wanted to move in and become members of the community.

Commissioner Sawnsen asked if he had information that the current medical dispensary was going to go recreational. Mr. Sugerman stated that yes, he knew the owner of Chalice and the intent would be to go recreational. He also talked about an upcoming proposed law that would allow recreational to sell medical tax free. Commissioner Swanson also asked if he would be willing to do a traffic study to alleviate concerns. Mr. Sugarman responded that yes, they would be willing to do what the City asked of them. He also stated that they had already begun looking at possible improvements in order to upgrade the building and parking. Commissioner Swenson asked who the target customer base was—whether recreational or medical. Geoff answered that it was both. There was additional questioning about how many medical patients there were in Dundee and whether Chalice could not handle the customer base. Commissioner Stoller asked how much traffic they expected. Geoff responded that he believed it would be approximately 250 per day.

Tom Burns stated that he was here to represent as a part owner of a winery, Chapter 24, but that he'd also been asked to represent Chalice. He was also there as a parent. He stated that Dundee should stay winery; that's what they were known for. He stated that Geoff wanted to open a business on SW 9th Street, but he believed that SW 9<sup>th</sup> was more than just a corner in Dundee-- he believed it was a kind of gateway to wineries up in the hills. He stated that Chalice was a company of four dispensaries and four to five growth sites and then gave some history. As a parent, he encouraged his son to wander. He stated he would be concerned to have him wander past a marijuana retail location where the mystery of what went on behind the screened windows drew his attention.

Mr. Burns stated that he worked with the State of Oregon on the medical marijuana regulations and he would be happy to answer any questions about how they made decisions on what the regulations should be; he also noted after questioning that the laws were meant to mirror liquor regulations.

Shannon and Don Howland, residents at 211 SW 9th Street, stated that she wanted to have the 1000ft distance requirement from parks left in the code. She also liked the restriction to Highway 99W but thought that if something had "to give" it should be that provision. She also stated that she would like to see operating hours in the code, and noted that although some properties had been changed to CBD with the recent zone changes the uses had not changed and some were still residential. She also stated that the fire station was nearby and that since it was a community use facility she objected to having that on one side of the street and a marijuana shop on the other.

Kim Doades, a resident at 948 SW Tomahawk Place, stated agreement with everything Shannon had stated. She said that she believed the parks distance requirement should be left in. She liked Dundee as a wine town. Further, she stated that she did not like the idea of her children possibly being intrigued by frosted windows.

Noel Johnson, a resident at 962 SW Tomahawk Place, agreed with a lot of what had been stated and agreed that the parks distance requirement should be left in the code. She also stated that she would like to see Dundee become the next Napa Valley.

Jennifer Sitter, a resident at 101 NW Brier Avenue, stated that she is pro-marijuana and pro-Chalice but has a concern with having another dispensary in Dundee. She believed that having two dispensaries in such a small town was unnecessary. As a member of the tourism committee she was concerned about having a business on the corner of SW 9<sup>th</sup> Street because she also saw it as a gateway to the wine country. Finally, she believed the distance to parks requirement should be kept in the code.

Debbie Newhouse, resident at 826 SW View Crest Drive, stated that she moved here because of the wine persona and she didn't want to have to say "turn at the pot shop" when she gave directions to friends on how to get to her house; she was also concerned about traffic. She believed that one retail marijuana store was enough.

The public testimony was closed.

## **7. Staff Recommendation**

Planner Pelz gave final comments – reason took out park provision was because of City Council's "intent" which was to avoid dispensaries in the Riverside area. There were questions from the Commission about why the Riverside was being excluded but Highway 99W was not. They questioned if keeping the provision for parks and adding the requirement to be on Highway 99W would still meet the intent of Council to keep these types of businesses out of the Riverside. Planner Pelz and CA Daykin responded affirmatively, that this would keep them out of the Riverside.

