

**PLANNING COMMISSION MEETING MINUTES**

**Monday  
October 8, 2018**

The Ontario Planning Commission was called to order at 7:00 pm in the Council Chambers of City Hall. Commission members present were Chairman Ralph Poole, John Hall, John Briedenbach, Richard Newman, Cindy McLeran, Craig Smith, and Max Twombly were present.

City Staff present were Dan Cummings, Community Development Director and Marcy Siriwardene, Planning and Zoning Technician. Betty Carter, City Council Ex-Officio, and Adam Brown, City Manager, were present as well.

The meeting was recorded on tape and the tape is on file at the City Community Development Center. The Agenda for this meeting was emailed on or before October 1, 2018. Copies of the Agenda were available at the City Community Development Center.

Chairman Ralph Poole led everyone in the Pledge of Allegiance.

**ADOPTION OF AGENDA**

John Hall moved, seconded by Richard Newman, to adopt the agenda of the October 8, 2018 meeting. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 7/0/0.

**ADOPTION OF MINUTES**

John Briedenbach moved, seconded by John Hall, to adopt the minutes of the June 11, 2018 meeting. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 7/0/0.

There were no objections to Planning Commission jurisdiction and no abstentions or ex-parte contact.

**UNSCHEDULED PUBLIC APPEARANCES OR COMMENTS**

Robert Golden, Ontario, lived west of Love's Travel Stop and wanted to let the Planning Commission know that he wanted to annex into the city as the NW side of town would be a good area for dispensaries.

Chairman Poole told Robert that he should speak to the Planning Director, Dan Cummings, about the annexation process.

A lady in the audience asked the Planning Commission why they were discussing marijuana zones if the city had not voted in favor of it yet.

Chairman Poole answered that it took many days for both the Planning Commission and City Council to make a decision and have it in place if Marijuana Dispensaries are voted into the city.

**PUBLIC HEARING ACTION 2018-08-15ZA: A REQUEST BY THE CITY OF ONTARIO TO AMEND THE CITY ZONING AND DEVELOPMENT CODE, TITLE 10A ONTARIO MUNICIPAL CODE TO ESTABLISH APPROPRIATE STANDARDS AND LOCATIONS FOR THE ESTABLISHMENT OF MARIJUANA OPERATIONS AND ACTIVITIES.**

Dan Cummings, Community Development Director, presented the staff report.

## **II. SUMMARY & BACKGROUND**

The State of Oregon by legislative enactment has established a process for the licensing and registration of certain marijuana facilities and dispensaries. Currently, the city zoning regulations do not address or allow these uses. An Initiative has been put on the November 6, 2018 ballot in an effort to remove the current marijuana ban within the city limits. The City Council has directed the drafting of appropriate regulations and standards governing the time, manner and place where marijuana facilities and dispensaries may be allowed within the Ontario city limits should the ban be overturned by a vote of the people.

As proposed, the amendments would:

- Amend Title 10A by repealing Title 10A-58 entitled "Medical Marijuana Facilities" and adding a new Title 10A-59 entitled "Marijuana Related Operations and Activities" and providing general and specific conditions for the establishment of these uses under a conditional use permit.
- Amend Chapter 10A-03 by adding a new section 10A-03-134.1 through 10A-03-134.11 providing definitions for marijuana operations and activities.
- Amend Title 10A by prohibiting marijuana operation and activities in all zone districts unless explicitly designated as a conditional use in specific zone districts.
- Amend the following Chapters 10A-27-10, 10A-29-10, 10A-31-10, 10A-33-10, 10A-39-10, 10A-41-10 and 10A-52-205 to designate certain marijuana operations and activities as conditional use in the C-1 (Neighborhood Commercial), C-2 (General Commercial), C-2-H (Heavy General Commercial), C-3(Central Commercial), I-1 (Light Industrial), I-2 (Heavy Industrial) and UGA-E-2 (Urban Growth Area Employment 2 - upon annexation) zone districts.
- Amend Chapter 10A-57-137 sign advertising.

