



STAFF REPORT

Development Code Legislative Text Amendment

REVIEWER: Tom Dixon, Planning Administrator

HEARING: Planning Commission

DATE & TIME: March 14, 2017 at 6:00 p.m.

LOCATION: City Council Chambers, City Hall, 500 Central Avenue, Coos Bay

APPLICANT: City of Coos Bay, 500 Central Avenue,
Coos Bay, Oregon

CASE FILE/SUBJECT: **#187-ZON17-001: Text Amendment. The purpose being to allow marijuana processing uses in the Industrial/Commercial District.**

I. APPLICANT'S REQUEST

The City of Coos Bay, as applicant, is initiating a Development Code text amendment to consider allowing a marijuana processing use in the I-C district where presently it is not listed as a use category. As a land use category, future marijuana processing facilities, if approved, would be reviewed through either a Type II or Type III process; a Type II process is an administrative review and a Type III process applies to businesses utilizing more than 4,000 square feet of floor area and necessitates approval by the Planning Commission.

II. BACKGROUND

The current Development Code for the City of Coos Bay was adopted February 16, 2016 by the City Council and had an effective date of March 18, 2016. At that time, no marijuana-related uses were listed as permitted or conditional uses which would have included dispensaries, processing, or growth activities.

On November 8, 2016, the voters of Coos Bay approved a ballot measure to allow marijuana-related uses within the municipality. On December 8, 2016, when the ordinance became effective, staff started the land use compatibility process of confirming the proper zoning district, through an official acknowledgment form, for potential marijuana vendors that were making application through the State of Oregon for dispensary licenses. Dispensaries are considered a retail activity

and an allowed use in all commercial districts in the City. However, the City Council placed a six-month moratorium on marijuana processing activities in order to allow staff time to research the issue and to examine how other communities had dealt with marijuana processing.

It should be noted that commercial marijuana growth is not included a part of this review. Commercial growth of consumptive plant products is considered an agricultural use and is not allowed in any zoning district within the city limits. Personal growth of up to four plants, for personal use only, is allowed in the city as prescribed under Oregon law.

Furthermore, the vernacular *marijuana* and scientific *cannabis* terms can and are used interchangeably for the same product. In this report, marijuana is used for the sake of consistency.

III. APPLICABLE REGULATIONS

Coos Bay Municipal Code Chapter 17.215 Plan Amendments and Zone Changes

Coos Bay Municipal Code Chapter CBMC 17.235 Industrial/Commercial District

IV. STAFF RECOMMENDATION

Staff prepared the following report based on the proposed Development Code modifications. The project file and information is available at City Hall and the project is evaluated under Chapter 17.215 Plan Amendments and Zone Changes.

Consideration of allowing marijuana processing involves two sections of the City of Coos Bay Land Development Code (CBMC Title 17). Under Section 17.140.010 Definitions, a new entry would need to be added describing what marijuana processing is as it pertains to land use activity. In addition, alterations to Table 17.220.030 to add marijuana processing to the I-C use matrix would be necessary. These two changes would be inserted into the adopted Development Code to identify marijuana processing as both a defined and permitted use.

Section 17.140.010 Definitions, is proposed to have the addition of Marijuana Processing. The definition, consistent with Oregon law stipulated under ORS 475B.015(25)(a) – Cannabis, describes this as the “processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts”. This can involve the chemical extraction of cannabinoid (the compounds that are the active constituents of marijuana) through water, oil, chemical, or heat extraction methods.

Table 17.235.020, the existing Uses matrix, is proposed to include the following category (in ***bold italic*** lettering) of marijuana processing as a permitted use in the I-C district:

Table 17.235.020 I-C Uses

Uses	I-C
Accessory uses and structures which are incidental to one or more permitted principal uses in this zone.	P
Acid manufacture	X
Art galleries, libraries and museums	P
Asphalt plants	X
Auditoriums and civic centers	P

