

City of Talent

Community Development Department - Planning



STAFF REPORT

Type III Land Use Application — Planning Commission

Date: March 17, 2016

Item: ZON 2016-014, Change of Non-Conforming Use

Applicant: Green Valley Wellness LLC
103 N. Pacific Hwy. Units B & C
Talent, Oregon 97540

Property Owner: Sandra Berman Trustee
162 N. Pioneer St.
Ashland, Oregon 97520

Requested Action: Expansion of non-conforming medical marijuana dispensary to allow recreational marijuana retail.

Assessor's Map Number: 38-1W-25DC, Tax Lot 500

Site Location: 103 N. Pacific Hwy. Units B & C

Zoning: CBD (Central Business District)

Deemed Complete: February 2, 2016
Notice Mailed: February 2, 2016

120-Day Limit: June 1, 2016

REQUEST

The request is to expand non-conforming medical marijuana dispensary to allow recreational marijuana retail sales.



PROPERTY CHARACTERISTICS

The site is located on N. Pacific Hwy., north of the W. Valley View Rd. intersection. The subject parcel is roughly triangular in shape with an area of approximately 15,246 square-feet (sq. ft.). The zoning designation is Central Business District, as are all adjacent properties. The subject parcel has two (2) retail buildings, the subject building has three (3) units, A, B & C. The applicant will be using units B & C.

Based on 2014 floor plans, units B & C are estimated to have approximately 1,547 sq. ft. of gross floor area (g.f.a.). N. Pacific Hwy. and W. Valley View Rd. provide vehicle and pedestrian access to the subject parcel. The site has a gentle downward slope towards N. Pacific Hwy.

BACKGROUND

The subject parcel is zoned Central Business District (CBD). 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 marijuana 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 June of 2014 when the applicant began operating the medical marijuana dispensary, the OMMP disallowed the sales of marijuana for a profit and retail licensing by the Commission was not available. Operators of medical marijuana dispensaries 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 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.

The applicant stated that Green Valley Wellness LLC 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 a non-conforming use, 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 use is not explicitly mentioned as an allowed in the CBD zoning designation.

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 storm drains paralleling W. Valley View Rd. and N. Pacific Hwy.

Water Service

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

APPROVAL CRITERIA

- 8-3D.2 – Central Business District
- 8-3L.2 – Conditional Use Permit
- 8-3M.2 – Non-conforming uses

AGENCY COMMENTS

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

PUBLIC COMMENTS

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

RECOMMENDATION

Based on the findings for the Change of a Non-Conforming Use permit stated in the Proposed Final Order, staff recommends **APPROVAL** of the expansion of a non-conforming use, 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.