

UNION GAP PLANNING COMMISSION
REGULAR MEETING OF
February 4th, 2014

Call to Order:

The Regular and Study Session Meeting of the Union Gap Planning Commission was called to order by Chairman Michael Moore at 7:00 p.m.

Planning Commission Members Present:

Chairman Mike Moore, Commissioner Dave Hansen, Commissioner Rick Cecil, and Commissioner Sandy Dailey were present.

Staff Present:

David L. Spurlock, Director; and Andrea Ely, Administrative Secretary were present.

APPROVAL OF MINUTES:
January 28th, 2014

Motion by Commissioner Cecil, second by Commissioner Hansen to approve the Regular & Study Session Meeting Minutes of January 28th, 2014; motion carried unanimously.

REGULAR MEETING

Chairman Moore welcomed the guests in the audience and said all commentary will be accepted at the end of the special session.

I-502 Draft Ordinance

The Director stated tonight was to review Draft Chapter 17.29 Marijuana Businesses. Previous discussion included the AG Opinion and impacts on local jurisdictions. Staff has presented a Draft Ordinance 17.29, which is an addition to the existing ordinance. Most of the Draft, as noted in *Purpose and Intent* (17.29.010) and *Definitions* (Section 17.29.020) refer back to I-502, RCW 69, and WAC Ch. 314-55 (State laws governing I-502).

The Director continued; Section A is the buffering location requirements for businesses. There are eight types of businesses which require a one-thousand foot (1000') buffer: Elementary or Secondary Schools, Playgrounds, Recreation Centers or Facilities, Child Care Centers, Parks, Public Transit Centers, Libraries, and Game Arcades where admission is not restricted to persons age twenty-one or older. Section B is clarification from the Liquor Control Board (LCB) about the application of the 1000' feet buffer. Section C states Marijuana Retail Businesses are not permitted within the City limits except when permitted in the City Zoning Table 17.04.030. Section D is regarding Production and Processing; Section E notes that home occupations are not permitted. In Table 17.04.030, Marijuana Businesses (Retail, Production or Processing) are in red and underlined (pgs. 5 & 11). These are meant to reinforce what is stated in the Draft Ordinance.

The Director added the Planning Commission (PC) should review *Special Regulations* (17.29.040) closely. Section A states a business license is required and Section B states hours of operation (not open before 8:00am and not open after 11:00pm). I-502 states 6:00am to 2:00am; other jurisdictions have adjusted these times. Section C states no off-premises signage is allowed and refers back to the City's codes; aligning with I-502. Section D states businesses will be inside the structure; Section F it requires the business to follow the applicable Building, Fire and State codes. Section E reiterates any paraphernalia shall not be visible from the outside of the business. *Enforcement of violations* (17.29.050) gives the City the ability to enforce within our Nuisance code regulations (UGMC Section 1.18).

The Director wanted to note how to use the Permitted Land Use Table (17.04.030). Each column/row section possesses a number (1, 2, or 3) or a blank box. The numbers represent the application Class; if it is blank it is not a permitted use. Marijuana Processing and Production is located in the Wholesale Warehouse (WW) and Light Industrial (L-1) zoning and are Class 1 applications. In comparison to the map attached with the 1000' buffer, many of the areas L-1 and WW and fall outside the buffer.

Commissioner Hansen had a question on proper wording. Under *Locations* (Pg. 3, Section D) it notes "*Neither a marijuana production business nor a marijuana processing business is permitted outside zoning district in accordance with Table 17.04.030.*" He

asked if the word "the" can be placed before "zoning." He also asked for clarification on *Special Regulations* (Section E). The Director stated no product or paraphernalia can be displayed in windows our outside, which also mirrors I-502.

The Director continued on Table 17.04.030 (pg. 11) Marijuana Retail Business are Class 1 and under Commercial zoning (C-1, C-2, and CBD) but this will need to be discussed by the PC. The Director wanted to clarify on the Class applications types. Class 1 applications are permitted with no special review. Class 2 reviews are allowed but require and administrative review and notifications must be sent out to all property owners within 300' of the parcel. Class 3 reviews are permitted and require notifications to be sent to all property owners within 300'. They are also reviewed by the Hearing Examiner and staff will make a recommendation.

Chairman Moore passed the gavel to Commissioner Hansen to comment. Referring to the I-502 1000' buffer map, residential areas are not showing on the map. There is also parks open space area as well and is not showing a buffer. The parks should be included. The Director stated the Parks and Open space is an underline zoning and I-502 has a functioning park definition. Chairman Moore stated there are residences to above Fulbright park. The Director stated there are homes there but they already fall within the 1000' buffer.