### **Refer to Exhibit A the draft ordinance for the text of the specific amendments.**

- The Ontario City Council established a Marijuana Ad Hoc Committee to review the effects and impacts to the City of Ontario due to the legalization of marijuana in the State of Oregon. When a local initiative and referendum to remove the ban that the City of Ontario placed on the operations and activities of marijuana, the Council asked the committee for recommendation on regulations and standards governing the time, manner and place of marijuana operations and activities within the city limits.
- The committee, comprising of 5 members who are Pro marijuana and two members who are anti-marijuana, met in several public meetings and formulated their recommendation summarized in the attached Exhibit "B" and those recommendation for buffer setbacks are shown in Exhibit "A" in **Blue**. It is noted some of the recommendations are not addressed in these planning codes and will be addressed in the business licensing codes when and if the ban is lifted.
- The existing buffer setbacks established under Title 10A-58 are shown in **Purple**.
- Staff recommended buffer setbacks are shown in **Red**.

- All other buffers shown in black are being recommended by both the Ad Hoc Committee and City Staff and established under Chapter 10A-58 previously.

### **III. PREVIOUS PLANNING COMMISSION ACTION**

On Monday April 13, 2015 the Commission acted on planning action 2015-03-06 ZCA on the creation of Chapter 10A-58 entitled "Medical Marijuana Facilities".

### **IV. FINDINGS OF FACT**

1. The Oregon Legislature enacted House Bill 3460 in 2013 (ORS 475.314) which requires the Oregon Health Authority to develop and implement a process to register medical marijuana facilities.
2. Under Oregon law, local governments may regulate the operation and location of certain types of businesses within their jurisdiction except when such action is specifically preempted by state law.
3. The City of Ontario substantive zoning regulations and administrative requirements are contained Titles 10A, 10B and 10C of the Ontario City Code.
4. Amendments to Title 10A has been initiated by the City Council in accordance with Section 10B-15, Ontario City Code.
5. Amendment actions are first referred to the Ontario Planning Commission for a public hearing and recommendation to the City Council.
6. The appropriate legal notice has been provided for this hearing.

### **Conclusion:**

The City, from time to time, may amend its zoning regulations in response to emerging technologies or business concepts or changes in state law. The proposed amendments to Title 10A, Ontario City Code are in response to changes in state law are intended to provide reasonable regulations for the operation of marijuana operations and activities in certain zones under a conditional use permit.

### **V. RECOMMENDATION**

Staff recommends that the City of Ontario Planning Commission recommend to the City Council, the adoption of the proposed amendments attached as Exhibit A, based on the Findings of Fact and establishing of the recommended buffer distances as recommended by City Staff.

### **VI. SUGGESTED MOTIONS FOR APPROVAL**

A. Planning Commission Action (refer to Exhibit "A" for sections):

- 1) I move that the Planning Commission recommend under Section 9, 10A-59-15 (A) (5) a \_\_\_\_\_ feet buffer from another marijuana recreational facility. (0') (350')(1000')
- 2) I move that the Planning Commission recommend under Section 9, 10A-59-15 (A) (6) a \_\_\_\_\_ feet buffer from all residential zones as noted in the text of Exhibit "A". (200') (350') (500').
- 3) I move the Planning Commission recommend under Section 9, 10A-59-15(B)(3) and 10A-59-25(B)(3) the parking requirement of Option \_\_\_\_\_.

**CITY OF ONTARIO, 444 SW 4<sup>TH</sup> STREET, ONTARIO OREGON 97914**

- a) 10A-57-75 (4) one space for each employee and one for each 300 square feet as per text in Exhibit "A".
  - b) 10-57-75(6) one space for every 300 square feet of gross space.
  - c) Other (state):
- 4) I move that the Planning Commission recommend under Section 9, 10A-59-25 (A) (5) a \_\_\_\_\_ feet buffer from another marijuana recreational facility. (0') (350') (1000')
  - 5) I move that the Planning Commission recommend under Section 9, 10A-59-25 (A) (6) a \_\_\_\_\_ feet buffer from all residential zones as noted in the Text of Exhibit "A". (200') (200') (500').
  - 6) State any other motions:
  - 7) I move that the Planning Commission accept the above Findings of Fact, above motions, and the amended Exhibit "A" and recommend to the City Council, the approval and adoption of the proposed amendments to the Ontario Zoning Ordinance establishing the location and standards for the establishment of medical marijuana dispensaries within the City of Ontario.

