

Minutes
Aurora Planning Commission Meeting
Tuesday, April 7, 2015, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main Street NE, Aurora, OR 97002

STAFF PRESENT Kelly Richardson, City Recorder
Renata Wakeley, City Planner

STAFF ABSENT: None

VISITORS PRESENT: Leroy Bodine, Canby
Craig McNamara, Aurora
Bill Graupp, Aurora

1. CALL TO ORDER OF THE CITY COUNCIL MEETING

Meeting was called to order by Chairman Schaefer at 7:02 pm

2. CITY RECORDER DOES ROLL CALL

Chair Schaefer - Present

Commissioner Graham, moment of silence for our revered volunteer. 3/20/2015

Commissioner Fawcett - Present

Commissioner Gibson - Present

Commissioner Rhoden-Feely - Present

Commissioner Weidman - Present

Commissioner Willman - Resigned

3. CONSENT AGENDA

a) Planning Commission Minutes – March, 2015

b) City Council Meeting Minutes – February, 2015

c) Historic Review Board Minutes – February, 2015

Motion to approve the consent agenda as presented was made by Commissioner Fawcett and is seconded by Commissioner Gibson. Motion approved by all.

4. CORRESPONDENCE –

a) Letter from City Council regarding Senate Bill 534, currently stalled in committee

b) Letter of Resignation from Commissioner Willman

5. VISITORS

Anyone wishing to address the Aurora Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora Planning Commission could look into the matter and provide some response in the future.

Leroy Bodine, Canby Oregon a retired building official, as a patient and card holder I support medical marijuana facilities for a number of reasons. I am here tonight to urge you to support them as well. I have seen firsthand how it can help patients.

6. PUBLIC HEARING – Opens at 7:19 pm, no conflicts or ex-parte contact reported.

- a) Discussion and or Action on Text Amendment LA-2015-01 Addressing Medical Marijuana Dispensaries in the Commercial Zone.

Memorandum

MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

105 HIGH STREET S. E. SALEM, OREGON 97301-3667
TELEPHONE: (503)588-6177 FAX: (503)588-6094

TO: Aurora Planning Commission
FROM: Renata Wakeley, City Planner
RE: Legislative Amendment 2015-01 (LA-15-01)
DATE: March 31, 2015 for presentation at April 7, 2015 hearing

REQUESTED ACTION

The Planning Commission's options for taking action on Legislative Amendment 15-01 include the following:

- A. Adopt the findings in the staff report and recommend that the City Council adopt Legislative Amendment 15-01:
 - 1. As presented by staff; or
 - 2. As amended by the Planning Commission (stating revisions).
- B. Recommend that the City Council take no action on Legislative Amendment 15-01.
- C. Continue the public hearing:
 - 1. To a time certain, or
 - 2. Indefinitely.

BACKGROUND

In 2013, House Bill 3460 created a medical marijuana registration system and allowed medical marijuana facilities (MMFs) to be located in certain zones, including commercial, industrial, and mixed use. On March 19, 2014, Senate Bill 1531 was signed into law giving local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries. Senate Bill 1531 also gave local jurisdictions the ability to impose a moratorium on MMFs up until May 1, 2015.

On April 30, 2014, the City of Aurora passed Ordinance 475, which declared a moratorium on MMFs effective until May 1, 2015.

The Planning Commission gave staff general direction to follow legislative action and administrative rulemaking related to the marijuana issue, and consider potential standards that could be implemented as amendments to the Aurora Municipal Code- Title 16 in line with the regulations authorized by SB 1531. The Planning Commission had discussion regarding proposed amendments to the AMC on several regularly scheduled Planning Commission meetings in 2014 and 2015.

While administrative rulemaking continues related to Measure 91 (recreational marijuana), the legislature has not taken further action to address either the medical or recreational marijuana programs in the State of Oregon. Due to State and local procedural requirements, the City must move forward directly in order to have any Development Ordinance amendments regulating MMFs in place by May 1, 2015.