Chairman Moore wanted to make an amendment that 1000' buffer for residential areas. He also wanted to change the class reviews from a Class 1 to a Class 2 (pg. 5 & 11). He continued that C-1 zoning (pg. 11) with the 1000' buffer for residential would create a smaller map and might not be required any longer and withdrew his request. Chairman Hansen returned the gavel back to Chairman Moore and opened the floor for public testimony.

COMMUNICATIONS

Public Testimony *Adam Markus*
Moxee, WA

Adam Markus is one of the applicants for a retail business. He has not been able to follow recent discussion, but wanted to allow the PC to ask questions of him. He is not trying to make a speech for or against the issue, and is curious of the specific concerns of retail. He asked when the PC goes through the process of zoning, to try and provide an opportunity to have a retail business give their input.

Mr. Markus provided his background and previously worked for Yakima County for 17 years in Animal Control and closely with the Humane Society; due to a back injury he is now in finance and internet sales for the automotive industry. He also trained servers of alcohol for Washington State for 17 years.

He has gathered information from Colorado and is trying to follow the law enforcement side. His business plan may be helpful in finding ways to operate within those guidelines. As a father he understands the concerns with sales affecting youth. In his plan every person must have valid identification (ID) which will be scanned into the system. The computer will verify the ID and can allow valid transactions. The software system for out of states ID's is very expensive, however one state is affordable. His most important concern is to protect the minors and following the guidelines.

His facility will not be large or loud, with large signs. Chairman Moore stated those would be against the ordinance. He is available to show the PC members his business plan which includes refusing service to intoxicated persons. He wants to ask the PC will have open communication and if there were any questions regarding his business.

Commissioner Hansen asked if his business proposal available for review. Chairman Moore stated Mr. Markus can turn that into Dave Spurlock, Deputy Director of Community Development.

*Mary Vandegraaf
Union Gap, WA*

Mary Vandegraaf is the owner of Mill Creek Foods and applied for a retail business. Her main concern is safety as she has two sons. She sent a letter to the City Council in January stated she wants to work with the City in the process. She will follow guidelines and not sell to under-age persons, and wants to work with the Police Department to help eliminate concerns. She suggests following Colorado in their right steps and stated anyone is allowed to stop by her business to discuss it.

Commissioner Dailey asked what the current operating hours for Mill Creek Foods are. Mrs. Vandegraaf stated she wants to keep the store separate from the retail business. Currently her hours are Monday through Friday, 9am to 6pm and open on Saturdays and Sundays. She added that she only wants to be open for retail business during daylight hours at fixed times and not on Sundays. With the safety issues she wants to keep the store separate as some customers have stated to her that they will not go into the store with product inside.

Commissioner Hansen wanted to know how the windows of her store will be secured. Mrs. Vandegraaf will work with the building department, set up surveillance when entering and exiting, and install bright lighting. By surveillance she will be able to go back and view who has entered the building and is also looking into employing a security guard. She believes this City can be a model city to other jurisdictions.

*Stephan Delano
Union Gap, WA*

Stephan Delano has children who attend the Union Gap school district. He stated that marijuana is already within 1000' of the schools, non-regulated and everywhere. He believes this is an opportunity to do things right. I-502 was a citizen's majority vote and came with morality issues—but so were cigarettes and alcohol. He asked that the PC not allow morality stop the sales of marijuana and view it as an opportunity for revenue. Other communities will be soon as well.

*Adam Markus
Moxee, WA*

Mr. Markus returned and asked if Commissioner Hansen had additional questions regarding his business. Commissioner Hansen stated he was curious about the windows and security concerns. Mr. Markus stated that 3M has window product that covers glass and makes it almost impenetrable. With an axe it would take five minutes to get through. It is aesthetically better and cheaper than window bars.

Commissioner Hansen asked if the windows had vibration alarms. Mr. Markus replied that the State has required alarms and motion detectors to be placed at all exits and windows. They will also require video surveillance records for entrances, exits, point of purchase, and point of storage for forty-five (45) days. Mr. Markus will keep all records on discs for three years, using a high-definition system that records for twenty-four (24) consecutive hours. At any given point he is able to retrieve those records if needed.

