



City of Sebastopol
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UNAPPROVED DRAFT MINUTES

PLANNING COMMISSION
CITY OF SEBASTOPOL
MINUTES OF November 8, 2022

PLANNING COMMISSION:

The notice of the meeting was posted on November 2, 2022.

CALL TO ORDER: Chair Oetinger called the meeting to order at 6:00 P.M. and read a procedural statement.

1. ROLL CALL:

Present:	Chair Oetinger, Vice Chair Fernandez, and Commissioners Burnes, Fritz, and Kelley
Absent:	None
Staff:	Kari Svanstrom, Planning Director John Jay, Associate Planner

2. COMMENTS FROM THE PUBLIC ON ITEMS NOT ON AGENDA: None.

3. STATEMENTS OF CONFLICTS OF INTEREST: None.

4. APPROVAL OF MINUTES: July 26, 2022 and October 11, 2022

Commissioner Fritz made a motion to approve the minutes of July 26, 2022, as amended.

Commissioner Burnes seconded the motion.

AYES: Chair Oetinger, Vice Chair Fernandez, and Commissioners Burnes, Fritz, and Kelley

NOES: None

ABSTAIN: None

ABSENT: None

Vice Chair Fernandez made a motion to approve the minutes of October 11, 2022, as amended.

Commissioner Kelley seconded the motion.

AYES: Vice Chair Fernandez, and Commissioners Burnes, Fritz, and Kelley

NOES: None
ABSTAIN: Chair Oetinger
ABSENT: None

5. PUBLIC HEARINGS:

A. 2022-077 / 6971 Sebastopol Avenue – Callie Johnston / Chill Baths / Conditional Use Permit

The application is to operate a dog salon, "Chill Baths," at 6971 Sebastopol Avenue in the Downtown Commercial District. The proposed plan is to have two large kennels, two small kennels, and 3.5' barriers at both entry doors to prevent dogs from interacting. The proposed use will not have any overnight boarding.

Associate Planner Jay presented the staff report.

Chair Oetinger asked for Planning Commission questions of staff.

Paul Fritz, Commissioner

On page 3 it talks about the hours being 8:00am to 6:00pm, and in the condition the hours say 8:00am to 8:00pm, so I want clarify what the proposed hours are.

John Jay, Associate Planner

The original proposed hours were 9:00am to 6:00pm, and we wanted to provide the applicant with a little more leeway as far as hours go within the downtown core district. A theme with other use permits in the past has been to provide additional hours so that they don't have to come back to do a zoning amendment for one hour on either side of their hours of operation. Within the recommended conditions of approval I think we modified it to 8:00am to 8:00pm.

Paul Fritz, Commissioner

So the condition is right. Then in the findings, Exhibit A on page 5 says, "the Planning Director finds..." but it should be the Planning Commission. Then Item 2.A. in terms of the General Plan agreement with Policy LU7-9 it talks about being in the General Commercial District and not the downtown core. There was some discussion in the staff report about being able to use the alley, and I wonder if that should be part of the conditions as well, that they are allowed to use the alley for access. I didn't see that in the conditions.

Kari Svanstrom, Planning Director

I think in that one we were trying to stay away from requiring it be an access, but the understanding that if you do have a nervous dog you can park there at that location and make sure that that was available to them, but we didn't go so far as to make it a condition, because it is part of the development and there is an access point there.

Deborah Burnes, Commissioner

Could you elaborate a little bit on the staff report findings that with the two other recently approved dog grooming businesses that you find that this isn't a conflict because they're spaced far enough away? I feel like Sebastopol is such a small town that if there's a destination place like a dog groomer or hair dresser, people will go anywhere and it's not about saturation in one area. Was it based on proximity or on dogs and people who are otherwise going out of the area for dog grooming?

John Jay, Associate Planner

These three are the only three that I'm aware of in town in my short time being here; they've all kind of come in at once. The one at Gravenstein South is on the southern end of town, the one on Main Street is starting to get into the middle portion of town, and we have the one here tonight, so I think there is adequate distance that they're not all within the same shopping center or same area. We don't have any regulations as far as a certain amount per radius, but I felt like given the geographical distance between the three that it could alleviate some pressure on some of the other ones that may be overbooked with the amount of dogs that are in town now.

Kari Svanstrom, Planning Director

One other thing of note is that they're all very small proprietors, so they're all kind of one-person shops.

Callie Johnston, Applicant

I believe that John told me that one of them is a self-wash station, so it's not a full service groomer, and then the other one is also a smaller kind of grooming shop. However, I know that there is a necessity for more groomers for Sebastopol and surrounding areas, and the majority of groomers that are established now won't even take any new clients, because they're so overwhelmed.

Deborah Burnes, Commissioner

Is the Barking Lot still in town? They used to be here as well, and you're right, they weren't taking on new clients.

Kari Svanstrom, Planning Director

I've never heard of that store, and I know most of the businesses in town.

Kathy Oetinger, Chair

I think it's outside the district on Main Street.

Linda Kelley, Commissioner

For staff, I saw nothing about parking requirements or just even stating what the analysis is based on our requirements in the rules.

Kari Svanstrom, Planning Director

A lot of the spaces in downtown, and I believe this is one of them, don't have their own parking, as you know. The City used to have a parking district where you could pay an in-lieu parking fee that helped develop the City parking lots, and so there are no spaces related to this particular site and the businesses within it. However, in 2018 when the City Council adopted the Zoning Ordinance update one thing we did was update the parking regulations so that any use in downtown had the same parking requirement unless it was included as residential use, so within downtown it's all one space per 500 square feet, and there's no change in the parking requirement without a change in use, so all of the uses are considered the same. They all require one per 500, and so unless you're adding a residence there's no parking to be analyzed because it's all the same requirement.