Automobile, boat, truck, tractor, motorcycle, recreational vehicle, manufactured home and other vehicle service, rental and leasing, new and/or used	P
Bulk gasoline storage and fuel oil distributors	C
Business services operated in conjunction with one or more permitted uses	P
Churches, including cemeteries and customary accessory buildings and	C
Clubs, lodges, fraternal institutions and other places of assembly for membership groups	P
Cold storage plants, frozen food lockers and ice manufacture	P
Colleges and universities	C
Commercial recreation facilities, enclosed only	P
Commercial recreation facilities, unenclosed	P
Conical burners and incinerators, including biomedical waste	X
Contractor's establishments	P
Day care centers	P
Distribution facilities	P
Dry-cleaning plants	P
Explosives manufacture and storage	X
Exterminators and pest control businesses	P
Fertilizer manufacture	X
Finance, insurance and real estate offices	P
Medical clinics	P
Institutionalized residential-living facilities, such as personal-care homes, nursing homes, convalescent homes, group homes, continuing care retirement facilities and similar uses	C
Junkyards, wrecked motor vehicle compounds and used auto or other vehicle parts yards	P
Kennels	P
Landfills	X
Lumber yards, saw mills	C
Machine shops	P

Manufacturing, fabrication, assembling and packaging activities, including accessory storage, for the following products and/or materials: cloth, fiber, fur and hair; electrical and communication equipment; cosmetics, drugs and pharmaceuticals; food, beverage, dairy and tobacco products; and medical, dental, optical precision and surgical instruments and equipment	P
Manufacturing, fabrication, assembling, processing, canning, packaging, compounding, storage and treatment activities for the following activities and/or materials: brick, concrete, cement, clay, mortar, plaster and tile; chemicals and floor coverings; extraction or removal of sand, gravel, topsoil, clay, dirt, precious metals, gems or other natural resources; and paper	P
<i>Marijuana processing</i>	<i>P</i>
Offices	P
Paper and pulp mills	X
Parking garages and parking lots	P
Personal service establishments, in conjunction with one or more permitted uses	P
Printing, publishing, bookbinding and blueprinting establishments	P
Public and semipublic buildings and uses	P
Radio and television studios	P
Radio, television and cellular phone towers and antennas	P
Recreational facilities of a noncommercial nature, including parks, playfields and golf courses	P
Recycling plants, including any processing facilities	P
Research and scientific laboratories	P
Residences for a caretaker or night watchman	X
Residences of all types, when located on upper floors, in the rear of, or otherwise clearly secondary to commercial buildings	X
Restaurants, lounges, taverns and nightclubs, including drive-in and drive-through facilities	P
Lounges and taverns	P
Restaurants	P
Restaurants, drive-through	P
Retail trade gasoline sales, enclosed or unenclosed	P

Rubber manufacture	X
Schools, public, parochial, private, vocational, technical, business and others, nonprofit or operated for profit	P
Services, automotive, including service stations and gasoline sales	P
Services, business, health, miscellaneous and personal	P
Services, lodging/hotel/motel	P
Single-family detached dwellings and their customary accessory buildings and uses, existing on the effective date of the regulations codified in this title, but not including new single-family residences	P
Storage buildings and storage yards, for non-hazardous raw materials and finished products	P
Temporary uses which may be approved by the Director	P
Tire retreading and recapping	P
Transportation, communication and utility facilities, not otherwise specifically permitted	P
Utilities and communication facilities, such as telephone exchanges, electric substations and public television stations	P
Warehouses, wholesale and storage establishments, mail order houses and distribution facilities occupying no more than fifty thousand square feet of enclosed gross floor area	P
Welding shops	P
Wholesale distribution and warehousing facilities, including mail order houses, occupying more than 50,000 square feet	P
Wineries, breweries and distilleries	P

Staff finds there is sufficient evidence in the record upon which an approval can be based; therefore, staff is recommending approval of application #187-ZON2017-001 as found on page 7 of this staff report.

V. SECTION 17.215 APPROVAL CRITERIA, STATEMENT OF FACT/FINDINGS AND CONCLUSIONS

The following is a list of the approval criteria applicable to the request. According to Chapter 17.215.060 A. of the City of Coos Bay Municipal Code (CBMC) a Code Amendment request must be evaluated against the applicable approval criteria. Each criterion is followed by findings or justification statements.

APPROVAL CRITERION 1. The boundaries of the Comprehensive Plan map designations and the Comprehensive Plan text may be amended as provided in CBMC 17.215.020.

