



**BEFORE THE TALENT PLANNING COMMISSION  
STATE OF OREGON, CITY OF TALENT**

IN THE MATTER OF PLANNING COMMISSION FILE NO. ZON )  
2016-014 LOCATED AT 103 N. PACIFIC HWY, UNIT B & C [MAP ) ORDER  
NO. 38-1W-23DC TAXLOT 500], THE CITY OF TALENT )  
PLANNING COMMISSION FINDS THE FOLLOWING: )

1. The Planning Commission held a properly noticed public hearing on this matter on March 24, 2016;
2. The Planning Commission asked the Community Development Director to present a staff report and a proposed final order with findings and recommendations;
3. At the public hearing evidence was presented and the public was given an opportunity to comment;
4. The Commission found that the addition recreational cannabis sales is a separate use from the existing medical cannabis sales operation and is an expansion of a non-conforming use;
5. The Commission found that the proposed application, with conditions in all other respects complied substantially with the criteria for approval in 8-3L.2 (conditional use permits) and 8-3M.2 (non-conforming uses) of the Talent Zoning Code.

**The Talent Planning Commission approves the Conditional Use Permit (ZON 2016-014) with the following conditions of approval:**

**GENERAL CONDITIONS:**

1. No uses other than retail operations shall be conducted in Unit B and C of the subject parcel without additional conditional use permit review.
2. Onsite consumption or use of marijuana products or tobacco are prohibited.
3. Security bars shall not be allowed on any portion of the exterior of the building, nor shall they be installed on the interior of the building if they are visible from the outside.

**PRIOR TO ISSUANCE OF BUSINESS LICENSE:**

4. Provide Community Development a complete list of products to be sold or stored onsite. Upon review by the Jackson County Fire District 5 Fire Chief or the Building Official, if it has been determined that a fire, life and safety inspection and/or a change

- of occupancy is required, the applicant shall prior to Certificate of Occupancy, install all necessary improvements to meet the building code of the new occupancy group.
5. Submit plans for and install an appropriate air filtering and ventilation system sufficient to confine odors on the premises or provide evidence from a licensed professional that the existing air filtering and ventilation system is adequate to meet the intent of the standard. Plans for the necessary air filtering and ventilation system shall be submitted to the Building Official for review and approval prior to installation.
  6. Provide Community Development with a complete copy of the approved State retail license including all conditions, prohibitions and a list of names of all owners, operators and employees. The names of all owners, operators and employees and their background checks shall be provided to Community Development on an annual basis as part of the business license application.
  7. Provide Community Development a waste management plan in accordance with OAR 845-025-7750 detailing how solid and hazardous waste along with wastewater will be disposed or provide documentation that a waste management plan has been approved as part of the OLCC licensing process. The applicant shall install any required waste management facilities necessary to meet the requirements of OAR 845-025-7750.
  8. Correct the parking related issues below:
    - A. One of the required spaces in front of Unit B does not have an adequate wheel stops or bumper guards to protect the occupants of building. A wheel stop similar to the others installed onsite shall be installed to correct the issue.
    - B. There are two (2) parking spaces in front of Unit C that must be removed, since the turning movements required for those spaces extend into the public sidewalk and do not provide proper turning movements and aisle width behind the stall. These stalls will be deducted from the existing parking stall count resulting in thirty (30) parking onsite parking stalls, which is still more than the minimum required.
    - C. In accordance with Table 540-2 of Section 8-3J.540, two (2) ADA spaces that are clearly and permanently marked shall be provided. Two ADA spaces currently exist onsite, one adjacent to Unit B and one in the back parking lot. However, both stalls are faded and the Van Accessible space in the back parking lot is not properly signed.
    - D. Section 8-3J.575(D) requires all spaces to be permanently and clearly marked. Nearly all parking stalls and driveway directional arrows are faded and parking stalls are not clearly identifiable.
    - E. Install one bicycle space for every ten (10) motor vehicle parking spaces. Sheltered bicycle parking is recommended.

