



Community and Economic Development Department

City of Sweet Home
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PLANNING COMMISSION MEETING
NOVEMBER 6, 2017
CITY HALL ANNEX - COUNCIL CHAMBERS
1140 12TH AVENUE

PUBLIC MEETING CALL TO ORDER AT 6:30 PM

PLEDGE OF ALLEGIANCE

ROLL CALL ATTENDING:

Edith Wilcox (Excused) Henry Wolthuis Eva Journey Thomas Herb
Greg Stephens (Excused) Lance Gatchell Anay Hausner

STAFF:

Jerry Sorte, Community and Economic Development Director (CEDD)
Kathryn Wilcox, Planning Assistant

REGISTERED VISITORS:

Damon Sours, 257 2nd Street, Drain, OR 97435
Marty Spurlock, 1530 Tamarack Street, Sweet Home, OR 97376
Holly Spurlock, 1530 Tamarack Street, Sweet Home, OR 97376
William (Bill) Lund, PO Box 22, Seal Rock, OR 97376
Sean Morgan, New Era, Sweet Home, OR 97386

Chairperson Gatchell opened discussion for corrections to the August 14th 2017 meeting minutes.

**Edits Included;
None**

**Comments Included;
Commissioner Journey stated the minutes were good to read.**

**Commissioner Journey moved to approve the minutes as submitted.
Chairperson Hausner seconded the motion to approve.**

Question was called

Aye (5)

**Commissioner Journey, Commissioner Herb, Commissioner Wolthuis, and Vice
Chairperson Hausner, Chairperson Gatchell**

Nay (0)

Motion Passed Unanimously 5 Ayes to 0 Nays

Chairperson Gatchell opened discussion for corrections to the September 20th 2017 meeting minutes.

Edits Included;

Commissioner Wolthuis noted P. 5 – Hayward Bella’s testimony states “he was a General in the military”, check recording to see if he said “Sargent.”

Comments Included;

None

Commissioner Herb moved to approve the minutes with corrections as stated.

Vice Chairperson Hausner seconded the motion to approve.

Question was called

Aye (5)

Commissioner Journey, Commissioner Herb, Commissioner Wolthuis, and Vice Chairperson Hausner, Chairperson Gatchell

Nay (0)

Motion Passed Unanimously 5 Ayes to 0 Nays

Chairperson Gatchell opened discussion for corrections to the October 23rd 2017 meeting minutes.

Edits Included;

Chairperson Gatchell noted P. 5 – Hayward Bella’s testimony states “while he was a General in the military”, check recording to see if that is correct.

Comments Included;

None

Commissioner Herb moved to approve the minutes with corrections as stated.

Vice Chairperson Hausner seconded the motion to approve.

Question was called

Aye (5)

Commissioner Journey, Commissioner Herb, Commissioner Wolthuis, and Vice Chairperson Hausner, Chairperson Gatchell

Nay (0)

Motion Passed Unanimously 5 Ayes to 0 Nays

COMMENTS FROM THE PUBLIC: None

Chairperson Gatchell stated the first public hearing will be in regards to;

CU 17-06: A Conditional Use Permit request to establish a retail marijuana store in an existing building. The address for the subject property is 1025-1027 Main Street, Sweet Home, Oregon 97386, and it is identified on the Linn County Assessor’s Map as

13S01E31AC Tax Lot 7800. The subject property contains approximately 4,811 square feet and is located in the Commercial Central (C-1) Zone. The applicant is Aaron Mitchell/La Mota LLC., and the property is owned by Marty and Holly Spurlock. The criteria to be considered for this request are found in Sweet Home Municipal Code (SHMC) Section 17.80.040.

PUBLIC HEARING OPENED AT 6:37PM

Chairperson Gatchell stated the following;

The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Chairperson Gatchell asked the Commissioners if they had any of the below stated in regards to the application;

Personal Bias: None

Conflict of Interest: None

Exparte: None

CEDD Jerry Sorte explained the Land Use request, staff report, and background of the property. He then reviewed approval criteria that are applicable to the conditional use request, as well as the staff findings, and application. He recommended that the Commission hear testimony and make a decision on this matter. He also asked that the Planning Commission specify the appeal period and direct staff to prepare an order for signature of the Commission Chair. He then asked if there were any questions of staff.