The following section of the Aurora Municipal Code (AMC) is proposed for amendment:

- 16.04 Definitions
- 16.14 Commercial
- 16.22 Historic Commercial Overlay

Legislative Amendment 15-01 includes the adoption of the draft code amendments to the Aurora Municipal Code. The revisions are attached in a **bold** and ~~striketrough~~ format for review purposes (see Exhibit A).

The purpose of the proposed amendment is to create “reasonable regulations” as allowed by SB 1531 to minimize conflicts between MMFs and surrounding uses. Absent an update to the AMC, beginning on May 1, 2015 it is possible that an applicant could request review of a MMF under the existing provisions of the AMC as a “general retail and convenience sales”, “medical or dental services”, “nurseries”, “drugstore” or other similar permitted use or development. Without specific criteria addressing MMFs, the City could be forced to make interpretations of the Development Ordinance that could be subject to legal challenge and it could become more difficult to mitigate conflicts with surrounding uses. The proposed amendment seeks to add clarity and certainty to the Aurora Municipal Code – Title 16.

FINDING OF FACT AND CONCLUSIONS

The Aurora Planning Commission, after careful consideration of the testimony and evidence in the record, adopts the following Findings of Fact and Conclusions:

1. In accordance with the post-acknowledgement plan amendment process set forth in Oregon Revised Statute 197.610(1), the City Planner submitted the draft proposed amendments to the Oregon Department of Land Conservation and Development on February 19, 2015, which was 47-days prior to the first evidentiary hearing on April 7, 2015.

2. Amendments to the Code, Comprehensive Plan, and/or Maps are considered Legislative Amendments subject to 16.80.20. Legislative Amendments shall be made in accordance with the procedures and standards set forth in AMC 16.74-Procedures for Decision Making-Legislative. A legislative application may be approved or denied.
3. AMC 16.74.030 outlines notice requirements. At least ten days prior to the first public hearing, the City shall publish notice in a newspaper of general circulation. Due to a staff error, the publication request to the Canby Herald on March 4, 2015 was not received. Staff immediately sent the notice to publication in the April 8th edition, at least 10 days prior to the scheduled May 12, 2015 City Council hearing.
4. Proposed amendments for consideration of legislative changes to the provisions of the Comprehensive Plan, implementing ordinances and maps are a legislative action. Section 16.74 calls for amendments to the Development Code to be processed as a recommendation by the Planning Commission and the decision by the City Council.
5. AMC 16.74.060 includes the standards for decision of Legislative Amendments as outlined under FINDINGS below.
6. The Planning Commission will review the proposed legislative amendments at a April 7, 2015 public hearing.

FINDINGS

- A. The recommendation by the planning commission and the decision by the council shall be based on consideration of the following factors:
 1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes (ORS) Chapter 197;

FINDINGS: Goal 1, Citizen Involvement: A public hearing on the proposed amendments is scheduled before the Planning Commission on April 7, 2015 and a second hearing is scheduled before the City Council on May 12, 2015. Notice was posted at City Hall and published in the Canby Herald. The staff report was available for review one week prior to the Planning Commission and City Council hearings. This is consistent with City procedures. Staff finds Goal 1 is met.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the acknowledged AMC for process. Goal 2 generally supports clear and thorough local procedures. Staff finds Goal 2 is met.

Goal 3, Agricultural Lands and Goal 4, Forest lands are found not to be applicable.

Goal 5, Open Spaces, Natural Resources, and Historic Areas: The proposed amendments included the addition of MMF's as a conditional use in the Historic Commercial Overlay. The proposed amendment does not affect regulation of existing businesses or commercial uses. Staff finds the amendment maintains existing business and allows a new use (MMFs), as permitted by state law, while imposing standards to minimize negative impacts in order to allow the development of a historic business center that remains easily accessible, convenient and a pleasant place to shop.

Goal 6, Air, Water and Land Resource Quality: Goal 6 is not applicable. The proposal does not address Goal 6 resources.

Goal 7, Natural Hazards: Goal 7 is not applicable. The proposal does not address Goal 7 resources.

Goal 8, Recreational Needs: Goal 8 is not applicable. The proposal does not address Goal 8 resources.