**PRIOR TO ISSUANCE OF ANNUAL BUSINESS LICENSE:**

9. License provide Community Development with a complete copy of all financial records subject to audit consistent with Ordinance 14-875-O.

**IT IS HEREBY ORDERED THAT the Talent Planning Commission approves with conditions the request to operate a medical marijuana dispensary and a recreational marijuana retail business based on the information presented in the Staff Report and Findings of Fact below:**

In the following, any text quoted directly from City codes appears in *italics*; staff findings appear in regular typeface.

**8-3D.210 DESCRIPTION AND INTENT**

*The Central Business District (CBD) Zone shall serve as the hub of government, public services and social activities; shall permit retail trade, personal and business services; and shall include residential uses to strengthen and enliven the community core. The CBD shall be pedestrian oriented and shall highlight and incorporate historic places and structures, parks and public transit facilities and opportunities.*

**FINDING:** The subject parcel is zoned Central Business District (CBD) which does not allow medical or recreational sales of marijuana. Considering that medical and recreational sales of marijuana is classified in other zoning districts as a principal use, the absence of the use in the CBD zoning district implies that the use is not allowed.

The applicant maintains that the retail sales of cannabis has occurred at this location since June of 2014 in accordance with Oregon Liquor Control Commission regulations. Retail sales of medical cannabis was neither allowed nor disallowed in the Talent Zoning Code at the time the business began operations in June of 2014, therefore when the City initiated code amendments became effective in December 2014, the existing medical marijuana facility became non-conforming.

The applicant stated that Green Valley Wellness began selling limited recreational cannabis products to consumers over the age of 21 on October 1, 2015 when the OLCC rolled out the recreational cannabis retail sales program. The limited sales of recreational cannabis is classified as a retail use whereas the existing medical marijuana facility is classified as a medical office. The medical marijuana facility when initiated in June of 2014 served only a limited population of OMMP card holders, and because of this was not classified as a retail operation. Considering the difference in land use classifications and that both uses are prohibited in the CBD zone, the Talent Zoning Code identifies the proposed use as an expansion of a non-conforming use. Because the sales of retail cannabis has not been approved through a change of non-conforming use review the use is prohibited and being conducted in violation of the City zoning code. Once the expansion of a non-conforming use allowing the recreational retail sales of cannabis has been approved, the expanded use may be continued. **The provisions of this section have been met subject to conditions of approval.**

**8-3D.230 BUILDINGS AND USES SUBJECT TO TYPE-2 SITE DEVELOPMENT PLAN REVIEW**

No structure shall be erected, enlarged or structurally altered, nor shall land be developed, except for the following uses or structures, which shall not include drive-in, drive-through or drive-up facilities. The following uses are permitted subject to the provisions of Article 8-3L.1 and review by the Planning Department.

- B. Retail stores (excluding sales of medical or recreational marijuana by producers, wholesalers, processors and retail outlets) and offices; personal, business and repair services, not including automotive repair. Such uses may not exceed 6,000 square feet. Automotive parts and sales are permitted provided that the activity happens fully within enclosed buildings.

**FINDING:** The subject parcel is zoned Central Business District (CBD) and has not allowed medical dispensaries or recreational sales of marijuana in the zone since December 5, 2014 when the City adopted regulations prohibiting the two types uses. The applicant maintains that the retail sales of cannabis has occurred at this location since June of 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 in June of 2014. 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. OAR 845-025-1015 defines a retailer as:

(47) “A marijuana retailer licensed by the Commission (Oregon Liquor Control Commission).”

In June of 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.

Additionally, Section 8-3B.220(H) of the Talent Zoning Code defines a retail use as:

1. Establishments involved in the sale, lease, or rent of new or used products to the general public for personal or household consumption and establishments involved in the sale of personal services, hospitality services, or product repair services to the general public.