**Questions and Concerns Consisted of;
Are the criteria for approval met?**

Chairperson Gatchell asked the applicant to speak to the request.

Damon Sours explained that he is the regional representative for La Mota. He explained why the applicant could not be present and that he is representing them, in their absence. He explained that the application had been modified to remove the “show and grow” portion of the business. He addressed concerns of odor and safety. He explained his background in law enforcement, and his experience in narcotics, homicide and major crimes, with an emphasis on marijuana eradication. He explained that he oversees employees and reports to the OLCC (Oregon Liquor Control Commission) if there are any infractions. He explained they run a high micron interior filter that is maintained regularly in their facilities. He explained they also clean their facility on a daily basis at least. He explained they have a very simplistic store layout that minimizes impacts, as much as possible, without adding a sally port door. He offered to answer questions from the Commission.

Commissioner Journey asked if there would be edibles at this location.

Damon Sours stated that there would be edibles. He explained they would have concentrates, such as waxes, shatters, and dabs, as well as vapor cartridges, edibles, flower, CBD (Cannabidiol) products, tinctures, oral sublingual products, and in general keep a wide variety of products on that contain CBD as well as THC (tetrahydrocannabinol).

Commissioner Journey asked if they are manufactured elsewhere and then brought to the store.

Damon Sours stated that is correct. He explained that all edibles have to be manufactured in a facility approved by the OHA (Oregon Health Authority) and the OLCC, and they have to be tested.

Commissioner Herb asked for information about the second floor of the building.

Damon Sours explained that he was unaware, as he has not been familiarized with the project and is temporarily representing the company for the hearing. He explained he had just recently read through the packet and is not sure of the intentions for the second story of the building.

Commissioner Herb asked if they were leasing the building.

Damon Sours explained that in most cases, the buildings La Mota operates out of, have been purchased outright.

Commissioner Herb stated he has concerns about the safety hazards that stairs can create in a work environment.

Damon Sours explained that it appears that there are two addresses that are separate, one being the downstairs, and one being the upstairs. He said that the upstairs has a separate exterior access. He explained that if that is indeed the case OLCC would allow for the upstairs to be used as a residence for a caretaker or manager, but they normally would not allow two different addresses to act as one dispensary. He explained how OLCC is very thorough in the application process.

Commissioner Journey asked if they it was correct to say that La Mota does not own the building and that they have some sort of arrangement.

Damon Sours explained that if this scenario is consistent with what they have done in past practices, they work with a realty company, and/or, the property owners and make a contingency offer based on what the Planning Commission or City Councils, end up determining.

Commissioner Hausner asked why the applicant was absent for the hearing.

Damon Sours explained that the applicant was going to meet him at the hearing but she had health issues and could not be present.

Commissioner Hausner asked what other cities La Mota was located in.

Damon Sours explained that they just went to a Council meeting at Gold Beach, where they are going through a similar process.

Commissioner Hausner asked how many businesses La Mota has in other locations.

Damon Sours explained La Mota currently has twelve active stores, four additional proposed retail locations, and outdoor grows in the Medford area.

Commissioner Hausner asked if they are within the interstate five corridor.

Damon Sours explained that they were.

Chairperson Gatchell explained there is a one year limitation for the conditional use permit and asked the applicant if there would be any problem with the store being up and running within a year.

Damon Sours explained that there is no issue that he is aware of. He explained their process usually takes six months to open.

Commissioner Wolthuis asked if the applicant knew if one of the two addresses was the second floor of the building.

Damon Sours explained that from what he has seen, looking at the building and the plans, he does believe the second floor has a separate address.

Chairperson Gatchell asked if there were any further questions related to the conditional use request and thanked the **Damon Sours** for speaking.

Testimony in Favor: None

Testimony in Opposition: None

Neutral Testimony:

Marty Spurlock stated that he is the owner of the building in question. He wanted to clarify, that the stairwell leads to the second floor, which is 1025 Main Street, and it has no interconnectivity to the first floor. He explained that the upstairs in being used for storage currently but used to be office space. He also explained that La Mota is buying the property, and put in an offer with a contingency of approval of the Conditional Use permit.