Chair Oetinger asked for further Planning Commission questions of staff. Seeing none, she invited the applicant to speak.

The applicant gave a presentation and was available for questions.

Chair Oetinger asked for questions of the applicant.

Linda Kelley, Commissioner

I know that you're going to have a little kenneling available, small and large crates or a little area. What if someone said I need to drop my dog off and I won't be back until the end of my workday? That's not the plan here. Folks are going to come and get their wonderfully groomed dog.

Callie Johnston, Applicant

I have ten years experience in this industry, so part of me starting my own business around this was thinking of all of these things that come with it, even the not favorable things that can come with grooming, and so my plan of doing one dog at a time will basically be done like a one-person nail shop, so it will be appointment only, and that's also just something that has to be understood, which I will communicate with my clients, that this isn't your average dog grooming shop. I do not have the availability to hold dogs for extended amounts of time past when their grooming is completed, and this is why I also put four kennels in there, so I do have the availability to hold a dog if necessary, because things happen and maybe someone is stuck in traffic, but the idea is to have them kenneled as little as possible and setting up my appointments back-to-back. And also possibly, if it seems necessary, charging people if their dog is left way past when they're finished being groomed to ensure that each dog coming in can enjoy the calm, stress-free environment as well as for myself, which also should minimize barking and noise. I should definitely have no more than four dogs in there at one time, and the majority of extended barking is when they're kenneled.

Linda Kelley, Commissioner

There's that little gated courtyard that goes to the alley around the building. Do you anticipate that folks that will come late there to get their dog? I'm concerned more about we have a restaurant and another business there, and so there's no conflict and that that's the expectation is that they're not to be waiting out there?

Callie Johnston, Applicant

Definitely not. No one should ever be waiting outside my door or outside the gates, and this is once again sticking with my plan of one dog at a time and there should never be a crazy influx of people coming in at one time.

Linda Kelley, Commissioner

Out in front do you feel there's enough parking for someone to park AND drop off? Are there are any traffic flow concerns?

Callie Johnston, Applicant

I personally never have any issues parking on Main Street across from Sunshine Café, otherwise the Hop Monk parking lot is pretty large and there seems to always be space in there, so I don't foresee it being a major issue of people trying to find parking to make it in.

Deborah Burnes, Commissioner

You brought up one of my issues, which is barking. If people don't pick their dogs up on time and you're kenneling them, would the other businesses be able to hear the noise?

Callie Johnston, Applicant

Firstly, I've let all of my neighbors know that I will be doing dog grooming. They all have dogs and are all excited. No one gave me any concern for barking. During the day the street right there masks a lot of sound, and this is once again why I've thought out this plan

especially for the location, kenneling the least amount that I can and having the minimal amount of dogs as possible in there.

Deborah Burnes, Commissioner

I get you're a really small shop and there's one dog at a time, so this is a two-part question. Will you be checking people in and out? If someone is late to pick up their dog and you kennel it, then that dog is in the back and you bring another dog in will you have someone helping in the front to deal with the person picking up their dog while you groom the next dog?

Callie Johnston, Applicant

No, it would be only me, and this is why I have more than one or two kennels. I think giving myself four kennels is enough. If a dog is coming in and I have a dog in there, I can put a dog in a kennel and then help the customer and rearrange how I need to.

Deborah Burnes, Commissioner

Are you looking to potentially expand in the future and bring on another groomer?

Callie Johnston, Applicant

That is for sure a possibility. For now I'd like to maintain a very personal and calm environment, and that makes it most possible with just me being in there. However, I do see this taking off very quickly, and so yes, having another groomer is possible. That would then make it two dogs at a time, still never taking dogs past what I'm grooming in the moment.

Deborah Burnes, Commissioner

Are the other groomers in town all fairly competitively priced, and would your pricing be competitive with them?

Callie Johnston, Applicant

I've looked at a lot of the groomers around here, but I didn't necessarily look at their pricing. I will make my pricing very fair. I'm going to charge people for the time that it takes me to groom their dog, and the price will always fluctuate based on the status of the dog, the size of the dog, and if the dog is good or bad, but it would still be competitive pricing. They're also paying for a personal experience.

Evert Fernandez, Vice Chair

The location that you selected seems to me a little awkward for what you're doing. I had similar concerns as Commissioner Burnes about somebody coming in to get their dog while you're grooming another dog. I'm trying to picture how that process works.

Callie Johnston, Applicant

If I'm working on a dog and someone walks into the shop, this is why I have the kennels, so I can safely place them in a safe location and talk to another customer. I'm not necessarily going to take that other dog right away. It would probably be when there's an opening since it will pretty much be appointments only. It's funny you would think it is an awkward location, because I thought it was the best location, which is what pushed me to move forward with this, because it's zoned downtown and it's in the downtown area, and I probably see like ten dogs walking downtown on a daily basis. It's extremely helpful being in a downtown location. I don't see it causing any issues, especially because I'm not taking 16 dogs at one time. This one-on-one thing is with the hopes of avoiding all the unwanted things that can come from having a grooming shop.

Evert Fernandez, Vice Chair

Is it a long-term lease? Is this a place where you plan to be for a while? What’s your flexibility?

Callie Johnston, Applicant

I believe I signed a one-year lease, and I definitely have the hopes of being there for a long period of time. The one-on-one format is not just for the dogs, but for myself as well, so I can maintain longevity with this, because working in fast paced grooming shops and very large boarding kennels can be very hectic and stressful, so the way this shop is planned is for the best interests of me, the customer, and the dog.

Chair Oetinger asked for further Planning Commission questions of the applicant. Seeing none, Chair Oetinger opened public comment.

Omar Figueroa

I fully support this project. I welcome these entrepreneurs and applaud them for stating a small business in challenging economic times. We need more small businesses to fill out the empty places downtown, and I recommend that you unanimously approve this application.