STATEMENTS OF FACT AND FINDINGS:

The purpose of the requested change is to allow the new use of marijuana processing in the I-C district. Such processing is similar to other allowed processing uses already in place within the I-C district. The boundaries of the Comprehensive Plan maps would not be altered if this request were to be approved. Likewise, the text within the Comprehensive Plan would not be amended either.

CONCLUSION: The impact of approving this request would have no impact on the Comprehensive Plan and, therefore, this criterion is satisfied.

APPROVAL CRITERION 2. The proposed amendment is in the public interest.

STATEMENTS OF FACT AND FINDINGS:

In November, 2014, Oregon voters supported the legalization of recreational marijuana use. However, the City of Coos Bay, through the exercise of its Home Rule charter, chose not to allow the vending of marijuana through State of Oregon regulated dispensaries nor the commercial processing and the commercial growth of marijuana. The prohibition on the vending and processing activities was based on the restriction of the City's business license requirement that all businesses must be legal under local, state, and federal laws. Marijuana procession, use, processing, and growth for recreation purposes are all prohibited under federal law.

On November 8, 2016 the voters of Coos Bay opted to approve marijuana dispensaries in the City limits and an ordinance to allow such activities became effective on December 8, 2016. However, a six-month moratorium was placed on marijuana processing uses so that staff would have sufficient time to research the issue and evaluate how other Oregon communities have dealt with the prospective use.

Staff has consulted with and discussed how the cities of Brookings, Corvallis, Eugene, Grants Pass, Medford, and Roseburg have addressed this issue. Several of these cities having permitted both dispensaries and processing since marijuana was voter-legalized in the state in 2014. In discussions with staff employed by these municipalities, no adverse impacts or situations have been noted or documented that would cause marijuana processing to need to be treated any differently than other plant processing activities of a similar scale.

Furthermore, the voters of Coos Bay supported the ballot measure which reduced or eliminated restrictions on legal marijuana use within the City of Coos Bay, similar to what many other Oregon communities have enjoyed since 2014.

CONCLUSION: Based on considerations discussed above, the proposed amendments to the City of Coos Bay Development Code are deemed to support the choice of voters in Coos Bay and to be in the public interest in satisfaction of this criterion.

APPROVAL CRITERION 3. Approval of the amendment will not result in a decrease in the level-of-service for capital facilities and services identified in the Coos Capital Improvement Plan(s).

STATEMENTS OF FACT AND FINDINGS:

The proposed text amendment has no apparent conflict or opposition to proposed capital improvements or any services identified in any of the City's adopted Capital Improvement Plans (CIPs). Therefore, the inclusion of marijuana processing uses should not have any adverse effect on existing CIPs.

CONCLUSION: This criterion is deemed to be satisfied.

VI. RECOMMENDATION

Based on the adopted Findings and Conclusions, approve land use application #187-ZON17-001 to amend the City of Coos Bay's Development Code Section 17.140.010 Definitions and Table 17.235.020 Uses, to include the addition of Marijuana Processing as a permitted use in the I-C district, as described in the report.

EFFECTIVE DATE OF PERMIT APPROVAL:

The effective date of the permit may be delayed if substantive conditions are attached to the approval. The Commission may grant an extension of time for a period not to exceed one year if circumstances beyond the control of the applicant cause delays.



DATE MAILED: March 36, 2017

Tom Dixon, Planning Administrator

cc: Dave Perry, DLCD

Attachment: letter from Jordan Musaeus

Tom Dixon

From: Jordan Musaeus <jmusaeus1@yahoo.com>
Sent: Thursday, February 23, 2017 9:46 AM
To: Tom Dixon
Subject: Marijuana processing amendment

This email is to state my formal opposition of the proposed marijuana processing amendment being considered by the Coos Bay Planning commission. I have personally seen the total demise of families, individuals and marriages due to the "simple use" of Marijuana. I voted against the ludicrous proposal to legalize a drug that has a 50 year documented history of causing brain damage, memory loss, and robbing individuals of any motivation to do and achieve in life.

I definitely oppose text amendment #187-zon17-001

Respectfully,
Jordan Musaeus Basinger