Commissioner Hansen asked where he plans to receive his product from. Mr. Markus answered that the State will have processors, growers and retailers registered in an open catalog. He is hoping to join a co-op of a few other stores licensed in our area to help purchasing from larger growers, for a constant and reliable source. The process is not yet on its way but will be similar; the grower will be required to have the same type of surveillance system as the stores do. Every chemical that is used on the product must be registered and the process of growing (dirt, hydro-systems, etc.) must be documented with Washington State approved chemicals (pesticides and fertilizers).

Mr. Markus added that documentation can help customers know where their product is coming from. The State has a good plan in place, yet he believes they lack support to the municipalities. The State is accruing large fees in the process; the Grower sells to the Processor and pays 25%, the Processor sells to the Retailer and pays 25%, the

Retailer sells to the public and pays 25% and currently there is not an outline on where these monies are going. The City of Yakima is a prime example; three-million dollars in revenue in a year would have made a difference. He hopes the LCB will disperse them back into the jurisdictions.

Mr. Markus has been working hard for the last seven months and has viewed several of the medical marijuana operations in Yakima County. Three of which keep exact records, and all three exceeded one-million dollars in revenue sales. If a fraction of that revenue comes through retail—economically it can help the City.

He also stated the last application list for the City he reviewed had two stores and wanted to know if that was still correct. Chairman Moore replied he believed it was. Mr. Markus said in his estimate for the current growing operations, if 50% was obtained, each store should be making two-million dollars a year, bringing in revenue for the City.

Commissioner Hansen asked if Mr. Markus has considered how his business will affect the morality of the community. Mr. Markus replied that he cannot change moral, but recognizes that the majority of the people in the State of Washington voted yes. He has asked the LCB of where the majority voters are. He estimated the West side to be more in favor than the East side. He continued in comparing the use of alcohol to cannabis, and the domestic violence ratio of incidents caused, it is about seventeen to one. In the same aspect of bar or group-fights, the ratio is about sixty to (1) one; alcohol to cannabis. Marijuana seems to have less aggressive interaction as opposed to alcohol.

Commissioner Hansen asked if there should be concern on the domino-effect. Chairman Moore stated that many of these comments can be considered speculation and should be focused on zoning issues.

The Director reminded the PC that there were some changes requested within the ordinance earlier in the meeting. Chairman Moore asked for a motion to add the 1000' residential buffer to the draft ordinance. Motion by Commissioner Cecil, second by Commissioner Hansen; motion carried.

The Director asked if that was the only change. Commissioner Cecil stated he thought there was a change on the review process but withdrew his comment immediately thereafter.

*Mary Vandegraaf
Union Gap, WA*

Mary Vandergraaf had one additional question regarding the residential buffer that was just motioned. Her business runs along the Wide Hollow Creek and there is a house across from her, she wanted to know if that prohibits her retail business. The Director stated that the buffer refers to residentially zoned properties. He believes that the property her business resides on is Wholesale Warehouse or Commercial. Chairman Moore stated that there are maps which show the buffer and zoning and stated that if anyone wanted copies of the proposed maps to contact the Director, Dave Spurlock. The Director stated that they will be available on the website as well.

NEXT MEETING AGENDA

Commissioner Dailey asked what the purpose was for this special PC meeting. The Director stated the PC needed to review the draft ordinance and discuss any changes or amendments. If the PC wants to go forward with this ordinance, then staff will initiate the sixty-day notice with the Department of Commerce to be in compliance with the Growth Management Act (GMA). A public hearing would be scheduled to take public testimony and the environmental review process will begin as well.

The Director stated that the PC could set the public hearing for the next PC meeting on Tuesday, February 25th, 2014 at 7:00pm. At that time the environmental review can run the same time, testimony can be obtained; changes and amendments can still be completed. After it is completed it can be presented to City Council for approval.

Commissioner Dailey inquired about the next Council meeting also being a public hearing. The Director stated that public hearing will be to take testimony on the moratorium. They are two separate issues, but related. The public hearing for the PC will accept public testimony on this draft ordinance.

Commissioner Dailey asked if there would be sufficient time to revise the draft, or if a special meeting should occur thirty days from this meeting. The Director stated that sooner would be better. Chairman Moore asked for a motion to confirm the next meeting agenda and public hearing to be on Tuesday, February 25th, 2014 at 7:00pm. Commissioner Cecil motioned, Commissioner Dailey second; motion carried.

MEETING ADJOURNED

There being no further discussion, the meeting adjourned at 8:08 p.m.

Chairman, Mike Moore

ATTEST:

Andrea Ely, Administrative Secretary