Chair Oetinger asked for further public comment. Seeing none, she closed the public hearing.

The Commission discussed the application as follows:

Commissioner Fritz made a motion to approve a conditional use permit for 6971 Sebastopol Avenue, subject to his recommended modification to Exhibit A.

Commissioner Kelley seconded the motion.

AYES: Chair Oetinger, Vice Chair Fernandez, and Commissioners Burnes, Fritz, and Kelley.

NOES: None

ABSTAIN: None

ABSENT: None

6. REGULAR AGENDA ITEMS:

A. ZONING ORDINANCE AMENDMENT STUDY SESSION –

The Planning Commission will hold a study session to discuss a proposed Zoning Ordinance change to allow cannabis retail delivery-only in the Industrial (M) Zone and only as a supplemental use to other permitted/proposed cultivation, manufacturing, or distribution facilities. No decision will be made at this meeting on the Zoning Amendment or Conditional Use Permit request for this property. The public hearing for the decision on those items will be held at a later time and will be separately noticed.

Associate Planner Jay and Director Svanstrom presented the staff report.

Chair Oetinger asked for Planning Commission questions of staff.

Paul Fritz, Commissioner

In the staff report, page 5, there's a discussion about the number of licenses that seems to drop off, and I wondered what that thought was. What is staff's position about the number of licenses?

John Jay, Associate Planner

We weren't really sure as far as having it on one end of the spectrum, whether it's three or unlimited or in between. There's a limit we would definitely look at imposing, but we're not sure what that limit is and wanted to get the Planning Commission's feedback as far as a rough number rather it just being three, which is currently in place, or if it's unlimited as long as their co-location requirements are met.

Linda Kelley, Commissioner

Staff report page 5 says, "Ten to 20 deliveries on a weekly basis" for an administrative permit, and you'd need a full use permit if you were going to have more than that. What was the basis for recommending that?

John Jay, Associate Planner

I just pulled a number on if they were operating five days a week, a couple of deliveries every day, does that seem appropriate to have a staff level approval on that? Going over that amount I felt would require some additional review from the Planning Commission, because we didn't want to open up a large delivery facility like a small Amazon or large box store type delivery service, and I thought that 10-20, though not arrived at through a scientific method, felt appropriate to do at a staff level.

Kari Svanstrom, Planning Director

We were looking at if that would translate to the low side if it's a five day a week operation with one full van in the morning and one in the afternoon. If it's 20, then you could do like three hours or so, and I think that's more or less similar to what Solful is doing, a two-hour delivery window. You don't get into a traffic issue that might warrant a larger review.

Linda Kelley, Commissioner

Are you aware of how many deliveries SPARC and Solful do on a weekly basis?

Kari Svanstrom, Planning Director

I don't know how many individuals, but I do know that Solful has three or four different time slots, so if you place your order by a certain time you'll get it within one of the three or four delivery time windows they have per day. Solful and SPARC are only open as retail centers. They could open earlier, but they both open around 10:30am or 11:00am, so they have a different operational model than a manufacturer may have.

Linda Kelley, Commissioner

Is it too late, Chair Oetinger, to disclose that I had a short discussion with a member of the applicant's team?

Kathy Oetinger, Chair

Thank you. I also did as well.

Evert Fernandez, Vice Chair

I visited the site and felt that their operation is set up very well and this concept does make sense. I was impressed and satisfied with the way that they run their business.

Kathy Oetinger, Chair

I spoke with Craig Litwin on the phone and discussed ideas. I asked if these deliveries would be picked up by a third party and delivered, or whether they were taken to the post office, and my understanding is they are delivered in their truck to their customer, and that sat well with me that they would be hand delivered rather than Fed Ex trucks coming in. Staff, the question of the 10-20 deliveries does seem arbitrary, but I'm wondering if people are ordering product that is manufactured, can they also purchase other ancillary products that they would sell with them that you might find at a normal retail store? Would that be appropriate for them to also sell other items that they didn't manufacture but that complement or go with their product?

Kari Svanstrom, Planning Director

That's a good conversation to be part of the study session. I think John and I assumed that they would be doing that; if they asked for a retail license it would be more than just their product. The reality is unless it's restricted in granting a delivery-only retail license they would not be restricted to just their manufactured product.

Kathy Oetinger, Chair

Yes, that's where the size of the retail portion comes in versus the manufacturing, because it requires space for warehousing.

Kari Svanstrom, Planning Director

Correct, and that's where we put in a square footage that is twice the size of what the particular use on Morris Street conditional use permit would be asking for.

Kathy Oetinger, Chair

It's confusing, because the volume of the things they sell in addition to their product, the upsell part of their business, could actually take more space than the product itself.

Kari Svanstrom, Planning Director

That's where the staff report suggests what is the percentage of space dedicated? It's easier from an administrative standpoint to regulate a size or a percentage of the business rather than sales. For a retail delivery, if it's outside City limits the City does not get the sales tax for the base, but we do still get the Sebastopol-specific sales tax. If it's within the City, then we get all of the local sales tax associated with it.

Kathy Oetinger, Chair

Are there other businesses with that discretionary option of a staff, system, or Commission approval where the numbers are critical?

Kari Svanstrom, Planning Director

We have a couple of different uses where the City has been more proactive in putting it into our policy due to concerns of potential overconcentration or oversaturation, and that's always a concern for the business owners, but how much does the City want to be protectionist versus the capitalist system? The businesses that we do have at least policies, if not specific numbers, there is the overconcentration from alcohol use permits, the vacation rental ordinance has that as well, and I do know that in 2018 tasting rooms were set to be a planning-level permit, however Council changed that to Planning Commission because of the example set by Healdsburg and Sonoma where they went too far with those things, and Sonoma has now put a moratorium on tasting rooms. One thing we appreciated with this application was the proposal that it be required to be in association with a manufacturing use, so there does need to be a significant community investment in order to get that delivery license.