When the medical marijuana facility began operations in June of 2014, it served only a limited population of OMMP card holders, and because of this is not classified as a pre-existing retail operation. Considering the difference in land use classifications and that both medical dispensaries and recreational sales of marijuana are prohibited in the CBD zone, the Talent Zoning Code identifies the proposed use as an expansion of a non-conforming use.

The applicant stated that Green Valley Wellness 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 change of non-conforming use review, the use is prohibited and being conducted in violation of the City zoning code. Once the expansion of a non-conforming use allowing the recreational retail sales of marijuana has been approved, the

expanded use may be continued. **The provisions of this section have been met subject to conditions of approval.**

### **8-3D.250 BUILDINGS AND USES PERMITTED SUBJECT TO CONDITIONAL USE REVIEW**

*The planning commission may grant or deny a conditional use permit in accordance with the procedure and provisions set forth in Article 8-3L.2.*

**FINDING:** Neither the existing use or the proposed use are listed as an allowed conditional use in the CBD zoning district. On December 5, 2014 the pre-existing medical marijuana dispensary became a non-conforming use as determined by Section 8-3M.2 of the Talent Zoning Code and prior to a change of non-conforming use, the applicant shall demonstrate that the provisions of Section 8-3M.250 can be met. Section 8-3M.250(C) states:

- C. *Change of non-conforming use. If a non-conforming use involving a structure is replaced by another use, the new use shall conform to this Chapter unless the planning commission determines that the proposed use is of the **same or of a more restrictive classification**, that the proposed use is of the same or of a more restrictive classification, that the proposed use will not affect the character of the area in which it is proposed to be located more adversely than the existing or pre-existing use, and that the change of use will not result in the enlargement of the cubic space occupied by a non-conforming use, except as provided in subsection (d) below. An application for a change of use must be filed in accordance with the provisions of Article 16, including the payment of required fee.*

In zoning districts where medical marijuana dispensaries or recreational marijuana sales are allowed, they are subject to conditional use permit review and shall demonstrate that the criteria in Section 8-3L.2 has been met or can be met with conditions. The change of a non-conforming use criteria above does not provide the same or more restrictive level of review required in a zoning district where medical marijuana dispensaries or recreational marijuana sales are allowed. It has been determined by staff that the only equitable method for this change of non-conforming use to be approved is to require the same level of review that other medical marijuana dispensaries or recreational marijuana retail outlets are subjected to, including the criteria in Section 8-3L.2 of the Talent Zoning Code. As a condition of approval, the applicant shall comply with Section 8-3L.244 and 8-3L.246(I) addressed below. **The provisions of this section have been met subject to conditions of approval.**

### **8-3L.244 GENERAL CRITERIA FOR APPROVAL**

*In judging whether or not a conditional use permit shall be approved or denied, the Planning Commission shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable. A conditional use may be granted only if:*

- A. *The proposed use is consistent with the City of Talent Comprehensive Plan.*

**FINDING:** The proposed use is consistent with the intent of the uses allowed on a property with a commercial Comprehensive Plan Designation. **The provisions of this section have been met subject to conditions of approval.**

- B. *The proposed use is consistent with the purpose of the zoning district.*

**FINDING:** The Central Business District (CBD) Zone shall serve as the hub of government, public services and social activities; shall permit retail trade, personal and business services; and shall include residential uses to strengthen and enliven the community core. The CBD shall be pedestrian oriented and shall highlight and incorporate historic places and structures, parks and public transit facilities and opportunities.