Chairperson Gatchell thanked the **Marty Spurlock** for speaking.

Rebuttal: None

PUBLIC HEARING CLOSED AT 6:55PM

Planning Commission discussed the applications.

Concerns and Considerations:

- **The location is close to the other marijuana facility**
- **Parking is sufficient**
- **Setbacks are met**
- **Access to alley**
- **Odor from product**
- **Complaints from public**

- OLCC regulations
- Addressing the appeal period
- Exterior lighting code requirements
- Sign code requirements

Commissioner Wolthuis made a motion to approve the Conditional Use Permit request to establish a retail marijuana store in an existing building. The address for the subject property is 1025-1027 Main Street, Sweet Home, Oregon 97386, and it is identified on the Linn County Assessor's Map as 13S01E31AC Tax Lot 7800. The subject property contains approximately 4,811 square feet and is located in the Commercial Central (C-1) Zone. The applicant is Aaron Mitchell/La Mota LLC., and the property is owned by Marty and Holly Spurlock. The criteria to be considered for this request are found in Sweet Home Municipal Code (SHMC) Section 17.80.040. There will be a 12 day appeal period, starting from the date that the notice of decision is mailed. The approval is subject to the following conditions;

1. The proposed marijuana retail store shall be located within the existing building located on the subject property. The proposed marijuana retail store shall be limited to the activities evaluated under this application.
2. The use shall be operated so that no marijuana odor is permitted to leave the subject property.

Commissioner Herb seconded the motion.

Question was called

Aye (5)

Commissioner Journey, Commissioner Herb, Commissioner Wolthuis, and Vice Chairperson Hausner, Chairperson Gatchell

Nay (0)

Motion Passed Unanimously 5 Ayes to 0 Nays

Chairperson Gatchell stated the second public hearing will be in regards to;

VR 17-05: A variance request to reduce the required front yard setback from 20 feet to 8 feet for the construction of a single family dwelling. The front yard setback variance also necessitates a variance to reduce the off-site parking requirements from two spaces to zero. The front yard is adjacent to Lake Pointe Way. The address for the subject property is 6304 Lake Pointe Way, Sweet Home, OR 97386, and it is identified on the Linn County Assessor's Map as 13S01E26CA Tax Lot 2200. The subject property contains 50,562 square feet and is located in the Residential Low-Density (R-1) Zone. The applicant is William Lund, and the property owner is Renewed Properties LLC. The criteria to be considered for this request are found in SHMC Section 17.88.040, 17.24.050(A), and 17.24.100(B)

PUBLIC HEARING OPENED AT 7:10PM

Chairperson Gatchell stated the following;

The applicable substantive criteria are listed in the staff report. Testimony, arguments and evidence must be directed toward the criteria described or other criteria in the plan or land use regulation which the person believes to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

Chairperson Gatchell asked the Commissioners if they had any of the below stated in regards to the application;

Personal Bias: None

Conflict of Interest: None

Exparte:

Commissioner Herb stated that he had drove by and saw a potential for safety issues.

CEDD Jerry Sorte explained the Land Use request, staff report, and background of the property. He then reviewed approval criteria that are applicable to the conditional use request, as well as the staff findings, and application. He explained that this request may also necessitate a need for a variance from the requirement for two hard surfaced off street parking spaces to zero. He explained that when the notice of the public hearing was sent out it specified the setback variance but did not specify a variance to the two parking spaces. He explained one option for the Planning Commission would be to continue this hearing until the next hearing date, which would be in the beginning of December, which would allow for notice of the additional variance that may be needed. He explained that, alternatively, if the Commission felt that notice was sufficient they could hear testimony and make a decision on the matter. He also asked that the Planning Commission specify the appeal period and direct staff to prepare an order for signature of the Commission Chair. He then asked if there were any questions of staff.

Questions and Concerns Consisted of;

Verification that there are two variances instead of one.

Chairperson Gatchell asked the applicant to speak to the request.