Deborah Burnes, Commissioner

Is there any issue with security and theft around the building, because cannabis is a high-value product, and how does that affect the businesses around it? My other concern is safety for drivers making deliveries.

John Jay, Associate Planner

The application process for cannabis requires submittal of a security plan that must be approved by the police department and is reviewed by City staff.

Kari Svanstrom, Planning Director

The only issue the City has had with our current cannabis retailers was a couple of years ago at SPARC, and that was a bunch of teenagers that were caught right away. I'm not aware of any in our manufacturing zones. Their operations are pretty strictly controlled with the track and trade, the security cameras, and the security plan. I don't think anything has changed since then. Security has not become the issue many had feared, and cannabis dispensaries are more boutique and like normal stores.

Evert Fernandez, Vice Chair

This is something we need to continue to look at and see where the industry is going, whether we want to support it or not, and get ahead of it. Keep in mind that some of the rules we pass that are going to apply to the businesses in Sebastopol would not apply to deliveries being made in Sebastopol from outside the City.

Kari Svanstrom, Planning Director

Under state law you can't limit delivery as long as it's a public address with access via a public street, you can only regulate the types of business that are in the town. There are quantity limits set by the state in terms of how much you can sell to a single customer.

The applicant gave a presentation and was available for questions.

Chair Oetinger asked for Planning Commission questions of the applicant.

Linda Kelley, Commissioner

I asked about the amount of deliveries per week with just a procedural approval use permit. I'm wondering how you respond to that limitation?

Mitcho Thompson, Regen West

If we were to become a legitimate business we would probably have the same caps as other businesses, so I'd be interested in knowing what those are. If Solful has three or four deliveries, that would be more than we would be doing, but we don't really know. We're a small manufacturer and want to focus on herbal products produced by local farmers and don't intend to make it an Amazon type warehouse. You brought up the safety concern. A fully loaded van is certainly a huge target if it's only going out two times a day, more attractive than smaller deliveries, but we're not looking at cars going in and out of our little place. This is a way to supplement what we're doing and actually bring us towards being able to mail statewide and then hopefully someday federally. These are things we're doing to keep our business viable, because although you talked about cannabis being a high-priced commodity, it is not anymore, and that's one of the reasons we're doing this, because the price has dropped considerably on what we manufacturer. I think the number of 20 deliveries is a little low, but I don't know, and I'm open to whatever the Planning Commission decides.

Kari Svanstrom, Planning Director

I wanted to clarify that one thing staff is grappling with is it's permitted, there are limits, and if you want to go beyond that it's allowed, but it requires a use permit from the Planning Commission. We're trying to establish what those two might be, not trying to limit with an overall cap or anything like that. The question I have for Mitcho and Andrew is where do you see yourself or others if you're doing manufacturing? Are you just delivering your own product, or are you doing other products as well? That's part of how much retail versus just supporting your manufacturing.

Mitcho Thompson, Regen West

That's a broader question, because part of our plan is to bring some of these small farms into the marketplace with their own brands that we would certainly manufacture, but we may not limit ourselves if there are other local manufacturers and we'd band together. I think it would not just be my own product line; it would certainly be other farms' products in whatever form they are.

Kathy Oetinger, Chair

When you say other products, are you talking about other agricultural cannabis products? Would you also be talking about hand lotions or pipes or t-shirts?

Mitcho Thompson, Regen West

I don't think we'd be doing pipes, but we would certainly be doing hand lotions, cannabis soaps, bath oils, because our permit allows us to do topicals. Those would be products that we would use from what we've made, or we could make them for other people like small growers.

Kathy Oetinger, Chair

More specifically, a branded logo t-shirt, even if it were produced locally, is that the kind of thing you would expand to or you already offer?

Mitcho Thompson, Regen West

I would love to be able to offer that; other businesses do. Having our brand out there on nice hoodies, I could see that. That's a little different than selling pipes. We would probably sell vapor cartridges though, because that's something we do manufacture.

Andrew Longman, 421 Group

And we're limited on the state level by the Department of Cannabis Control for what we can sell. We're not allowed to go beyond branded merchandise such as clothing, bags, pens, key chains, etc.

Linda Kelley, Commissioner

Why is 421 Group asking for unlimited delivery operations, co-location, and manufacturing areas?

Andrew Longman, 421 Group

What we're asking for is the ability for a local manufacturer to get their product to market without the burden of this crazy distribution system that has unfolded in the current cannabis market. It's been an absolute challenge to get paid for the products that we make and sell.

Mitcho Thompson, Regen West

We do have distribution, and that helps us figure out how to do this. We already have state mandates and safety protocols in place, and we have our own vehicle, so there's already a

pretty overreaching set of mandates that we have to follow to maintain that distribution, and so it sets us up to be able to do deliveries efficiently and safely.

Linda Kelley, Commissioner

Who are you going to be delivering to, and is that individuals who use your online site and order it, and then it goes to a patient or someone for recreational use, is that what we're talking about?

Andrew Longman, 421 Group

Yes, exactly. Someone will place an order through our system online or through a phone call and it will be delivered to a physical address per the Department of Cannabis Control regulations, and that physical address would not be a school or publicly owned land.

Linda Kelley, Commissioner

Do you have any comments regarding staff's seven recommended parameters on page 5 of the staff report that the Planning Commission is being asked to address, such as co-location, square footage of 20%, etc.?

Mitcho Thompson, Regen West

The space required is actually more generous than the space we're asking for. We just need an office space. We will certainly not be delivering to schools, as Andrew pointed out, and there are places we are restricted from delivering to.