The proposed use while not allowed in the zoning district is similar to the pre-existing non-conforming medical marijuana dispensary which provides personal and business services to its customers. **The provisions of this section have been met.**

- C. *The proposed use and development is found to meet the required findings of 8-3L.150, "Required Findings for Approval of Plan," set forth for approval of a site development plan review.*

**FINDING:** As stated in the findings for 8-3L.150 below, the proposed use is located within an existing complex of buildings that have historically accommodated more intense uses. Only minimal site development review is necessary to ensure the site can accommodate the required parking and to determine if additional buffering is required. **The provisions of this section have been met.**

- D. *The proposed use will not adversely affect the livability, value, and appropriate development of abutting properties and the surrounding area, compared to the impact of uses that are permitted outright. Testimony of owners of property located within two hundred and fifty (250) feet of the boundaries of the property in question shall be considered in making this finding.*

**FINDING:** The proposed addition of recreational sales of marijuana is subject to OLCC rules consistent with or stricter than the existing medical marijuana dispensary. As proposed, the retail operation will be a low-impact business similar in nature to other local retail businesses. Unlike the pre-existing medical use which is limited to only OMMP card holders, recreational sales will be open to the general public.

The applicant's statement addresses only medical and retail sales operations. No food product manufacturing, repackaging or growing of products or lab testing facilities have been approved as part of this conditional use permit. As a general condition of approval, no uses other than retail or medical sales operations shall be conducted in Unit B and C of the subject parcel. **The provisions of this section have been met subject to conditions of approval.**

- E. *All required public facilities have adequate capacity to serve the proposal. System Development Charges will be assessed at the time a building permit is issued. Additional SDCs will be assessed for change in use that are more intense than a pre-existing use.*

**FINDING:** The proposed use is within an existing building designed to accommodate retail uses and will not create capacity issues for the public facilities in the area, therefore additional SDCs will not be assessed. As a general condition of approval, no uses other than medical or retail sales operations shall be conducted in Unit B and C of the subject parcel. **The provisions of this section have been met subject to conditions of approval.**

- F. *The site size, dimensions, location, topography, and access are adequate considering such items as the bulk, coverage or density of the proposed development; the generation of traffic; environmental quality impacts; and health, safety or general welfare concerns.*

**FINDING:** The proposed addition of retail marijuana sales does not increase the site size, building dimensions, location, topography or generate a significant increase in traffic. Considering the proposed retail business is cannabis related, concerns of environmental quality impacts, health, safety and general welfare must be addressed.

Section 8-3L.215 of the Talent Zoning Code authorizes the Planning Commission to grant or deny conditional uses and shall impose any conditions which are necessary to ensure compliance and to protect the health, safety or general welfare of the community. Section 8-3L.246(I) shall apply and is addressed below. **The provisions of this section have been met subject to conditions of approval.**

- G. *The City of Talent has adequate firefighting equipment to protect the structure, as verified by the Talent Fire Chief, or arrangements have been or will be made by the developer to insure that adequate equipment will be available before the occupancy of the building for any use.*

**FINDING:** The existing building was built pre-1970 and the current occupancy rating is unknown. Jackson County Fire District 5 has recommended that other businesses handling marijuana related products provide a list of products be sold to determine if the State Fire Marshall requires a change of building occupancy. If a change of occupancy is determined as necessary, a fire, life and safety inspection may be required. As a condition of approval, the applicant shall, prior to Certificate of Occupancy, provide Community Development a complete list of products to be wholesaled or stored onsite. Upon review by the Jackson County Fire District 5 Fire Chief or the Building Official, if it has been determined that a fire, life and safety inspection and/or a change of occupancy is required, the applicant shall prior to issuance of a City business license, install all necessary improvements to meet the building code of the new occupancy group. **The provisions of this section have been met subject to conditions of approval.**

#### **8-3L.246 SPECIAL STANDARDS GOVERNING CONDITIONAL USES**

*Certain conditional uses shall meet the following standards:*

- I. *Retail Sales of Medical & Recreational Marijuana*
1. *Establishments vending medical or recreation marijuana shall be located at least 100 feet from a residential zone, 100 feet from a mixed use building with a residential unit, at least 750 feet from a public or private park and at least 1,000 feet from an existing public or private elementary, secondary or career school primarily attended by minors. For purposes of determining the distance between the establishment and the aforementioned areas, within the specified distance means a straight line measurement in a radius extending for specified distance or less in every direction from any point on the boundary line of a residential zone, public or private park or from an existing public or private elementary, secondary or career school primarily attended by minors.*

