

Minutes of the Veneta Planning Commission

January 5, 2016

Present: James Eagle Eye, Len Goodwin, Kevin Conlin, Calvin Kenney, and Lily Rees

Others: Kay Bork, Community Development Director; Lisa Garbett, Associate Planner; Ric Ingham, City Administrator; and Darci Henneman, City Recorder

I. Review Agenda

Chair James Eagle Eye opened the Veneta Planning Commission meeting at 6:31 p.m. and reviewed the agenda.

II. Public Comment

None

III. Approval of Minutes

Motion: Len Goodwin made a motion to approve the December 1, 2015 minutes. Kevin Conlin seconded the motion which passed with a vote of 5-0.

Chair James Eagle Eye modified the agenda and started the meeting with the interpretation request.

IV. Interpretation Request

Garbett said staff received a site plan application requesting approval of indoor cultivation and processing of cannabis to serve medical marijuana patients. She said in the industrial zone, where the site plan is proposed, the code allows small scale manufacturing and processing subject to site plan review. Staff wanted to bring this to the Planning Commission to concur or not concur with the method of processing the applicant is proposing, also to concur or not concur what is considered processing of cannabis, cultivating or growing of cannabis indoors and is it considered manufacturing. Staff provided background information; recent Senate House Bill (HB) 3400 passed in November of 2015 and staff contacted six Oregon jurisdictions to ask if they considered cultivation of cannabis as manufacturing, which all six jurisdictions did. Garbett reviewed the Planning Commission's options for Interpretations 1 and 2.

In response to a question from Len Goodwin, Bork said staff heard from other cities that a chemical process was used for extraction of tetrahydrocannabinol (THC).

Len Goodwin said any form of extraction that creates a crystal from a plant has got to be a process. He said he doesn't see the relevance of Interpretation 1 because any form of chemical or mechanical extraction is considered a process. He suggested their interpretation be that.

Kevin Conlin said if the Planning Commission agrees with Interpretation 1, then it would seem that they are suggesting that this and this alone is considered processing or is the Planning Commission saying a specific thing is processing. He said it seems to be the latter, based on the language, and if that's the case, then all the Planning Commission is doing is affirming that of all the processes, this is to be counted among them.

Bork said staff is not wanting to limit it to one method. She said this is an example of how it's done. She said the definition in Senate HB 3400 states what processing is not, but if the product is changed somehow, then it's considered processing.

James Eagle said if the Planning Commission did agree with Interpretation 1 it might be cleaner to say "extraction of THC from cannabis is a process".

Len Goodwin said he's concerned if Interpretation 1 is approved as it stands, then there may be another form of processing down the road.

Calvin Kenney said we shouldn't identify the processing method but just that extraction is a process.

After a brief discussion, it was the consensus of the Planning Commission, with regard to Interpretation 1, that extraction of THC from cannabis, to separate into a powder or crystals, is considered a process.

The processing, compounding, or conversion of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis is considered processing.

James Eagle Eye said as to Interpretation 2, cultivation of cannabis is considered manufacturing and producing a product for sale.

Kevin Conlin said you can produce a number of things from wooden toys to leather belts in your home and if you're selling the product, it would be considered manufacturing.

Len Goodwin agreed but said as an example, there is a thriving market in growing orchids, but he doesn't think anyone would say growing orchids is considered manufacturing but if it requires indoor cultivation; artificial heat and light, then it begins to look more like manufacturing. He said he agrees that the production of marijuana plants is manufacturing, but we need to be careful that we don't overreach and end up declaring some things as manufacturing that are clearly agricultural in nature. He wouldn't want someone to be accused of manufacturing in a residential zone because they had a hot house in the backyard, with water and electricity, to grow orchids.

Calvin Kenney said but if they were being grown for resale, it would be considered manufacturing.

Bork said our code allows horticulture in residential zones as horticulture. She said if you consider cultivation of marijuana as manufacturing, then it would only be allowed in industrial zones.