Kari Svanstrom, Planning Director

To clarify the school question that's in the staff comments, currently there is a requirement that there be a 600-foot buffer zone to any schools, and this is a question for the Planning Commission to address is general; it doesn't only apply to this particular application.

Andrew Longman, 421 Group

If it were a brick and mortar store, sticking to that 600 feet is critical, but since we're talking about shelf space that is not open to the public and trucks leaving that area and coming back later, no public access, it may be less critical to have those 600 feet.

Linda Kelley, Commissioner

The state doesn't prohibit deliveries from going through different jurisdictions, so you could deliver as far as Marin County. Would that possibly be in the mix?

Mitcho Thompson, Regen West

That would not be a bad thing. To deliver a truckload of goodies to the Marin Civic Center for a big event or something, I would say why not?

Andrew Longman, 421 Group

It comes down to the logistics and where that price point is. At a certain point, if we go far enough out we would start to lose money.

Paul Fritz, Commissioner

We don't have any limitation on cultivation sites or manufacturing sites or anything else, it's just the retail that we limit?

John Jay, Associate Planner

Yes, I believe so. I think the cultivation is based on square footage within our zoning code, but retail would be the three licenses that were noted earlier.

Kari Svanstrom, Planning Director

To answer the earlier question, there are about a dozen cannabis businesses in Sebastopol, and it looks like five of them are manufacturers.

Chair Oetinger asked for further Planning Commission questions. Seeing none, she opened the public hearing.

Omar Figueroa

Please permit all licensed Sebastopol cannabis manufacturers and distributors the ability to add delivery to their allowed uses in industrial zones. The economy and the supply chain are being strained. On top of this, the cannabis industry is financially distressed and any support you can give our local businesses to diversify their revenue streams is good for our local economy and to help them survive. I want to address the misconception that somehow permitting what is being proposed here would result in a whole bunch of cannabis businesses opening up in town and starting Amazon type fulfillment centers. That is not going to happen and is not realistic. The cannabis economy is under complete financial distress. The prices are dropping, the profits are low given the tax burdens, the margins are extremely thin, and we're not going to see those effects. That would have happened back in 2016-2019, but now that's not the economic reality. So please do not limit how many deliveries these businesses can make. Limiting the number of deliveries does not make any sense, it increases administrative burdens, and it reduces competition. Please allow any Sebastopol cannabis delivery provider to remain flexible with their delivery fulfillment similar to other businesses. Let the market decide. I urge you to expedite this process to help our local cannabis businesses succeed.

Zac Guerinoni

I am one of the other cannabis manufacturers in Sebastopol. I own Ahti Farms and I would like to echo what Omar and Mitcho and Andrew have said previously. The economy for cannabis is not what it was two years ago, or six months ago. We are in an absolute free fall, and unfortunately we'll probably remain in that state for the next 18-24 months while the market balances out, so anything that the City can do to help us small businesses succeed, including delivery and direct to consumer, would be greatly helpful.

Chair Oetinger asked for further public comments. Seeing none, she closed public comments.

The Commission discussed the application as follows:

1) *"Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?"*

Paul Fritz, Commissioner

Yes, I think delivery-only uses could be allowed in the Industrial zone. It seems like it should have been from the beginning; I'm not sure why it wasn't.

Deborah Burnes, Commissioner

Yes.

Linda Kelley, Commissioner

Yes, as long as it's a co-location with manufacturing.

Evert Fernandez, Vice Chair

Yes, I agree with that.

Kathy Oetinger, Chair

And I do as well.

2) *"Should co-location with a manufacturing use be required, and if so, what type?"*

Paul Fritz, Commissioner

I'm not super concerned about co-location. I could be okay with allowing retail delivery-only in the Industrial zone, but I don't have a strong feeling about whether or not it's co-located. If you have an existing business, adding the retail should be completely allowed. The question is if you only wanted to do retail-only delivery; I would be okay with that in the Industrial zone.

Kari Svanstrom, Planning Director

When you get into further discussion and actually writing policy, you can certainly bifurcate that where if it's co-located it has one level of approval, and if it's a standalone it's treated just like the regular retail outlets in town, which required a conditional use permit.

Deborah Burnes, Commissioner

I don't think you need to have a manufacturer. If it stands alone on its own, I'm okay with that.

Linda Kelley, Commissioner

I'd be fine with either. It just seemed like it was presented to use as a co-location and that made perfect sense. I would be fine with a standalone delivery-only too. When we get to how many, that's another story.

Evert Fernandez, Vice Chair

Yes, standalone is fine for me.

Kathy Oetinger, Chair

I would say it's fine too, and so we just have a business coming in and being a warehouse in the manufacturing district. This is not really a warehousing district, so at some point that could become an issue, but I'm not very worried about it, considering the industry today.

3) *"What level of City approval should be required?"*

Paul Fritz, Commissioner

If it's a manufacturing facility are there any instances where it does not need to come to the Commission? Are there certain situations where that is a staff-level only review for a manufacturing facility?

Kari Svanstrom, Planning Director

Most manufacturing are staff-only, so most of these folks went through the Planning Department only for their manufacturing use. The distribution requires a use permit by the Planning Commission.

Paul Fritz, Commissioner

I'm okay if it's a staff-level review for the manufacturing, as a manufacturing facility that wants to add delivery. I'm okay with that to be maintained at a staff level, and maybe this is where we talk about a threshold, a certain number of deliveries a week is staff level, and beyond that would be a use permit. That's something I'd probably entertain.

Kari Svanstrom, Planning Director

Commissioner Fritz, it's the distributor or the cannabis warehouse, both require conditional use permits, and the definition of a warehouse is the procurement, sale, and transport in bulk, but it does not include adult-use delivery. In talking with our cannabis operators, including Zac Guerinoni, Resourcery folks, and Craig Litwin, there's a very big difference between the big manufacture-to-manufacture distribution that some people might be doing and what our businesses are doing, which I would describe more as self-distribution where they're simply trying to bring in their own product from farms and then transport their own product out to people. That's the only industrial use in the Manufacturing zone.

