

City of St. Helens

CITY COUNCIL

Public Hearing Minutes

February 3, 2016

Members Present: Doug Morten, Council President
Keith Locke, Councilor
Susan Conn, Councilor
Ginny Carlson, Councilor

Members Absent: Randy Peterson, Mayor

Staff Present: John Walsh, City Administrator
Kathy Payne, City Recorder
Terry Moss, Police Chief
Neal Sheppard, Public Works Operations Director
Sue Nelson, Public Works Engineering Director
Jacob Graichen, City Planner
Jenny Dimsho, Assistant Planner
Anya Moucha, Mainstreet Program Coordinator

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| Others: | Amanda Renner | Nicole Thill | Wayne Weigandt |
| | Larry Vandolah | Andrew Stamp | Ed Burgmans |
| | Darold Sandberg | Jennifer Plahn | Michael West |
| | Kara Cora | Shelby Rihala, Jordan Ramis Attorneys at Law | |



Public Hearing

Appellant: Jennifer Plahn, who was the original applicant of CUP.6.15

Proposal: Establish an indoor nursery (plants) and office/industry resource center in an existing building (on developed property). The intent is to produce marijuana.

Location: 1771 Columbia Blvd.

At 5:30 p.m., Council President Morten opened the public hearing.

Ex-Parte Contact/Conflict of Interest – None. There were no objections in the audience for the Council to make a fair decision.

Staff Report

City Planner Jacob Graichen presented his staff report dated January 26, 2016. He reviewed a presentation demonstrating the location, zoning and options. A copy is included in the archive meeting packet.

Options:

- 1) Approve with conditions. This was the staff's original recommendation to the Planning Commission.
- 2) Affirm the Planning Commission's decision of denial.
- 3) Modify the decision.

Based upon the facts and findings, the Planning Commission recommends denial.

Council President Morten asked if marijuana retail is an option at this location. Graichen

responded that it will not be allowed as part of this permit. Given nearby conditional use permits, probably not anytime soon.

Councilor Carlson asked if someone would be allowed to have a nursery in the back and a different form of retail in the front. Graichen confirmed they can.

Applicant's Presentation

◆Andrew Stamp. He is an attorney representing the applicant. He reviewed his letter, which he submitted for the record to Jacob Graichen, by email after 5 p.m. on February 2. A copy is included in the archive meeting packet. They are a nursery and not manufacturing.

Councilor Carlson asked if anything will be dried or packaged on site. Andrew said no. They will only be growing at this location. Once the plant is matured, it is sold to a processor and they take it away.

Andrew believes the Planning Commission was wrong to look at the Comprehensive Plan as grounds for denial. The word "encourage" cannot be perceived as mandatory approval language. However, if it says "shall," then it can be mandatory. Another reason for denial was insufficient evidence to conclude that the building has adequate capacity to serve the proposal. He will have an electrician speak to the fact that it has more than enough power needed; and if it did not, more could easily be added.

Andrew continued reviewing his letter. He spoke to the characteristics of the site being suitable for the proposed use and the odor being manageable.

◆Ed Burgmans. He has been an electrical contractor for over 30 years. His partner is also an electrical contractor and successful businessman. They propose a 40,000 lot fixture load, which adds up to 200 amps. There are 400 amps available on site. This is an emerging business, and they want to draw people in, not necessarily to the grow site but to the front retail. They have discussed selling supplies that cater to their business. They're open to suggestions from Council as well.

◆Larry Vandolah. He was a licensed general contractor in the State of Oregon. He knows how to build grow rooms and prevent odor. They don't like the smell either. They are going to great lengths to be good neighbors. There will be charcoal filters vented through the roof.

Councilor Locke asked how many lights and filters will be used. Larry said about 40. They range from 600 – 1000 watts. There will be three rooms. The two smaller rooms will have one filter each. The main room will have five – ten filters. We are surrounded by registered medical grows, which you can smell.

Council President Morten asked how they plan to respond to smell complaints. Larry's goal is to not receive any complaints. A good filter system will last five years. He will fix any odor issues immediately. Morten would like to make sure that years down the line, if Larry is no longer involved, that odor will still not be a problem. Andrew said the easiest way to do that is through a condition of approval. Ed explained that he has built almost 200 of these facilities. He explained the venting areas.

