CITY OF AUBURN WASHINGTON

PLANNING COMMISSION MEETING

June 3, 2014
AGENDA

I. CALL TO ORDER – 7:00 p.m., Council Chambers

II. ROLL CALL/ESTABLISHMENT OF QUORUM

III. APPROVAL OF MINUTES

A. May 6, 2014

IV. PUBLIC COMMENT
Comment from the audience on any item not listed on the agenda for discussion or public hearing.

V. PLANNING DEPARTMENT REPORT
Update on Planning and Development Department activities.

VI. OTHER BUSINESS

A. Recreational Marijuana* (Jones)
Summary: Review and discuss the feedback from the Public Workshop held May 20, 2014.

VII. ADJOURNMENT

The City of Auburn Planning Commission is an eight member advisory body that provides recommendations to the Auburn City Council on the preparation of and amendments to land use plans and related codes such as zoning. Planning Commissioners are appointed by the Mayor and confirmed by the City Council.

Actions taken by the Planning Commission are not final decisions; they are in the form of recommendations to the City Council who must ultimately make the final decision.

DRAFT
PLANNING COMMISSION

May 6, 2014

MINUTES

SPECIAL WORK SESSION

I. CALL TO ORDER

Chair Judi Roland called the work session to order at 6:31 p.m. in the Council Chambers located on the first floor of Auburn City Hall, 25 West Main Street, Auburn, WA.

II. ROLL CALL/ESTABLISHMENT OF QUORUM

Planning Commission Members present were: Chair Judi Roland, Commissioner Couture, Commissioner Mason, Commissioner Baggett, and Commissioner Pondelick. Commissioner Smith and Vice-Chair Copple are excused.

Staff present included: Planning Services Manager Elizabeth Chamberlain, Principal Planner Jeff Dixon, Assistant City Attorney Doug Ruth, and Community Development Secretary Tina Kriss.

Members of the audience present included: Drew Zaborowski, Jill Moodie, Kim Lorenz, Erik Little, Casey Sheehan, and Brent Carson.

III. ZOA14-0002 - Amendment to Zoning Code Section 18.23.

Principal Planner Jeff Dixon reviewed the proposed amendment to Zoning Code Section 18.23.

Staff distributed a memorandum which clarifies the meaning of the proposed code amendment to Section ACC 18.23.030. The Commission and staff discussed re-tenanting the nonconforming buildings within the Environmental Park (EP) district under the proposed amendment and the permitted use of warehouse and distribution for those buildings built prior to August 17, 2006 under the proposed code.

IV. ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 6:53 p.m.

REGULAR PLANNING COMMISSION MEETING

I. CALL TO ORDER

Chair Judi Roland called the meeting to order at 7:00 p.m. in the Council Chambers located on the first floor of Auburn City Hall, 25 West Main Street, Auburn, WA.

II. ROLL CALL/ESTABLISHMENT OF QUORUM

Planning Commission Members present were: Chair Judi Roland, Commissioner Mason, Commissioner Baggett, Commissioner Couture, and Commissioner Pondelick. Commissioner Smith and Vice-Chair Copple are excused.

Staff present included: Planning Services Manager Elizabeth Chamberlain, Principal Planner Jeff Dixon, Assistant City Attorney Doug Ruth, and Community Development Secretary Tina Kriss.

Members of the public present: Drew Zaborowski, Jill Moodie, Kim Lorenz, Eric Little, Casey Sheehan, and Brent Carson.

III. APPROVAL OF MINUTES

A. April 8, 2014

The Commission pointed out a scrivener's error. In the April 8, 2014 minutes, under III. A. Approval of Minutes (March 4, 2014), the date April 8, 2014 should be changed to March 4, 2014 within the motion results.

Commissioner Mason moved and Commissioner Baggett seconded to approve the minutes from the April 8, 2014, meeting minutes as corrected.

Motion carried unanimously. 5-0

IV. PUBLIC COMMENT

There were no public comments on any item not listed on the agenda for discussion or public hear.

V. PLANNING DEPARTMENT REPORT

Planning Services Manager Elizabeth Chamberlain reported that the communal residence program has been underway. The amortization period expired December 31, 2013 requiring those operating a communal residence to obtain a City business license and/or a Conditional Use Permit. The City will now begin code enforcement action on communal residences not under compliance with City regarding the rental/communal housing regulations.

The City has also been working with several businesses that have been experiencing Code Enforcement activity; the businesses held a business license for massage, yet the activity was not consistent with the business license. The City's Code Enforcement division, Police, and Legal departments have been coordinating to execute the Code Enforcement activity. Three businesses have closed and four closed on their own.

VI. PUBLIC HEARING

A. ZOA14-0002 - Amendment to Zoning Code Section 18.23.* (Dixon)

Chair Roland opened the public hearing on ZOA14-0002, amendment to Zoning Code Section 18.23. at 7:07 p.m. Principal Planner Jeff Dixon reviewed the proposed amendment to Zoning Code Section 18.23.