Paul Fritz, Commissioner

If it's co-located with a manufacturing business, I'm okay with a staff-level approval of that, but I'd be open to discussion of a threshold beyond which it would need to come to the Planning Commission. I'm open to discussion on exactly what that threshold is.

Deborah Burnes, Commissioner

I think I'm going to abstain from speaking to the subject of staff-level approval for now.

Linda Kelley, Commissioner

I agree with Commissioner Fritz.

Evert Fernandez, Vice Chair

I don't have enough information for that. I'm concerned about limiting deliveries, because that means we're limiting deliveries from businesses in Sebastopol and hampering them, so I wouldn't be supportive of those types of limits. At this point staff approval for manufacturing makes sense, but beyond that, I'm not sure.

Kathy Oetinger, Chair

I could see staff-level approval for almost anything that we would set conditions for, and then anything beyond that you would require it to go the Planning Commission, but I don't know what those levels are at this point. I'm not that interested in creating restrictions and making it difficult for businesses to succeed.

4) *"Should there be a limited number of licenses, or unlimited?"*

Paul Fritz, Commissioner

If it's a co-location with a manufacturing, if we're not limiting the number of manufacturing facilities, I'm okay with not limiting. I think every manufacturing facility could have a delivery as well, so I would not be for limiting the number of delivery licenses.

Deborah Burnes, Commissioner

This is a tough one for me. I think I would be more on limiting both the manufacturing and the delivery, but if we were not going to limit the manufacturing, then I also wouldn't limit the delivery. When you're looking at the diversification of a town as we look at alcohol permits and is there an oversaturation, hearing the examples of Healdsburg and Sonoma where they become too tasting room heavy, do we want to be cannabis heavy? I don't know. I'd prefer to limit both of them, but I wouldn't just limit the delivery if the manufacturing is not limited.

Linda Kelley, Commissioner

We're looking at only for the Industrial zone, so if there's manufacturing in an area that's not industrial, that's not what we're covering here, correct?

Kari Svanstrom, Planning Director

That's correct, and in fact per our code we don't allow manufacturing in commercial zones and residential zones. The Manufacturing zone was the proposal. Right now the only places we allow manufacturing is the Commercial Industrial, which is most of The Barlow.

Linda Kelley, Commissioner

And what is the zoning for the manufacturing near south of the post office?

Kari Svanstrom, Planning Director

South of the Benedetti site there are two parcels: one is the Abbott Avenue building, and Zac Guerinoni's use is in that building along with some other uses, and then there is a vacant parcel that is in between the carwash and that building. Those are both zoned Manufacturing and the building does include a manufacturing use.

Linda Kelley, Commissioner

So that's an Industrial zone?

Kari Svanstrom, Planning Director

Correct.

Linda Kelley, Commissioner

This is a hard one for me, because I worked on the first ordinance and we were trying to be very protective of supporting our local businesses, and so I've always leaned toward trying to limit a little bit more. It might be time to open it up. I don't want to create something we can't easily pull back. I am afraid of a larger manufacturing business coming onto Morris Street, and I don't want it to just be cannabis out there. I'd like it to be thriving manufacturing, but I don't also want to necessarily limit it, so at this point I'm fine with not limiting it in the Industrial zone, but because we want to preserve our manufacturing it should be a co-location with manufacturing use rather than just a delivery-only. I hate not having more discretion if it's more appropriate in are they supporting the community and not just coming in? Not that I don't want to support those kinds of businesses either, but I'd like to direct it to being more like the businesses that we already have, and that was because we had an ability to examine and limit, and that's more or less a conditional use permit, so I tend to err on that rather than just opening it wide up.

Evert Fernandez, Vice Chair

I also have concerns about keeping an eye on how things are going, but I don't think there should be an arbitrarily number limit, and that may discourage some legitimate businesses from coming to Sebastopol. I also would like to have some discretion, so my thinking is you look at it on a case-by-case basis. Staff can have some discretion and maybe there is some wording. I feel comfortable that if something came up and if Director Svanstrom has a concern about it that she'll alert the Commission, but sometimes things get lost in the future. My thinking is not to limit, but to perhaps set some parameters with the Planning Department that maybe they would in certain situations have the option to bring it to the Commission for review, but I don't want to set an arbitrary number as far as a limit is concerned.

Kathy Oetinger, Chair

We heard from our applicant that they're trying to compete, and if the delivery is too far it's not going to pencil out and they lose money. I wonder how many businesses you could have selling local products that could be shipped to retail places all over the country in a distribution system, how many local distribution systems, how many companies do we need driving vehicles in a reasonable distance? It seems like at some point if we have unlimited

levels of that service we're doing a disservice to the companies that are trying to compete with those local affordable deliveries. So does it pencil out if we divide it between a lot of companies? Even for a good product there's only so much market and so much margin, so I'm not sure whether to treat it like our restaurants that are not limited on how many of them can deliver and how often they can do it. and now we're looking at another type of business that's trying to compete, and I'm not sure how big that market is or how profitable it is for them, and whether opening it up does a disservice.

Kari Svanstrom, Planning Director

We will need to recommend something to City Council eventually. They will be the ultimate decider. I wasn't involved with the first Cannabis Ordinance and don't know if it was Council that set the number of retail or if it was a recommendation from the Planning Commission.

Linda Kelley, Commissioner

It was a Council subcommittee that sort of created the ordinance, and then it went to Planning, and then it ultimately was approved by City Council.

