

City of Talent

Community Development Department - Planning



STAFF REPORT

Type III Land Use Application — Planning Commission

Date: March 17, 2016

Item: CUP 2016-002, Recreational Marijuana Retail Business

Applicant: Talent Health Club, LLC
1007 S. Pacific Hwy
Talent, Oregon 97540

Property Owner: Green Tree Condominiums, LLC
P.O. Box 3260
Jacksonville, Oregon 97530

Requested Action: Operation of a State-regulated, OLCC-licensed recreational marijuana retail business.

Assessor's Map Number: 38-1W-25BD, Tax Lot 90007

Site Location: 1007 S. Pacific Hwy. Unit G

Zoning: CH (Commercial Highway)

Deemed Complete: March 4, 2016
Notice Mailed: March 4, 2016

120-Day Limit: July 2, 2016

REQUEST

The request is for a Conditional Use Permit to operate a State-regulated, OLCC licensed recreational marijuana retail business.



PROPERTY CHARACTERISTICS

The site is located on S. Pacific Hwy., north of the Creel Rd. intersection. The subject parcel is roughly rectangular in shape with an area of approximately 29,185 square-feet (sq. ft.). The zoning designation is Highway Commercial, as are the adjacent properties to the west; the adjacent property to the north and south are zoned General Commercial (Jackson County Zoning). The subject parcel is divided into multiple condominiums and used as mixed use commercial/warehouse/office building with seven (7) units, construction was completed in 2008 and approved by Jackson County Planning.

BACKGROUND

The subject parcel is zoned Commercial Highway (CH) and has allowed medical dispensaries or recreational sales of marijuana in the zone since December 5, 2014 subject to Section 8-3L.2 of the Talent Zoning Code. The applicant maintains that the retail sales of cannabis has occurred at this location since the medical marijuana dispensary opened in 2014 in accordance with Oregon Medical Marijuana Program (OMMP) regulations and that retail sales of medical cannabis was neither allowed nor disallowed in the Talent Zoning Code at the time the business began operations. However, the OMMP program at that time did not allow for “retail” sales of medical cannabis to the general public, and only allowed for reimbursement.

In 2014 when the applicant began operating the medical marijuana facility, the OMMP disallowed the sales of marijuana for a profit and retail licensing by the Commission was not available. Operators of a medical marijuana facility were only able to be reimbursed by patients for the cost of supplies and utilities associated with the production of his or her medical marijuana; the Act did not allow reimbursement for labor or any other costs.

When the medical marijuana facility began operations in 2014, it served only a limited population of OMMP card holders, and because of this is not classified as a pre-existing retail operation.

The applicant stated that Talent Health Club began selling limited recreational marijuana products to consumers over the age of 21 on October 1, 2015 when the OLCC rolled out the recreational marijuana retail sales program. Since Staff has determined that retail operations by both State and local definitions were not taking place prior to December 5, 2014 when revisions to the City's Zoning Code were adopted, and since the sales of retail marijuana has not been approved through a conditional use permit review, the use is being conducted in violation of the City zoning code.

In order to ensure equity among business owners of the same use, staff addressed the standard criteria for a conditional use permit as well as the criteria for a change of a non-conforming use since the proposed recreational marijuana business is less than 750 feet from a public park.

Wastewater Service

Wastewater service is currently being provided to the subject parcel by Rogue Valley Sewer Service (RVSS).

Stormwater

Stormwater on the site is directed to an open ditch paralleling S. Pacific Hwy.

Water Service

Water service is currently being provided to the subject parcel by the City of Talent.

APPROVAL CRITERIA

- 8-3D.4 – Commercial Highway Zone
- 8-3L.1 – Site Development Plan
- 8-3L.2 – Conditional Use Permit
- 8-3M.2 – Change of Non-Conforming Use

AGENCY COMMENTS

On February 8, 2016, Jackson County Fire District 5 (JCFD5) provided the following comment:

"...looking over the proposal for the marijuana facility on south pac we dont see anything at this time from the fire district to comment on? Any type of hash oil production we will want to watch for on any facilities. I dont see any indication of that here..."

On, March 15, 2016, JCFD 5 provided the following comment:

"...based on the additional information on potential for flammable storage, we would like to see a list of materials to be stored and quantity as well as reserve the right to conduct a fire and life safety inspection with our crews and possible with the cooperation of the State Fire Marshal Deputy..."

Condition 4 of the Proposed Final Order addresses this concern.

PUBLIC COMMENTS

As of the date of this staff report, no public comments have been received.

RECOMMENDATION

Based on the findings for the Conditional Use Permit stated in the Proposed Final Order, staff recommends **APPROVAL** of the Conditional Use Permit, with conditions outlined in the Proposed Final Orders.

ATTACHMENTS

The following information was submitted regarding this application:

- Applicant Statement
- Proposed Site Plan
- Proposed Final Order



Zac Moody, Community Development Director

3/17/2016

Date

Staff has recommended this proposal for approval, but it will require at least one public hearing before the Planning Commission for a decision. The Talent Zoning Code establishes procedures for quasi-judicial hearings in Section 8-3M.150.

A public hearing on the proposed action is scheduled before the Planning Commission on March 24, 2016 at 6:30 PM at the Talent Town Hall.

For copies of public documents or for more information related to this staff report, please contact the Community Development Director at 541-535-7401 or via e-mail at zmoody@cityoftalent.org.