Staff also reviewed revised Footnote #1 within the memorandum distributed by staff. In answer to the Commission's question if additional changes could be made to the footnote, Mr. Dixon answered that the additional recommendations to change the

language from permit to permitted (in two instances), and replace the language "Any legal warehousing and distribution facility" to "Any legally established warehousing and distribution facility", if recommended by the Commission could be updated going forward.

Kim Lorenz, owner of Sound Tire, LLC, 59 Skagit Key, Bellevue
Mr. Lorenz thanked staff for addressing the issues with their building and noted their professionalism he has experienced while working with City staff.

Mr. Lorenz provided the history of his business and building and explained that the EP Zoning currently prohibits warehouse and distribution uses. The EP zoning has caused all existing uses to become nonconforming. Nonconforming use status resulted in loss of $5,000,000.00 for the sale of his building and will also prohibit refinancing in the future. The EP zoning has had no substantial development since passage in 2006, yet the M1 and M2 zones have experienced extensive investment since 2006.

Mr. Lorenz is in favor of the amendment to rezone the property to allow permitted warehouse and distribution zoning uses.

Jill Moodie, owner of the Valupe Building, 16031 Maplewild Ave SW, Burien
Ms. Moodie stated her investment property was built in 1999. The building was designed for warehouse and distribution use. When a tenant abandoned their space she became aware that if the space was not re-tenanted within 6 months the distribution and warehouse use would be nonconforming, making it difficult to re-tenant the space. Ms. Moodie stated she has a balloon payment due in December, of 2014 and it will be difficult to refinance and make the payment with a nonconforming use. Ms. Moodie stated she is in favor of the amendment.

Eric Little, Caddis Building owner, 24223 21st Dr. SE, Bothell
Mr. Little thanked staff for the time and attention dedicated to this zoning issue. Mr. Little stated his building was built in 1999 as a site for manufacturing, assembly, and warehouse and distribution uses; two tenants occupy the building with these uses. Mr. Little emphasized that he too is concerned about future refinancing and a potential sale of his building.

Casey Sheehan, Neil Walter Company Broker, 1421 38th Ave., Seattle
Mr. Sheehan is a broker for the Neil Walter Company; he has represented owners and buyers and has been tracking the zoning changes in this area. Mr. Sheehan distributed a table showing the total number of permits and values in the EP, M1, M2 zone from 2006 to 2013. Mr. Sheehan explained that it was very disappointing when the sale fell through for Mr. Lorenz due to the zoning encumbrance. He stated that the building holds no value for a potential sale. Another building has been vacant for 6 years. The sale of that building fell through due to zoning and the potential buyer purchased a building in Pacific to do business.

Drew Zaborowski, Commercial Avenue 55 Real Estate Company.
Mr. Zaborowski stated that they currently have the Sparkletts building under contract; if the zoning amendment is approved significant resources will be infused into the

building. With the currently zoning lenders will not loan against the property. Mr. Zaborowski stated he and his clients are supportive of the proposed amendment.

Brent Carson, Van Ness Feldman, LLP, 719 2nd Ave., Ste. 1150, Seattle
Mr. Carson explained that he is a land-use attorney representing the property owners who are in favor of the amendments to the current zone. Mr. Carson stated with the knowledge that warehouse and distribution uses are prohibited in the EP zone potential tenants and buyers step away from activity on the building/properties. Mr. Carson asked the Commission to consider not just the language as noted in Footnote #1, but to change the zoning use to show warehouse and distribution use as an outright permitted use ("P").

Mr. Carson added, if Footnote #1 is recommended, that clarification language be added to identify a list of buildings that would be eligible under the amendment and language clarifying to the intent for warehouse and distribution use in the case that a building had burned, been unoccupied for a long period of time, or was never occupied with warehouse and distribution uses. He and his clients would prefer the amendment to be identical to the M-1 zoning designation instead of adding a footnote.

Staff confirmed that if the footnote is recommended in the amendment staff could list the buildings included in the zone and add language to clarifying scenarios and how the City may view them or treat specific circumstances.

The Commission and staff discussed opening the uses more widely by making warehouse and distribution uses as an outright permitted use in the EP district. Principal Planner Dixon stated at this time staffs' recommendations are to keep with the current proposal until the Council has had an opportunity to review the effectiveness of the zoning within the EP zoning district and consider if some further refinements are necessary. Mr. Dixon also stated as part of the Comprehensive Plan update process the intent the EP zoning district will be revisited.

With no other comments from the public Chair Roland closed the public hearing on ZOA14-0002, amendment to Zoning Code Section 18.23. at 7:55 p.m.

Commissioner Pondelick moved and Commissioner Couture seconded moving ZOA14-0002, amendments to Zoning Code Section 18.23.030 to full Council for approval with the additions to Footnote #1 changing the language from permit to permitted (in two instances) and replacing the language "Any legal warehousing and distribution facility" to "Any legally established warehousing and distribution facility".