William Lund explained that this area is extremely difficult to build on and develop due to the topography and constraints. He explained that he is open to solutions. He explained that he is asking for a variance from the front setback standard of twenty feet, to allow for eight feet. He explained that there are no sidewalks and there is more room from the property pin to the curb. He said that there will not be people walking around in the area. He explained that lots five and six are built on and that there is a larger lot, lot one, which will have a house set eventually. He said they plan to have an easement put in place on lot one, that will allow access to the lower portions of the lots to the south of lot one. He said this easement could accommodate the requirement for the two off street parking spaces, but he does not believe someone would use that parking and then walk up to the house. He said otherwise the houses will not be built. He explained that you have to have two parking spaces, and a garage, or a carport. He said he is not going to put a carport in with the nice homes they are building. He said that after talking to his engineer, to build a garage, because of the slope that is fifteen feet down, it would be too costly. He said the houses will have basements so that will not be an issue. He said he is open to suggestions.

Commissioner Wolthuis asked if the applicant has ever built a house with a basement under the garage.

William Lund stated that he had not.

Commissioner Wolthuis explained that with steel reinforced concrete it would eliminate the problem.

William Lund stated that he had never seen that, but it would probably cost, and it is already a costly project because of the requirements for the subdivision. He explained that it is a private subdivision and the only people that are allowed up there are the ones that own the homes. He said it was a private drive.

Chairperson Gatchell stated he had a possible solution, which is to build the houses at the bottom end of the slope.

William Lund stated that you would not have views of the lake if you did that because of the neighbor's trees. He said it lowers the value of the home.

Commissioner Herb stated he had a possible solution, which is to build a retaining wall and have the garage as the basement. He said they can have the driveway progress down the slope off to the side that turns into the garage at the bottom.

William Lund stated that there would be issues with the slope of the driveway.

Commissioner Herb explained that once you dig out and do compaction you will have some raised area.

William Lund stated that it is cost prohibited to do that.

Commissioner Hausner asked the applicant if he believed the house was marketable with no garage, carport or place for anyone to park.

William Lund stated that he will put in a garage, but the approach from the garage to the curb is thirteen feet. He explained that he proposes a wider driveway of twenty five feet wide, where the typical driveway for a two car garage is eighteen feet.

Commissioner Journey explained that she recalled when the applicant came in for the initial subdivision request and they had mentioned that a lot of the sites proposed will be problematic. She stated she specifically remembers discussion lot one, and how it was bigger than the other lots. She stated that it is unfortunate that he cannot make a road on lot one that will allow access to the lot he is requesting a variance for.

William Lund stated that he can, but there is no view on lot one. He said he could consider a road or easement to that lot, for the two off street parking spaces, but he would still be asking for the variance to allow for an eight foot setback.

Chairperson Gatchell stated that the last variance was denied on the basis that there were concerns about public safety. He explained that for them to approve this request they would need to see that the criteria is met and that this variance would not be detrimental to public

safety, per the Sweet Home Municipal Code. He asked if there were any further developments that would differ from the last request, that alleviate the threat to public safety.

William Lund explained that because this subdivision will have a home owners association, only members are allowed up the hill, and they will have read through and agreed to the CC&Rs (Covenants, Conditions and Restrictions). He said they should have a thorough understanding of what they are getting themselves into.

Chairperson Gatchell explained that he can see how it would be helpful for the owners but it does not eliminate the public safety concern, such as, access for emergency vehicles.

William Lund explained that he does not think that would be an issue.

Chairperson Gatchell explained there would not be room for the emergency vehicles because everyone would have to park on the street.

William Lund explained that no one would be parking on the street. The HOA (Home Owners Association) would not even allow for the tail of your car to be hanging out into the street. He explained some houses have five to six spots for parking, but this site cannot. He explained that the other lots will be fed by an easement over lot one; this is the only lot he will ask for a variance on.

Chairperson Gatchell asked for clarification that there is no parking on the street at all.

William Lund explained that he could not recall if it was one side or not.

CEDD Jerry Sorte explained that parking is allowed on one side.

Commissioner Wolthuis suggested that if he did not want to do the steel reinforced second story for parking, by the time he had laid the foundation, he could fill the entire garage with gravel.