Len Goodwin said we're doing something that requires processing before it's put to its ultimate use. An orchid is not processed, it's just grown and sold. He said cannabis needs to be grown and then processed. He said it would be helpful if the definition considered manufacturing but have something in the notes that would address the orchid grower as horticultural and not manufacturing. He said the growing of plants, for processing into a product, is manufacturing.

Garbett said our code states industrial zones allow manufacturing and other uses and processing so the manufacturing goes hand in hand.

Bork said the intent is to get an interpretation to allow us to move forward with the site plan. She said we weren't intending to change the code and she doesn't feel the code would need to be changed with the interpretation because we are getting inquiries for other types of grow operations and we want to make sure we're giving people information so they can move forward or not move forward with properties they're looking at, mostly in the industrial area, for indoor grow operations. She said that would help simplify the process.

MOTION: Calvin Kenney made a motion that Interpretation 1 should read "extraction of Tetrahydrocannabinol (THC) from cannabis is to separate the THC crystals into a powder and then package the remaining product is considered 'processing'".

Bork asked for clarification to make sure the intent of the Planning Commission is that Interpretation 1 should be more general rather than be so specific.

In response to a question from James Eagle Eye, Bork said it should be more generalized than the extraction of THC from cannabis is considered processing. She said the definition in HB 3400 states "the conversion of marijuana either directly or indirectly, by extraction, from the natural origin" seems like a good definition.

MOTION: Calvin Kenney withdrew his motion.

James Eagle Eye said Interpretation 1 is asking if the extraction of THC into powder and then packaging the powder is considered processing.

Kevin Conlin said the Planning Commission is only being asked to concur or not concur with the definitions presented. If there are problems then the proper option would be not to concur. He said he is abstaining from voting but if the Planning Commission decides to move forward, then we should explain what and why we're doing this so in the future we cannot be accused of exceeding the mandate.

MOTION: Len Goodwin made a motion to not concur with Interpretation 1 as presented by staff and in the alternative, directed staff to interpret processing to the effect that the extraction of Tetrahydrocannabinol (THC) from cannabis, to separate THC crystals into a powder, is processing. Lily Rees seconded the motion.

Bork asked for clarification for future inquiries, if staff could rely on the HB 3400 definition for processing. She said staff could bring it back to the Planning Commission again.

James Eagle Eye said the definition in HB 3400 only states conversion of marijuana and doesn't talk about extraction of the THC. He said the Planning Commission agrees that extraction of the THC is processing.

Len Goodwin said Section B26(a) is state law. He felt we don't need to say anything.

Bork said many cities are coming up with their own definitions.

Len Goodwin said we have just added a further definition of process to supplement state law. He said unless someone wants to take the proposition forward that somehow this preempts local authority. He doesn't feel there is anything that indicates a specific intent of the state legislature to preempt the definition process. He said he's not sure why we have to say anything about the state definition.

Bork said these aren't land use definitions but licensures definitions.

Len Goodwin said if someone wanted to know what processing for marijuana is, the first thing we could do is look at the statute.

VOTE: The motion passed with a vote of 4-1. Kevin Conlin abstained from the vote.

MOTION: Len Goodwin made a motion to concur with Interpretation 2. Lily Rees seconded the motion which passed with a vote of 4-1. Kevin Conlin abstained from the vote.

V. Discussion and Review of Parking Location Standards

Bork said last month the Planning Commission reviewed a site plan that required an interpretation to determine if the applicant's site plan complied with the intent of the off street parking standards in the City's Land Development Ordinance. At that time, the Planning Commission expressed the desire to review those standards, and if necessary to amend them. She said there are two sections of the Veneta Land Development Ordinance that address off street parking as it relates to the building location. Bork reviewed the parking standards.

She said staff reviewed two past code amendments, one in 1999 during periodic review which updated several sections of the code. She said in 2007 and 2009 we received a TGM grant which was used to add and implement the residential and commercial design standards to the Downtown Master Plan and to create mixed use areas.