Councilor Conn asked what the hours of operation will be. Larry plans to begin at 4 a.m. There will be very minimal traffic.

Councilor Locke asked why they chose to grow inside city limits rather than outside city limits.

Larry said it's based on proximity. He wants to keep a close eye on it. Andrew added that it is safer in the City. ADT will install a full security system with at least 12 cameras.

Testimony in Support of the Application - NONE

Neutral Testimony – NONE

Testimony in Opposition

♦Darrold Sandberg. He owns the building directly east of the subject property. It was originally built as a bowling alley, then was a hardware store and is now a secondhand store/rehabilitation center. He is morally against what they are doing, period. He has a family member who works for the Federal Department of Justice and the comment he's made to him a number of times is, "marijuana is the worst drug of all." He believes that his property will go down in value if this goes in. There is a natural attraction with this type of business for people who don't care about themselves. Notice how the windows are covered at marijuana establishments. What are they trying to hide? It's like a tavern, what are they hiding from? He doesn't know how Oregon can allow this. The feds don't even allow it. He used to see kids walking past his property before and after school. He was disappointed to see fewer kids going by. What he noticed was more kids riding the bus. What are we trying to tell those kids? He understands they may be able to meet all the conditions but what are we teaching everyone?

Rebuttal

♦Andrew Stamp. It is heartening to see there is not much opposition. He addressed the testimony in opposition.

- 1) There are a lot of people who disagree with the legalization of marijuana. He has never personally used marijuana but has learned a lot from his clients. Some of them think it's a miracle drug that will cure anything. This is not the time to debate whether it's good or bad. We are here to make a quasijudicial decision based on criteria. In 10-20 years, he thinks it will be thought of in a similar way as a liquor store.
- 2) In terms of property values going down, there is no evidence to support that. You won't know it's there unless you attended this hearing.
- 3) Regarding the windows and what are we trying to hide. The front of the building will have open windows and will be used as some form of business. They will come back for approvals. Right now Oregon law requires grow operations be hidden. It would be a theft target.
- 4) Under federal law, marijuana is still illegal. The Department of Justice released a letter in 2013 stating that we can give legal advice to clients and we can advocate for marijuana businesses. They will not enforce federal law against legitimate marijuana businesses that are operating within the confines of state law.
- 5) In terms of buses going by and what we're going to tell our kids. The kids will not know anything because it won't be any different than right now. There will not be a big sign advertising "pot growers."

Council President Morten commented on the civil demeanor. It is much appreciated. He thanked the participants.

Councilor Locke asked if the staff recommendation is the same. Graichen responded that he took a neutral standpoint. He did not want to put a preconceived notion in the Council's mind. He wanted them to hear the first thought process, the Planning Commission's thought process, all the testimony and then make a decision themselves.

City Attorney Shelby Rihala reminded the Council that this is a quasijudicial hearing. Their

consideration is narrowed to the criteria before them.

There were no requests to leave the record open or continue the public hearing.

Close Public Hearing and Record – 6:53 p.m.

Deliberations will be held during the regular session following this hearing.

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Public Hearing

Applicant: James Julian

Owner: James Julian & Sandra Horan

Proposal: The property owner filed a consent to annex to allow connection to the City's sanitary sewer system.

Location: 35092 Pittsburg Road

At 6:53 p.m., Council President Morten opened the public hearing.

Ex-Parte Contact/Conflict of Interest – None. There were no objections in the audience for the Council to make a fair decision.

Staff Report

City Planner Jacob Graichen presented his staff report dated January 26, 2016.

Based upon the facts and findings, the Planning Commission recommends approval of this annexation and the upon annexation, the subject property have a Comprehensive Plan designation of Suburban Residential, SR, and be zoned Suburban Residential, R10, or Moderate Residential, R7, and be designated as "developing."

No questions of staff.

Testimony in Favor

◆ Wayne Weigandt. He is an adjacent property owner to the east. It is a good thing if they annex and fix their sewer problem.

Testimony in Opposition – None


There were no requests to leave the record open or continue the public hearing.

Close Public Hearing and Record – 7:00 p.m.

Deliberations will be held during the regular session following this hearing.

ATTEST:


Kathy Payne, City Recorder

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Doug Morten, Council President