William Lund explained that he is going with what the engineers are telling him and the numbers they gave him show it to be too expensive. He explained that the footings have to be reinforced and the wall will be about fourteen feet tall, backfilled with rock. He said that it sounds cheap by the truck load, but it adds up quickly.

Commissioner Herb explained that inexpensive lots can be costly to develop, but it can be done.

William Lund explained that the Commission has provided great ideas but they are all costly. He explained that the engineers have also given him a lot of ideas, but they are expensive.

Commissioner Herb explained that there will be a parking issue. He said it may be limited to one side, but on holidays or special events, people will park wherever they can. He said that is when the safety issue comes into effect.

William Lund explained that in an HOA, these things are really serious, and that people's property can get liened upon if the HOA and CCRs are not followed. He explained that in a private subdivision it will be maintained.

Commissioner Hausner explained that she has lived in an HOA and in her experience they do not enforce things at all on holidays.

William Lund explained that you cannot control everything and he understands the concerns for public safety.

Commissioner Hausner asked for clarification that he is asking for a variance from the twenty foot front setback to allow an eight foot front setback.

William Lund said that was correct, and that there was an additional five to six feet from the curb to the pin.

Chairperson Gatchell thanked the applicant for speaking.

Testimony in Favor: None

Testimony in Opposition: None

Neutral Testimony: None

Rebuttal: None

PUBLIC HEARING CLOSED AT 7:43PM

Planning Commission discussed the applications.

Concerns and Considerations:

- **No changes since the last request**
- **Public safety criteria is not met**
- **There is a likely congestion problem**
- **Postponing the hearing to accommodate the applicant**
- **Accommodating the variance to the front setback would assist with the construction of the garage**
- **The subdivision could have been planned out better by the applicant, considering the issue was known**
- **There is a possibility to grant the variance to the front setback, but still require the parking requirements**

PUBLIC HEARING REOPENED AT 7:50PM

William Lund explained that he does not understand the issue with off street parking, if they have off street parking across the street.

CEDD Jerry Sorte explained that the requirement is to have two off street parking spaces on the property.

William Lund asked that if he had an easement going over lot one and made two parking spaces would that count?

Chairperson Gatchell said it would, if it was in place.

Commissioner Wolthuis asked if the variance to the front setback were to be approved, and only that variance, would the applicant be satisfied and would it be helpful.

William Lund explained he was not even aware of the two parking spaces requirement until that evening. He stated that if the variance to the front setback was approved, and make it a condition of approval to provide an easement over lot one to access lots three, four, five and seven he would be satisfied.

Chairperson Gatchell said he felt that **Commissioner Wolthuis'** idea was to grant the variance so that some sort of garage would be built at the street, not for off street parking at the bottom of the hill.

Commissioner Wolthuis stated that was correct, but the applicant is still thinking about access at the bottom of the hill.

William Lund explained he does not understand why the Commission would approve the setback, if he still has to provide two off street parking spaces. He said that if they did approve the variance, to meet the onsite parking spaces, other than a garage, he would use lot one, as an easement to get to the back side of lot seven, which would more than suffice. He explained that it was a road before they changed the subdivision, and stated there is a large flat area at the bottom of the hill.

Chairperson Gatchell asked about the first time he applied for a variance and was denied.

William Lund explained that at that time, they did not have the solutions from the engineers, such as using lot one.

Commissioner Wolthuis asked **William Lund** if he would prefer to have a continuation of the hearing.

William Lund explained that the only solution is an easement to lot two, three, four, and seven, which he does not believe would have to be decided by the Planning Commission, but if he would allow the variance of the setback, he would create an easement for access to two on site hard surface parking spaces.

Commissioner Wolthuis stated that maybe setting the house back a little would be beneficial.

William Lund explained that there is a problem with hard rock, and they had to blow up the area behind lots seven, eight and nine, using dynamite.

Commissioner Hausner asked **William Lund** that if he went back to his engineer with everything the Commission has told him tonight, his engineer would tell him there is no other way to develop the property.

William Lund explained his engineer told him to use lot one as an easement.