James Eagle Eye said he remembers a lot of discussion about Broadway/Commercial and trying to create a pedestrian feel but Territorial Rd. didn't really fall into play with that. He said there was also some conversation that south Territorial had too much traffic and the focus should be on the north side of Highway 126.

In response to a question from James Eagle Eye, Bork said the Territorial/Commercial district was between Hunter and Broadway but it wasn't pursued. She said then there was a discussion about Community/Commercial to the north of Highway 126 (the Northeast Employment Center). At that time, it was mentioned that perhaps the Planning Commission could consider design standards for that district similar to the downtown district. She said that wasn't pursued either.

Len Goodwin said in his opinion, based on the site plan review under discussion at that time, there was more reason for restrictiveness, with respect to parking, in the Residential/Commercial and Broadway/Commercial zones. He said it was clearly intentional for both zones because we wanted to create a pedestrian friendly development in the Broadway/Commercial zone and because the Residential/Commercial zone is partly residential. He said we don't generally think of parking between the building and the sidewalk for a residential or mixed use residential structure. But Community/Commercial is different and its intent is to be commercial and it's not designed for any other purpose. He said he's not sure that the pedestrian friendly objective is as critical as it might be with the Broadway/Commercial or Residential/Commercial which don't have a Track 2 available and is likely intentional. He said there was a lot of discussion about those two zoning districts that we wanted to keep consistent and not create too much of an opening for alternative development. He said he thought the conclusion was to allow for more flexibility in Community/Commercial and maybe we did that by allowing the Track 2 process.

James Eagle Eye said we have the Track 2 options, we're not limited, we just completed the process and it does work. He said when looking at Community/Commercial, it's not as important as Broadway/Commercial and he doesn't think it hurts us to have codes that allow more pedestrian friendly zones. He said he's not sure if it needs to be changed because, in his opinion, the Track 2 option solves the issue.

Bork said we do have the Track 2 option but it's not available for parking and it would require amending the code to allow off street parking for Community/Commercial or Highway/Commercial. She said the code now states "all new parking for commercial" so that would include Highway/Commercial. If the Planning Commission wanted to do the Track 2 process then we could amend the code to allow that for all zones except Broadway/Commercial and Residential/Commercial in order to maintain pedestrian friendly zones.

Len Goodwin said maybe we need to think about this more because some of it doesn't make sense. He suggested tweaking Section 5.20(3)(c) to read "parking lots and loading docks from public and semipublic buildings". He said the City Administrative offices do not have parking in the side and rear and he would hate to make a non-confirming use of the City Administrative offices.

Bork said she can bring back several options for the Planning Commission to review.

After a thorough discussion, it was the consensus of the Planning Commission to direct staff to provide more information and bring it back for review.

Bork said staff would also like clarification if commercial uses in the industrial zone should comply with commercial design standards. She said she will bring that back at the next meeting.

Len Goodwin said it makes sense to rely on the characteristics of the underlying zone. He said if there's a commercial establishment in an industrial zone, its attribute should take on the characteristics of the underlying zone and not the commercial zone, which in his opinion, creates greater consistency.

VI. Administrative Decisions

a. 2015 Land Use Decisions Summary

Garbett said staff noticed in past minutes that administrative land use decisions were announced at meetings. She said as part of the code, staff is required to notify the Planning Commission of any administrative approvals. She said staff recently posted the 2015 Land Use Decision summary on the City's website which staff provided to the Planning Commission. She said administrative approvals would be Type "A" and "B" tree permits, temporary use permits like the annual fireworks sales and back yard chicken permits. She said Type "B" tree permits are for significant trees, or for one or two trees that happen to meet the heritage criteria.

Len Goodwin requested that a summary of the building permit data be provided at the next meeting.

VII. Other

None

VIII. Adjourn

Chair James Eagle Eye adjourned the Veneta Planning Commission at 7:20 p.m



James Eagle Eye, Chairman

ATTEST:



Darci Henneman, City Recorder