Kari Svanstrom, Planning Director

We can certainly leave it at this. Listening to the comments, I would tend to recommend something where there isn't a limit or co-location up to a certain size, so that it isn't an issue for our existing small businesses. So you could set the existing number and then you're not limiting anyone to begin with, or you could not limit with co-location up to a certain size to ensure it doesn't become so competitive that someone is moving in just for a delivery license and that would negatively impact manufactures. As it is, I would say delivery-only should be aligned with delivery in any other zone where it should just be a use permit, and that would give the Planning Commission discretion over that.

Paul Fritz, Commissioner

We don't limit anything else, do we? We get an alcohol use permit and we get to decide if there's an overconcentration or whatever, but I'm not sure why we're singling out cannabis businesses and trying to limit them.

Kari Svanstrom, Planning Director

It's interesting on the delivery front. On a retail front, I don't know whether two or three or five, or whatever is the right number, but I do know having been to locations in Denver where they don't limit them, it's pretty horrible just in terms of overconcentration, and they do have some of the issues. It changed a couple of neighborhoods pretty significantly. I don't think California is going to get there; I think we've taken more of the ultra-cautious road. Part of the licensing conversation may also get into what are the thresholds before it requires a use permit, so not that you're not going to allow it, but you do have some discretion over it.

Paul Fritz, Commissioner

I get the retail side of it. Delivery is a different thing than having a storefront. I can see how you might want to have limitations on a storefront, but I don't see a delivery service having the same kind of neighborhood or quality of life issues necessarily. As Omar said, let the market decide. If people want to buy from certain people, it's going to sort itself out. We only have a limited number of people who are making cannabis purchases on any given day, that I don't know that we would be completely overrun with delivery services in our community.

Kari Svanstrom, Planning Director

You can certainly invite the applicant or others to chime in on this. The only thing I can foresee is if cannabis is legalized nationally I'd want us to be poised for it, but in a way that supports the manufacturing in the Manufacturing zone, because that's where you do get support for the local industry, like Mitcho's business supporting local farmers. And if there were no control would you end up with someone like Element 7 who came to the City Council and wanted to be the biggest cannabis retail business in California, and would you want that for Sebastopol, because we have a Formula Business Ordinance? I'd be concerned we might get so much delivery in the Manufacture zone that you don't have a manufacturing base or that diversification anymore, because our manufacturing zones are fairly limited.

Kathy Oetinger, Chair

The other thing that comes to mind, are they selling retail to customers who aren't local, because anything can be ordered online and it would come from the post office? It doesn't sound like that's what they're doing, but I could see it expanding to that, so along with those other deliveries I'm guessing your retail could be anywhere, because there's no storefront, the size, and whether there is co-manufacturing.

Kari Svanstrom, Planning Director

Andrew, you and Omar are more immersed in this business than the Commissioners or myself and are invited to give some input.

Andrew Longman, 421 Group

With the signing of SB 1326 recently for interstate transport of cannabis products once it's federally legalized, I think that would create a lot of opportunity for our local manufacturers who do support our local farmers. I think there is a preference for cannabis from our region and the products that people like Mitcho make, and I think there would be an opportunity there eventually.

Kari Svanstrom, Planning Director

Do you have any thoughts on standalone delivery-only in the Manufacturing zone?

Andrew Longman, 421 Group

I guess I've been looking at it strictly through the lens of diversification for these manufacturers, so to think about it on a policy level like that, I don't have an opinion right now. I would have to think about that, but it's an interesting thought on whether to or not and what those downsides would be.

Kari Svanstrom, Planning Director

It seems we have Commission consensus on those questions on the co-location with some limits, and I know Vice Chair Fernandez had the question about what level of discretion. Right now for manufacturing permits it's generally just a zoning clearance that we're doing. We are making sure that everyone is qualified, that they have all the requirements, which is pretty numerous in terms of odor control, security, transfer of ownership, age limitations, lighting, staff training, etc., so that's mostly what we are doing when we are permitting the manufacturing facilities, but right now I don't believe we have discretion the way we do with an alcohol use permit to say we think there might be an overconcentration or there might be an issue with this particular operator, to bring it to the Planning Commission. It sounds like that's where we're going with the co-location, to allow delivery at that same level. I'm going to go to some potential criteria that John and I have written.

1) *"Square footage of 20% of the overall manufacturing facility dedicated to delivery-only with a maximum area of 500 square feet for an administrative permit review. To exceed this would require a conditional use permit."*

Kathy Oetinger, Chair

It depends on the business model, how much it is and how many there are, as to whether this makes any sense to me. I know it's theoretical.

Kari Svanstrom, Planning Director

Right, and again, you can exceed this, but it would require that next level of discretion. And you're right, Andrew, this 500 square feet is double what you're asking for, and it's also far less than 20% of your manufacturing facility.

Andrew Longman, 421 Group

Yes, we're asking for 77 square feet.

Kari Svanstrom, Planning Director

Because it's co-location, it doesn't include any vehicle storage or anything like that, which is also used for the manufacturing, so it's actually pretty generous in terms of a staff-level approval.

Paul Fritz, Commissioner

That seems reasonable.

Kari Svanstrom, Planning Director

And the 500 square feet stops the Amazon type from coming in, and if you think about the trip generation and the discussion we've had with distribution use permits with the Planning Commission in the past, that was often a concern regarding the number of delivery trips and the traffic generated.

2) *"Limit the number of deliveries on a weekly basis to 10 to 20 for an administrative permit review. To exceed that amount would require a full use permit approved by the Planning Commission."*

Kari Svanstrom, Planning Director

You may not need to limit the number of deliveries if you're making sure that it's co-located and it's a certain percentage in size limit of the facility. I think staff would be fine with not limiting the number of deliveries. John, any thoughts about limiting deliveries versus not?