Goal 9, Economic Development: The draft code amendments respond to a need/revision identified by Senate Bill 1531 to potential permitted uses on commercial and industrial lands. The proposed code amendments are not found to deter employment or business opportunities but rather to allow for greater economic uses of commercially zoned properties while also protecting the intent of the commercial and historic commercial retail core for retail and service commercial uses.

The Planning Commission has determined that the Industrial zone is not an appropriate location for MMF's as the intent of the Industrial zone is intended to accommodate activities that are non-retail in nature or land intensive commercial businesses (AMC 16.16.010).

Staff finds Goal 9 is met.

Goal 10, Housing: Goal 10 is not applicable. The proposal does not address Goal 10 issues.

Goal 11, Public Facilities and Services: Goal 11 is not applicable. The proposal does not address Goal 11 issues.

Goal 12, Transportation: The proposed code amendments expand upon permitted uses in the commercial zones while prohibited MMF's in the industrial zone in order to "provide a circulation system which is safe and efficient for both vehicles". The City finds that Industrial properties are not well suited for retail uses/impacts. Further, MMF's are listed as conditional uses in the commercial zones and potential transportation impacts can be mitigated/regulated through the Aurora Transportation System Plan and development code. Staff finds this Goal is met.

Goal 13, Energy Conservation: Goal 13 is not applicable as MMF's can be considered to be as intensive, if not more so, than other businesses with the commercial code. The proposal does not address Goal 13 resources.

Goal 14, Urbanization: Goal 14 is not applicable. The proposal does not address Goal 14 issues as the proposed code amendments apply to existing commercial sites within the City limits.

ORS 197 does not include specific notice requirements for legislative processes but the City met all notice requirements under AMC for Legislative Amendments. ORS 227.186, more commonly

known as Measure 56 notice, does not apply as the proposed amendments do not reduce permissible uses of properties in the affected zones.

2. Any federal or state statutes or rules found applicable;

FINDINGS: Staff finds the adoption actions are consistent with Oregon Revised Statute 197.610(1) for notice to the Department of Land Conservation and Development. Measure 56 notice was not required as the proposed amendments do not reduce permissible uses on commercial lands.

The addition of a specific definition for Medical Marijuana Facility under AMC 16.04 ensures the MMF is registered with the Oregon Health Authority and thus complies with the standards in ORS 475.314 and OAR 333-008-1000 through 333-008-1400. These State-imposed and regulated standards include, but are not limited to payment of annual registration fees, review to determine the proposed location is not within 1,000 feet of schools and other MMFs, registration as a business with the Secretary of State, a background check on the person responsible for the MMF, implementation of security, alarm and surveillance measures, and compliance with operational standards.

Proposed amendments to 16.14- Commercial and 16.22 Historic Commercial Overlay further refine restrictions to the potential location of MMF's that the City of Aurora finds reasonable, based upon SB 1531.

Staff finds this criterion is met.

3. The applicable comprehensive plan policies and map; and

The following Comprehensive Plan Goals and associated policies were found to be applicable to this application:

Goal 1- Citizen Participation: Develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

FINDINGS: A public hearing on the proposed amendments is scheduled before the Planning Commission on April 7, 2015 and a second hearing will be held by the City Council on May 12, 2015. Notice was posted at City Hall and published in the Canby Herald. The staff report was available for review one week prior to the planning commission hearing. This is consistent with City procedures. Staff finds this condition is met.

Goal 2- Planning Process: Establish a land use planning process and policy framework document (comprehensive plan) as a basis for all decisions and actions related to use of land and ensure an adequate factual base for such activities.

FINDINGS: Adoption actions are consistent with the acknowledged AMC. Staff finds this condition is met.

Goal 9- Economic Policies

3. *Foster commercial and industrial activities to meet the expressed needs of City residents.*

FINDINGS: The draft code amendments respond to a need/revision identified by Senate Bill 1531 to potential permitted uses on commercial and industrial lands. The proposed code amendments are not found to deter employment or business opportunities but rather to allow for greater economic uses of commercially zoned properties while also protecting the intent of the commercial and historic commercial retail core for retail and service commercial uses.