Planner Pelz also responded to traffic concerns on SW 9th street by reiterating that the location was zoned for commercial use and that any business that moved in would generate traffic and a need for parking. She noted that precluding a specific type of business from going there does not prevent from another business from going in.

Planner Pelz gave the staff recommendation is to recommend City Council adopt the revisions as presented. She then explained the process of deliberation and motion.

## **8. Deliberation**

There were questions about how long ago the zoning along Highway 99W had been changed; what the expected conversion rate (use to use) was; and, whether a new business coming in could change the zoning.

The Commissioners then went around the table to find out the views of each Commissioner. The majority were in favor of keeping the parks distance requirement in the code. A question arose during discussion concerning where another marijuana facility could go if the Highway 99W provision was left in. CA Daykin suggested the Commission try not to focus on specific properties because they were adopting regulations governing a whole list of uses and not a specific business.

Chairman Kropf asked if it was staff's concern that the State would come back and contest the regulations. CA Daykin answered that it was more that a person would appeal to the State.

Commissioner Stoller stated that he was struggling with keeping the parks provision in because doing so felt like a specific business was being targeted. He then asked if, for instance, a retail sex shop could go in at that location. Planner Pelz stated that they could not choose what businesses operate. He did not feel it was his job as a Commissioner to put something in the code to stop a specific business from going in. There was discussion regarding this viewpoint among the Commissioners.

CA Daykin asked if there were any other issues besides the buffer zone from Parks that needed to be discussed. There was a brief conversation about whether operating hours needed to be set. The general consensus was that the State would be governing this area and the hours would likely change, possibly several times, as the State ironed out the rules.

It was moved and seconded to include the 1000ft. buffer in the regulations. The motion was seconded. Motion passed 6-1.

There was a question about whether streets should be discussed and whether regulations could be added. It was noted that this could not be done at this meeting since it was not related to marijuana regulations specifically.

It was moved to adopt the Planning Commission Order of Recommendation recommending that City Council adopt amendments to the Dundee Development Ordinance to add recommendations for marijuana facilities as amended to include the 1000ft from Parks buffer. Motion was seconded. Motion carries unanimously.

Planner Pelz stated that the next step would be for the public hearing at City Council. CA Daykin stated that the date had not been set yet. There was a

question about how far in advance notice would be given. CA Daykin responded 10 days.

The Commission asked whether the property owner and applicant were noticed (Herbert). CA Daykin and Planner Pelz both responded yes and that he had been communicated with, but were unsure about why they were not in attendance.

## V. Planning Issues from Commission Members.

Commissioner Sikkens questioned if safety on feeder streets could be discussed. Planner Pelz asked what kinds of things he was thinking about. Commissioner Sikkens responded that he believed that the property owners should be obligated to make improvements. CA Daykin stated through various land use processes the City was sometimes able to add these requirements, but it depended on the type of improvements being made to the site. The improvements required had to be consistent with the amount of work being done. It was asked how the City would know if businesses were doing what they needed to do. Planner Pelz answered that it was done through a land use application and overseen by the Planning Department.

There was additional discussion about traffic regulations, ODOT requirements, traffic lights, crosswalks, and signs. There was a question about whether there was anything citizens could do—letters to the editor, etc.—to implore ODOT to complete improvements they had proposed. CA Daykin stated that ODOT needed to find the funds.

There was a question about the "End School Zone" signs on Highway 99W. It was pointed out that only one side (direction) had this sign. CA Daykin stated he would bring it to ODOT's attention.

CA Daykin talked about the upcoming Riverside District planning and the expectation that it would be coming to the Commission for workshops in the spring.

There was discussion about the progress of turning the sewer lagoon property in to a Park. CA Daykin responded that this was still a plan but it largely revolved around money. He also noted that at this time they were being used for the excessive rainfall, which is putting decommissioning the lagoons behind schedule.

## VI. Adjournment

It was moved and seconded to adjourn the meeting. Motion carries, unanimously.

  
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Michelle Kropf, Chairman

ATTEST:  
  
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Melody Osborne, Planning Secretary