**FINDING:** The existing use was established prior to the adoption of the standards above and is now considered a non-conforming use. The existing building is more than 100 feet from a residential zone, more than 100 feet from a mixed use building, more than 750 feet from a public or private park and more than 1,000 feet from a public or private elementary, secondary or career school primarily attended by minors. If the use were allowed as a conditional use, all dimensional requirements would be met. **The provisions of this section have been met.**

2. *No extracts, oils, resins or similar products from marijuana shall be produced on site and the use of open flames for the preparation of any products is prohibited.*

**FINDING:** In accordance with OAR 845-025-3500 and the provisions of this section, the proposed retail operation shall not produce extract, oils, resins or similar products from marijuana onsite or use of open flames for the preparation of any products.

OAR 845-025-3500 allows the licensed retailer to resell marijuana or a cannabinoid product, concentrate or extract to a marijuana consumers. Considering this allowance, it is likely that these products will be stored onsite in unknown types and quantities and may pose a fire, life and safety risk to other occupants of the building and the surrounding properties. As a condition of approval, the applicant shall, prior to issuance of a City business license, provide Community Development a complete list of products to be sold or stored onsite. Upon review by the Jackson County Fire District 5 Fire Chief or the Building Official, if it has been determined that a fire, life and safety inspection and/or a change of occupancy is required, the applicant shall prior to issuance of a City business license, install all necessary improvements to meet the building code of the new occupancy group. **The provisions of this section have been met subject to conditions of approval.**

3. *Marijuana and tobacco shall not be used on property where a sale occurs.*

**FINDING:** Use of marijuana and tobacco products onsite may have a negative impact on neighboring tenants and their patrons or adjacent property owners. In accordance with this section and OAR 845-025-1230 onsite consumption or use of marijuana products or tobacco where a sale occurs is prohibited. As a general condition of approval, onsite consumption or use of marijuana products or tobacco are prohibited. **The provisions of this section have been met subject to conditions of approval.**

4. *Establishment shall have air filtering and ventilation systems that confine odors to the premises.*

**FINDING:** Storage of marijuana products onsite may have a negative impact on neighboring tenants and their patrons or adjacent property owners. To reduce the impacts on the aforementioned group and to ensure compliance with the provisions of this section, the applicant shall prior to issuance of a City business license submit plans for and install an appropriate air filtering and ventilation system sufficient to confine odors on the premises or provide evidence from a licensed professional that the existing air filtering and ventilation system is adequate to meet the intent of the standard. Plans for the necessary air filtering and ventilation system shall be submitted to the Building Official for review and approval prior to

installation. **The provisions of this section have been met subject to conditions of approval.**

5. *Minors are not allowed on the premises unless they are a medical marijuana cardholder and accompanied by a parent or guardian.*

**FINDING:** The proposed retail operation shall comply with OAR 845-025-1230(6)(a) that limits any minor on a licensed premise except as provided in OAR 845-025-1230(7) which states:

- (7) *... a minor, other than a licensee's employee, who has a legitimate business purpose for being on the licensed premises, may be on the premises for a limited period of time in order to accomplish the legitimate business purpose. For example, a minor plumber may be on the premises in order to make a repair.*

The aforementioned OAR restriction shall be a general condition of approval. **The provisions of this section have been met subject to conditions of approval.**

6. *Owners, operators and employees who have been convicted of manufacturing or delivering drugs once in the past five years or twice in their lifetime may not operate or own a medical or recreational marijuana retail establishment.*

**FINDING:** The proposed retail operation is regulated by OAR 845-025-1000. As a condition of approval, the applicant shall, prior to the issuance of a City business license provide Community Development with a complete copy of the approved State retail license including all conditions, prohibitions and a list of names of all owners, operators and employees. The names of all owners, operators and employees and their background checks shall be provided to Community Development on an annual basis as part of the business license application. **The provisions of this section have been met subject to conditions of approval.**