The Planning Commission has determined that the Industrial zone is not an appropriate location for MMF's as the intent of the Industrial zone is intended to accommodate activities that are non-retail in nature or land intensive commercial businesses (AMC 16.16.010).

2. The applicable provisions of the implementing ordinances.

FINDINGS: The draft code amendments respond to a need/revision identified by Senate Bill 1531 to potential permitted uses on commercial and industrial lands. The proposed code amendments are not found to deter employment or business opportunities but rather to allow for greater economic uses of commercially zoned properties while also protecting the intent of the commercial and historic commercial retail core for retail and service commercial uses.

The Planning Commission has determined that the Industrial zone is not an appropriate location for MMF's as the intent of the Industrial zone is intended to accommodate activities that are non-retail in nature or land intensive commercial businesses (AMC 16.16.010). Staff finds the proposed code amendments can be established in compliance with the development requirements of the Aurora Municipal Code while maintaining the states intent of the underlying zones.

- B. Consideration may also be given to proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.

FINDINGS: Staff does not find a change in circumstance, mistake or inconsistency in the comprehensive plan or implementing ordinances. The proposed code amendments are a result of Senate Bill 1531 and the City's need to refine and clarify permitted locations and uses for MMF's within the City of Aurora and adopt "reasonable regulations" for their review. Staff finds this criterion is met.

EXHIBIT A Aurora Municipal Code (AMC) section 16.04- Definitions
Aurora Municipal Code (AMC) section 16.14- Commercial
Aurora Municipal Code (AMC) section 16.22- Commercial Historic Overlay

EXHIBIT B Senate Bill 1531 relating to marijuana facilities; creating new provisions; amending ORS 475.314; and declaring an emergency.

EXHIBIT C Correspondence from Aurora Historic Review Board (March 27, 2015)

Commissioner Weidman asks a question regarding where the taxes go and regulation by tax. Chair Schaefer this is something done more through measure 91 and is by population and percentage. Weidman is this something we could pursue Schaefer yes however it would require a legal review.

Visitor Bodine asks a clarification on the hours of operation which is limited to 10 am to 7 pm. again let me say that I am in favor of this because of my history and how it has helped me.

Public Hearing Closes at 7:37

Planning Commission Discussion, Following discussion the planning commission consensus is to change the following 4 items.

1. Move “doors and windows may not be covered with security grates” to following section – development standards- so this applies to all businesses.
2. To “buffer text” add, “which shall only be measured at the initial land use application and not subsequent annual renewals”.
3. Change distance from schools from 500 feet to 1000 feet.
4. Revise text to read, “other marijuana businesses” instead of referring to medical, recreational, dispensaries, etc.

A motion to approve as amended by discussion with the 4 revisions is made by Commissioner Fawcett and is seconded by Commissioner Weidman. Passed by All.

7. NEW BUSINESS

- a) Discussion and or Action on Consideration of Craig McNamara letter of interest. The applicant expressed his interest of serving on the board and doing his part to shape Aurora.

A motion to recommend Craig McNamara to the City Council for appointment to the Aurora Planning Commission is made by Commissioner Gibson and is seconded by Commissioner Fawcett.

- b) Discussion and or Action on nomination of New Vice Chair, Commissioner Fawcett and Rhoden –Feely were both considered and Rhoden-Feely accepted the nomination.

8. OLD BUSINESS

- a) NA

9. COMMISSION/DISCUSSION

- a) City Planning Activity (in your packets) Status of Development Projects within the City.

City Planner Wakeley gives a brief overview of a training she attended regarding medical marijuana in Oregon.

- Measure 91 potential for January 2016.
- How the law regulates reasonable time path and manner
- Summarizes 3 options to prohibit through business license, local tax and control: time, space and manner. They recommended the language be restrictive not permissive.

To name a few.

10. ADJOURN

Chair Schaefer adjourned the April 7, 2015 Aurora Planning Commission Meeting at 8:07 P.M.

Chair Schaefer

ATTEST:

Kelly Richardson, CMC
City Recorder