**VII. Exhibits**

Exhibit "A" Draft Zoning Amendments

Exhibit "B" Ad Hoc Committee recommendations.

Exhibit "C-1" and "C-2" Maps showing proposed buffers with 200 feet residential buffer.

Exhibit "D-1" and "D-2" Maps showing proposed buffers with a 500 feet residential buffer by Ad Hoc.

Exhibit "E-1" and "E-2" Maps showing proposed buffers at 200 feet in certain areas and 350 feet in other areas by staff.

Exhibit "F" Map from Oregon Liquor Control Commission (OLCC) showing the 1000 feet buffer around State Certified Public Schools.

Exhibit "G" Picture that shows possible lines if too few dispensaries or insufficient development codes.

Attachments: Letters received by the Planning Department as of September 26, 2018. (Any letters received after September 26, 2018 will be presented at the Public hearing).

**LETTERS READ INTO THE RECORD and found in Planning File number 2018-08-15ZCA:**

Bill Williams, Ontario

Pam Williams, Ontario

Judith Sherwood, Ontario

Jann Lindley Bell, Ontario

Doris Lindley, Ontario

Dayna Plummer and Dan Thach

Jerry Gray, Ontario

Rita McGraw, Ontario

Shawna Peterson, Ontario, Yturri Rose

**Public Comments:**

Ad Hoc Committee Members:

Steven Meland, Ontario, Hot Box Farms

Eddy Rodriguez

John Kirby, Ontario

Andy Peterson, Ontario

Steven Meland, Ontario, proponent

Community Members:

Lori Duckworth, Portland  
Dustin Millard, Ontario  
Manny Alvarado, Ontario  
Glen Banner, Ontario  
Jeremy Archie, Portland  
Judith Kirby, Ontario  
Robert Golden, Malheur County  
Jim Forrester, Ontario  
Elna & George Pionaar, Ontario  
Ken Hart, Ontario  
Steven Atkinson, Ontario  
Judy Sherwood, Ontario  
Shawna Peterson, Ontario  
Tim Brewer, Ontario

**DISCUSSION**

Commissioner Smith mentioned that Moore Park had always been a park since for 20 years and before that it was motel. There was a sign that posted it as a park.

Commissioner Hall said that Moore Park and the Train Depot Park should both be considered parks. He said they were both in the City park plan.

Commissioner Newman commented that the City couldn't just ignore the fact that the property had been being used as parks for so long.

Commissioner Briedenbach mentioned how the community was using Moore Park for Farmer's Markets each week and how the Depot Park was used for the bike ride and that the City maintained it and that it was treated as a park.

Commissioner Twombly agreed.

Commissioner Hall didn't think there should be a buffer zone between dispensaries and wanted to go with Dan Cumming's suggestions on parking requirements.

Commissioner Briedenbach wanted to know if changes can be reviewed later and then changed, if need be in the future regarding buffers.

Mr. Cummings said that the process for changing buffer zones would be the same process in the future as it was at that time.

Larry Sullivan, The City Attorney, stated that it would be easier to loosen restrictions in the future then to tighten them up in the future.

Commissioner Briedenbach stated that businesses should be in competition with each other, the City should not get in the middle of it. He thought that 1,000 feet separation was too much.

Commissioner McLeran wanted to know the distance of a city block.

Mr. Cummings answered that our blocks were 250 wide by 350 feet making it one dispensary per block or with the 1,000 foot buffer it would be one every three blocks.

Commissioner Smith was not in favor of the 350' or 1000' buffer.