Motion unanimously approved. 5-0

VII. ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 7:58 p.m.

MEMORANDUM

TO: Judi Roland, Chair, Planning Commission
Ron Copple, Vice-Chair, Planning Commission
Planning Commission Members

CC: Nancy Backus, Mayor
Jeff Tate, Assistant Director, Community Development Services
Elizabeth Chamberlain, AICP, Planning Services Manager
Daniel B. Heid, City Attorney

FROM: David L. Jones, AICP, Senior Planner

DATE: June 3, 2014

RE: **RECREATIONAL MARIJUANA (CANNABIS) cont. discussion**

Overview

On April 8, 2014, staff presented additional review and analysis materials for the Planning Commission regarding State Initiative 502 (I-502) which allows the State to license and regulate cannabis production, processing, distribution, and possession for persons over 21. As part of the continued discussion of these materials, the Planning Commission identified a need for public feedback on the topic of recreational cannabis in Auburn.

A public workshop was held on May 20, 2014, to present the following items to the public to create an informed discussion between City staff and attendees to gain feedback:

- I-502 Regulation Synopsis
- Analysis of Revenue Distribution
- Comparison of Differences Between Recreational and Medical Cannabis
- Review of Actions Taken by Neighboring Jurisdictions
- Review of Current Auburn Zoning Code based on current I-502 Regulations
- Presentation of the three (3) Regulating Options Currently Under Consideration
- Tentative Timeline for Action and Adoption

The different options identified by staff were, in essence, (1) The prohibition of all marijuana activities. [This option poses no liability exposure to the Cityas it does not conflict with federal law.]; (2) State licensed marijuana uses would be allowed in the City with no further regulation by the City of the activities licensed by state law (I-502). The City could still take enforcement action if a state licensed producer, processor or retailer failed to comply with the requirements of state law. [This option poses minimal, if any, liability exposure to the City for conflicts with federal law.]; and (3) Further regulation by the City in addition to the regulations of state law for marijuana licensed activities, such as more restrictive zoning or additional buffering from specific uses, etc. [This option poses the greatest liability exposure to the City for conflicts with federal law]

Notwithstanding the provisions of I-502, and voter approval of this Initiative, marijuana is still illegal under federal law as a Schedule I controlled substance. This fact is one of the things that the City of Auburn needs to keep in mind - even though the current position of the US Attorney General is not focused on prosecuting violations of marijuana law when state law seeks to make it legal, that position could change at any time.

Synopsis

Of the thirty (30) questionnaires received, 70% of participants were Auburn residents. The majority of the participants (63.3%) indicated that they had supported the passage of I-502, and 56.7% of participants responded that I-502 uses were appropriate for the City with no further regulation than what is required by the state regulations.

The main questions/concerns for participants were:

1. Additional strain on Police and enforcement as well as funding for the increased need.
2. Revenue sharing with local jurisdictions.
3. Maintaining the prohibition on medical marijuana uses.

Public Workshop Questionnaire Results

At the conclusion of the public workshop, Attendees were provided a questionnaire to complete. The following is the results of that questionnaire.

Total Number of Responses Received:

30

Question 1: Are you an Auburn Resident?

Yes – 21 (70%)
No – 9 (30%)

Question 2: Did you support the passage of I-502?

Yes – 19 (63.3%)
No – 10 (33.3%)
No Response – 1 (3.3%)

Question 3: Are state-licensed marijuana uses appropriate for Auburn?

Yes, state regulations/requirements only – 17 (56.7%)
Yes, with additional City regulations/requirements – 4 (13.3%)
No – 9 (30%)

Question 4: What additional questions/factors should the City consider?

- What will be the strain on Police and enforcement and how will the additional need be funded? (5x).
- Push for revenue sharing with local jurisdictions (4x).
- Maintain prohibition on medical marijuana (3x).
- Churches should be added to the 1,000-foot buffer requirements if Option 3 is chosen.
- Since inception, the State of Colorado has reported no decrease in illegal marijuana related activity.
- Allowing marijuana uses, and going against Federal law sends the wrong message to children saying that it's "ok" to use.
- How will location and customer safety be ensured?
- Allowing recreational marijuana will not eradicate illegal activity.

- The City should respect the will of the voters who passed the initiative.
- Prohibition does not work; this provides an opportunity for Auburn to take a leadership role in South King County.
- Use of marijuana will continue regardless, it is in the best interest of the City to help regulate it.
- How will the DUI be detected and regulated?

Staff Findings and Recommendation

Based on the feedback from the workshop participants, state licensed cannabis uses would be supported by residents and stakeholders in Auburn. The same primary questions of revenue sharing and funding of enforcement personnel exist. There has been legislation introduced at the State level to address the oversight of revenue distribution, possibly providing direct revenue sharing with jurisdictions in the near future.

Based on the feedback from the public workshop, review of Initiative 502, all applicable WAC and RCW regulations as well as the popular vote of the State of Washington and the City of Auburn; it is staff's recommendation that the Planning Commission move forward with Option 2.

Next Steps

Staff anticipates the Planning Commission taking action based on staff recommendation at the July 8, 2014 meeting. Based on that action, staff will begin drafting code language to be presented to City Council.

Attachments:

None