7. *Prior to operation, background checks for all owners, operators and employees shall be provided to the City. Not providing required background checks for all owners, operators and employees at any time is grounds for revocation of the conditional use permit.*

**FINDING:** The proposed retail operation is regulated by OAR 845-025-1000. As a condition of approval, the applicant shall, prior to the issuance of a City business license provide Community Development with a complete copy of the approved State retail license including all conditions, prohibitions and a list of names of all owners, operators and employees. The names of all owners, operators and employees and their background checks shall be provided to Community Development on an annual basis as part of the business license application. **The provisions of this section have been met subject to conditions of approval.**

8. *Establishments shall keep financial records that are subject to audit. (if tax is implemented)*

**FINDING:** Ordinance 14-875-O allows the City to exercise its right to impose a tax on the sale of marijuana and marijuana infused products in the City of Talent. Ordinance 14-875-O provides details for the duty of every seller liable for the collection and payment of any tax imposed by the City.

OAR 845-025-1200 also requires similar record retention and shall be made available for inspection if requested by an employee of the Oregon Liquor Control Commission (OLCC). Considering this OAR requirement, these documents are already required to be retained for a period of three (3) years and pose no additional burden on the applicant. As a condition of approval, the applicant shall, prior to the issuance of an annual City business license provide Community Development with a complete copy of all financial records subject to audit consistent with Ordinance 14-875-O. **The provisions of this section have been met subject to conditions of approval.**

9. *Establishment shall not have security bars and shall not operate a drive-thru facility.*

**FINDING:** The proposed retail establishment does not identify any drive-thru facilities nor are drive-thru facilities allowed in the CBD zoning district.

In accordance with the provisions of this section, security bars are not allowed on any portion of the building. As a general condition of approval, security bars shall not be allowed on any portion of the exterior of the building, nor shall they be installed on the interior of the building if they are visible from the outside. **The provisions of this section have been met subject to conditions of approval.**

### ***8-3L.247      CONDITIONS AND RESTRICTIONS***

*Conditional uses, including those not listed in 8-3L.246 above may be subject to additional standards. In permitting a new conditional use or the substantial alteration of an existing conditional use, the Planning Commission may impose conditions and require the installation of improvements which it considers necessary to conform to the provisions of this Chapter and to protect the best interests of the surrounding area or the City as a whole, and may require guarantees and evidence that such conditions are being or will be complied with. These conditions and improvements may include, but are not limited to, the following:*

- J. *Requiring berms, screening, landscaping or other measures to protect adjacent or nearby property and designating standards for their installation and maintenance including, but not limited to a recorded development agreement approved by the City Attorney;*

**FINDING:** The subject parcel is zoned Central Business District (CBD) and is not adjacent to a conflicting use or a single family zoning district. The proposed expansion is in an area with moderate commercial activity and is less intensive than the surrounding uses. There are no external components to the proposed expansion of use that create the need for additional buffering, therefore buffering is not necessary. **The provisions of this section have been met.**

### ***8-3L.150      REQUIRED FINDINGS FOR APPROVAL OF PLAN***

*After an examination of the site, the Planning Commission shall approve, or approve with conditions the site development plan if all of the following findings are made:*

- A. *All provisions of this Chapter and other applicable City ordinances and agreements are complied with;*
- B. *The proposed development will be in conformance with the intent and objectives of the zone in which it will be located;*

**FINDING:** The subject parcel is zoned Central Business District (CBD) which does not allow medical or recreational sales of marijuana. Considering that medical and recreational sales of marijuana is classified in other zoning districts as a principal use, the absence of the use in the CBD zoning district implies that the use is not allowed.

The applicant maintains that the retail sales of cannabis has occurred at this location since June of 2014 in accordance with Oregon Liquor Control Commission regulations. Retail sales of medical cannabis was neither allowed nor disallowed in the Talent Zoning Code at the time the business began operations in June of 2014, therefore when the City initiated code amendments became effective in December 2014, the existing medical marijuana facility became non-conforming.