Commissioner Smith was not in favor of a buffer between dispensaries.

Chairman Poole commented that parking would be one of the biggest issues and he questioned if one parking space per 300 square feet of building space would be enough parking spaces. He didn't know what would happen if customers showed up and there weren't enough parking spaces for them.

Mr. Cummings said that most business people would plan to have enough parking spaces based on the number of customers that they expected, in addition to the parking requirements, otherwise, they would be pushing their parking onto their neighbors. The Planning Commission could increase the parking requirements to more than a retail store, if they wanted to.

A lady in the audience commented that the businesses in the downtown area did not have enough parking for their customers.

Chairman Poole did not agree with her.

Commissioner Hall mentioned that there was one dispensary that was serving a large area and that if there were several dispensaries, the parking would be divided between them.

Mr. Cummings spoke about and explained to the Planning Commission what "reasonable" buffers were and commented on the different maps and what they meant.

Commissioner Briedenbach thought that the residential buffer needed to be at least 500 feet because people didn't want to have a marijuana dispensary in their back yard.

### **APPROVAL OF MARIJUANA RECREATIONAL FACILITY BUFFERS**

Cindy McLeran moved, seconded by Max Twombly, to recommend under Section 9, 10A-59-15 (A) (5) a 350 feet buffer from another marijuana recreational facility. Roll call vote: Smith-no; McCleran-yes; Twombly-yes; Hall-no; Briedenbach-no; Newman-yes; Poole-yes. Motion carried 4/0/3.

Max Twombly moved, seconded by John Briedenbach, to recommend under Section 9, 10A-59-15 (A) (6) a 500 feet buffer from all residential zones as noted in the text of Exhibit "A". Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 7/0/0.

Craig Smith moved, seconded by Richard Newman, recommend under Section 9, 10A-59-15(B)(3) and 10A-59-25(B)(3) the parking requirement 10A-57-75 (4) one space for each employee and one for each 300 square feet as per text in Exhibit "A. Roll call vote: Smith-yes; McCleran-no; Twombly-yes; Hall-yes; Briedenbach-no; Newman-yes; Poole-yes. Motion carried 5/0/2.

Max Twombly moved, seconded by Richard Newman, to recommend under Section 9, 10A-59-25 (A) (5) a 350 feet buffer from another marijuana recreational facility. Roll call vote: Smith-no; McCleran-yes; Twombly-yes; Hall-no; Briedenbach-no; Newman-yes; Poole-no. Motion failed 3/0/4.

John Hall moved, seconded by John Briedenbach, to recommend under Section 9, 10A-59-25 (A) (5) a 0 feet buffer from another marijuana recreational facility. Roll call vote: Smith-yes; McCleran-yes; Twombly-no; Hall-yes; Briedenbach-yes; Newman-no; Poole-yes. Motion carried 5/0/2.

**CITY OF ONTARIO, 444 SW 4<sup>TH</sup> STREET, ONTARIO OREGON 97914**

Richard Newman moved, seconded by Craig Smith, to recommend under Section 9, 10A-59-25 (A) (6) a 500 feet buffer from all residential zones. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 7/0/0.

John Briedenbach moved, seconded by Craig Smith, that the Planning Commission recognizes the Depot Park and Moore Park as part of the City Park system until further use ("further use" clarified by the City Attorney). Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-no; Poole-yes. Motion carried 6/0/1.

**MOTION TO APPROVE FINDING OF FACTS**

Cindy McLeran moved, seconded by Richard Newman, to accept the above Findings of Fact, above motions, and the amended Exhibit "A" and recommend to the City Council, the approval and adoption of the proposed amendments to the Ontario Zoning Ordinance establishing the location and standards for the establishment of marijuana operations and facilities within the City of Ontario. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 6/0/1.

**ADJOURN**

John Hall moved, seconded by Cindy McLeran, to adjourn the meeting. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 7/0/0.

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Ralph Poole  
Chairman

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Attest: Marcy Siriwardene  
Planning & Zoning Technician