Chairperson Gatchell asked if one lot could be used as off street parking for the whole area.

William Lund explained that he could not do that, because the requirement is for two onsite parking spaces per lot.

Chairperson Gatchell explained that the variance would be more likely to be approved if there was a contingency for the safety problem.

Commissioner Hausner stated that a situation like that would not be as marketable.

William Lund agreed and explained that is what he proposes with an easement. He explained that he is trying to meet these requirements the best he can.

Chairperson Gatchell stated that there has been a lot of discussion about suggestions and possibilities. He asked **William Lund** if he would like more time or if he would like a decision.

William Lund explained that he would need a decision, as the engineer had explained, that is the only possible solution.

Chairperson Gatchell stated that **William Lund** would like a decision now.

PUBLIC HEARING CLOSED AT 8:00PM

Planning Commission discussed the applications.

Concerns and Considerations:

- **Public safety criteria is not met**
- **The situation that created the need was created by the applicant**
- **Other possibilities for development exist**
- **The applicant does not want to continue the hearing**

Commissioner Journey made a motion to deny, based on the findings and fact related to variance request VR17-05 to reduce the required front yard setback from 20 feet to 8 feet for the construction of a single family dwelling. The front yard setback variance also necessitates a variance to reduce the off-site parking requirements from two spaces to zero. The front yard is adjacent to Lake Pointe Way. The address for the subject property is 6304 Lake Pointe Way, Sweet Home, OR 97386, and it is identified on the Linn County Assessor's Map as 13S01E26CA Tax Lot 2200. The subject property contains 50,562 square feet and is located in the Residential Low-Density (R-1) Zone. The applicant is William Lund, and the property owner is Renewed Properties LLC. The criteria to be considered for this request are found in SHMC Section 17.88.040, 17.24.050(A), and 17.24.100(B). The Planning Commission's decision on this matter shall be subject to a 12 day appeal period from the date that the notice of decision is mailed.

Commissioner Hausner seconded the motion.

Question was called

Aye (5)

Commissioner Journey, Commissioner Herb, Commissioner Wolthuis, and Vice Chairperson Hausner, Chairperson Gatchell

Nay (0)

Motion Passed Unanimously 5 Ayes to 0 Nays

WORK SESSION OPENED AT 8:25PM

Community and Economic Development Director Jerry Sorte explained the new standardization for the city that has been happening. He explained that he would like to know if

the Planning Commission would allow staff to schedule Planning Commission meetings on the third Mondays of the month in addition to the first Monday of the month.

Discussion Ensued about bimonthly Planning Commission Meetings.

Concerns Included;

- **More time to vet applications appropriately**
- **Prefer one meeting a month (first Monday or third Monday) but option would allow for flexibility**
- **Would assist with maintaining the one hundred and twenty day decision deadline**
- **Advanced notice of meeting dates (three weeks)**

Question was called

Aye (5)

Commissioner Journey, Commissioner Herb, Commissioner Wolthuis, and Vice Chairperson Hausner, Chairperson Gatchell

Nay (0)

Motion Passed Unanimously 5 Ayes to 0 Nays

Discussion Ensued about the Code Update process.

Community and Economic Development Director Jerry Sorte explained the different options and directions the Planning Commission could be moving in the near future. He explained that once the code update is complete, he would like to review and set Planning Commission goals annually. He explained that City Council has supported the Code Update moving forward with a model code from the state that has been adapted to reflect Sweet Home. He explained that they could use the findings from the code audit and insert that data into the model code. He asked the Planning Commission if they supported moving forward in that direction.

Question was called

Aye (5)

Commissioner Journey, Commissioner Herb, Commissioner Wolthuis, and Vice Chairperson Hausner, Chairperson Gatchell

Nay (0)

Motion Passed Unanimously 5 Ayes to 0 Nays

PUBLIC MEETING CLOSED AT 8:45PM

To the best of the recollection of the members of the Planning Commission, the foregoing is a true copy of the proceedings of the Public Hearings of November 6, 2017.

Lance Gatchell, Chairperson
Sweet Home Planning Commission

Respectfully submitted by: Katie Wilcox, Planning Assistant