The applicant stated that Green Valley Wellness began selling limited recreational cannabis products to consumers over the age of 21 on October 1, 2015 when the OLCC rolled out the recreational cannabis retail sales program. The limited sales of recreational cannabis is classified as a retail use whereas the existing medical marijuana facility is classified as a medical office. The medical marijuana facility when initiated in June of 2014 served only a limited population of OMMP card holders, and because of this was not classified as a retail operation. Considering the difference in land use classifications and that both uses are prohibited in the CBD zone, the Talent Zoning Code identifies the proposed use as an expansion of a non-conforming use. Because the sales of retail cannabis has not been approved through a change of non-conforming use review the use is prohibited and being conducted in violation of the City zoning code. Once the expansion of a non-conforming use allowing the recreational retail sales of cannabis has been approved, the expanded use may be continued. **The provisions of this section have been met subject to conditions of approval.**

- C. *All applicable portions of the City comprehensive plan or other adopted plan are complied with;*

**FINDING:** The proposed use is consistent with the intent of the uses allowed on a property with a commercial Comprehensive Plan Designation. **The provisions of this section have been met subject.**

- D. *The proposed development will be compatible with or adequately buffered from other existing or contemplated uses of land in the surrounding area;*

**FINDING:** The proposed use will be conducted entirely indoors and with proper interior ventilation and air filtering will have minimal, if any negative impacts on the adjacent tenants, neighboring properties or patrons. Once a proper air filtering and ventilation system has been installed, any compatibility issues will have been mitigated. As a condition of approval, the applicant shall prior to issuance of issuance of a City business license, submit plans for and install an appropriate air filtering and ventilation system sufficient to confine odors on the premises or provide evidence from a licensed professional that the existing air filtering and

ventilation system is adequate to meet the intent of the standard. Plans for the necessary air filtering and ventilation system shall be submitted to the Building Official for review and approval prior to installation. **The provisions of this section have been met subject to conditions of approval.**

E. *That no wastes, other than normal water runoff, will be conducted into City storm and wastewater facilities;*

**FINDING:** No new structures are being proposed and the existing and proposed uses do not produce any exterior waste other than normal water runoff. **The provisions of this section have been met.**

F. *The following are arranged so that traffic congestion is avoided, pedestrian and vehicular safety, solar access, historic sites, and the public welfare and safety are protected, and there will be no adverse effect on surrounding property:*

3. *parking and loading facilities;*

**FINDING:** The proposed retail use is located in the same building and suite as the medical marijuana facility. The medical dispensary portion of the business is classified as office and the proposed recreational retail sales portion of the business is classified as retail. The building square footage is not being increased and the existing classification as office requires one (1) space for every 350 square feet of gross floor area, more than the proposed retail classification which requires one (1) space for every 400 square feet of gross floor area, therefore the existing parking requirements for the proposed use do not change.

In order to ensure that adequate parking is available for all pre-existing and proposed uses onsite, staff completed a review of all existing uses. Currently, the site provides space for two businesses. Each business falls into a retail category and the parking standards for that classification are being used to verify the actual parking needs are being met.

As noted above, there are two businesses onsite. Listed below is the square footage assigned to each business based on data from Jackson County Taxation and Assessment:

Retail:

Green Valley Wellness, Unit B and C – 1,625 square feet (4 spaces)

Vacant Unit, Unit A – 575 square feet (1 space)

Talent Liquor– 3,000 square feet (8 spaces)

Based on the categories above, retail accounts for 5,200 square feet of building space. Retail spaces shall provide one (1) space for every 400 square feet of space for a total of thirteen (13) spaces, which is less than the existing thirty (32) spaces currently on site (thirty (30) standard, two (2) ADA).

Upon conducting a site visit, staff noticed that the current parking lot serving the proposed and existing businesses is out of compliance with the Standards of 8-3J.5. Photos of the site visit have been included in the record. Specifically, the following issues shall be addressed prior to the issuance of a City business license:

1. One of the required spaces in front of Unit B does not have adequate wheel stops or bumper guards to protect the occupants of building. A wheel stop similar to the others installed onsite shall be installed to correct the issue.
2. There are two (2) parking spaces in front of Unit C that must be removed, since the turning movements required for those spaces extend into the public sidewalk and do not provide proper turning movements and aisle width behind the stall. These stalls will be deducted from the existing parking stall count resulting in thirty (30) parking onsite parking stalls, which is still more than the minimum required.
3. In accordance with Table 540-2 of Section 8-3J.540, two (2) ADA spaces that are clearly and permanently marked shall be provided. Two ADA spaces currently exist onsite, one adjacent to Unit B and one in the back parking lot. However, both stalls are faded and the Van Accessible space in the back parking lot is not properly signed.
4. Section 8-3J.575(D) requires all spaces to be permanently and clearly marked. Nearly all parking stalls and driveway directional arrows are faded and parking stalls are not clearly identifiable.
5. Section 8-3J.560 requires that a minimum of two (2) bicycle parking spaces per use is required for all uses with greater than 10 vehicle parking space. No bicycle parking currently exists on site.

The issues stated above address what staff feels is necessary to ensure safe and efficient access and circulation for pedestrians and vehicles and is roughly proportional to the proposed request. As a condition of approval, the applicant shall prior to issuance of a City business correct the parking related issues noted by Staff. **The provisions of this section have been met subject to conditions of approval.**

7. *noise generation facilities and trash or garbage depositories.*

**FINDING:** The proposed retail operation is handling product that is age restricted. Any cannabis waste produced by the operation shall be disposed of in accordance with OAR 845-025-7750 Waste Management which states the following:

*(1) A licensee must:*

*(a) Store, manage and dispose of solid and liquid wastes generated during marijuana production and processing in accordance with applicable state and local laws and regulations which may include but are not limited to:*

*(A) Solid waste requirements in ORS 459 and OAR 340 Divisions 93 to 96;*

*(B) Hazardous waste requirements in ORS 466 and OAR 340, Divisions 100 to 106; and*

*(C) Wastewater requirements in ORS 468B and OAR 340, Divisions 41 to 42, 44 to 45, 53, 55 and 73.*

*(b) Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.*

As a condition of approval, the applicant shall, prior to issuance of a City business license provide Community Development a waste management plan in accordance with OAR 845-025-7750 detailing how solid and hazardous waste along with wastewater will be disposed or provide documentation that a waste management plan has been approved as part of the OLCC licensing process. Prior to issuance of a City business license, the applicant shall install any required waste management facilities necessary to meet the requirements of OAR 845-025-7750. **The provisions of this section have been met subject to conditions of approval.**

G. *The applicant has made any required street and other needed public facility and service improvements in conformance with the standards and improvements set forth in this Chapter and the applicable portions of the City Subdivision Code, or has provided for an adequate security arrangement with the city to ensure that such improvements will be made.*

**FINDING:** The proposed retail use is consistent with the intent of the Commercial Comprehensive Plan designation. The retail use, as proposed, does not increase the intensity of the approved use and does not require additional public facilities or service improvements. **The provisions of this section have been met.**

**This approval shall become final 14 days from the date this decision and supporting findings of fact are signed by the Chair of the Talent Planning Commission, below. A Planning Commission decision may be appealed to the Hearing's Officer within 14 days after the final order has been signed and mailed. An appeal of the Hearing's Officer decision must be submitted to the Land Use Board of Appeals within 21 days of the Hearing Officer's decision becoming final.**

**Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.**

\_\_\_\_\_  
Eric Heesacker  
Planning Commission Chair

\_\_\_\_\_  
Date

ATTEST

\_\_\_\_\_  
Zac Moody  
Community Development Director

\_\_\_\_\_  
Date