John Jay, Associate Planner

I think that fine. The main thing we wanted to accomplish is to not allow these large facilities to come in and become delivery-only out of a huge space. I think getting rid of #2, or however you guys feel, is fine with me.

Deborah Burnes, Commissioner

I don't think we need to limit deliveries.

Linda Kelley, Commissioner

I'm fine with not limiting it as well, but I think the delivery business and how they organize doesn't mean that there are necessarily more trips, I think it's as many trips as they can get into delivery trucks, so it's a lot less impact. I don't think we need to limit that.

Evert Fernandez, Vice Chair

I'm fine. I'm not looking to limit.

Kathy Oetinger, Chair

I am also fine with taking #2 out.

3) *"Delivery-only is only incidental to the primary use of manufacturing for the site."*

Kari Svanstrom, Planning Director

I don't know if we need to discuss this in particular, because there's no actual metric or requirement to it; it's discretionary. I would more put it in the intent or the purpose so that it's clear. It could be a characteristic or criteria, but it's really trying to make sure of the intent that it's a Manufacturing zone and we want to support manufacturers.

Kathy Oetinger, Chair

I agree that that's the intent of wanting to do that, but I can imagine that same single person in that office with that computer could also take orders from all five companies in town, but the orders come through and they get sent or delivered in separate packages. That's the modern world, even for a small town with specialty products. I guess that would perhaps come to us to consider as a variance. I'm imagining how to make it profitable.

Paul Fritz, Commissioner

Limiting the square footage to 20% for a staff-level approval is the intent of #3. I don't think we need to do anything beyond that.

Deborah Burnes, Commissioner

I agree.

Linda Kelley, Commissioner

Number three is fine.

Evert Fernandez, Vice Chair

I'm fine with #3.

Kathy Oetinger, Chair

And so am I.

4) *"The facility shall clearly designate a 'delivery only' section within the supplied application documents."*

Kari Svanstrom, Planning Director

They have to designate the section so we can understand the square footage. It's more administrative and it's easier to put it in the code. That way people know that it's part of the process.

Kathy Oetinger, Chair

I think we can skip over discussion on that.

5) *"Delivery-only is subject to regular business hours or a last delivery out by."*

Kari Svanstrom, Planning Director

Do you want to limit delivery hours?

Paul Fritz, Commissioner

I'm good with limiting delivery to business hours only.

Linda Kelley, Commissioner

Regular business hours. I don't know if the manufacturer wants to do delivery later, but I know as a convenience for folks that are working that some of the delivery services, as long as it gets ordered during business hours, there is delivery sometimes up until 9:00pm, so I don't necessarily want #5. I could go with a last delivery by.

Deborah Burnes, Commissioner

I'm fine with it being during regular business hours and the last delivery out by.

Evert Fernandez, Vice Chair

I'd like to hear from the applicants as to whether it makes sense to limit it, or what would make sense for them to work with.

Andrew Longman, 421 Group

Considering our operation being seven days a week as it is and our business hours being 7:00am to 9:00pm, I don't see a need to go beyond that at the moment. But we're also in the very preliminary stage of development, so I guess it's to be determined.

Evert Fernandez, Vice Chair

I'm hesitant to put a limit or a timeframe on that as an arbitrary; I think the business should determine it. Like Commissioner Kelley was saying, some days they could have regular business hours and then they're closed and delivery might take place after that, because otherwise you're going to have businesses be like we're open until midnight, but not really. I don't know what difference when the delivery is made makes. They're going to deliver it to whatever the customers' needs are, and that may change over time, so I'd rather they have the flexibility to determine that rather than set something and create yet another hurdle where they have to come back and get permission to expand something that may not make a difference.

Kathy Oetinger, Chair

I'm in agreement with that. I think 7:00am to 9:00pm was appropriate.

Andrew Longman, 421 Group

I have the regulations from the Department of Cannabis Control open, and we're limited to 6:00am to 10:00pm.

Evert Fernandez, Vice Chair

Would it make more sense just to say that the delivery hours are the same as the state regulations?

Kari Svanstrom, Planning Director

Yes, that way if they change them we don't need to go back and revise our code. It sounds like everyone is more or less okay with whatever the state mandates.

6) *"Conditions of approval shall be posted within the delivery-only section of the facility."*

Kari Svanstrom, Planning Director

This is a standard thing that we have for all use permits, so even if it's not a use permit I think it is something you'd want to have.

Kathy Oetinger, Chair

Yes, just to have it posted so people know what the rules are.

7) *"Change of ownership of the business shall require the new owner to apply for a transfer of delivery license."*

Kari Svanstrom, Planning Director

We also do require a license transfer. It's how we track both alcohol permits and cannabis permits, because the state asks us for that, and it allows us to do the check on that, so please let's keep that.

Kathy Oetinger, Chair

Yes. The issue of the schools and a 600-foot distance, because this isn't a retail it seems like it shouldn't apply for this kind of a business because there's no storefront. I don't think its proximity to schools should matter.

Linda Kelley, Commissioner

Is there any state language around distance to any schools? I don't remember when we put that in where we got that language from, and certainly the distance to schools and parks and all that have to do with the visibility. However, the liquor store is across the street from SPARC, and it was like what's the difference? However, we did put that in there and I'm wondering if Andrew knows if that's the state regulation?

Andrew Longman, 421 Group

I believe it's 600 feet. I'm double-checking right now.

Kari Svanstrom, Planning Director

And is it 600 feet in a walking pattern?

Andrew Longman, 421 Group

I don't recall if it's distance of travel or parcel-to-parcel, but I'll be right back to you about that.

Kari Svanstrom, Planning Director

This is something we can just get a consensus that if the state allows it are you okay changing it? And there is a cannabis manufacturing use in one of those buildings, and that's kind of where if we're not going to limit it. It would still limit those uses up there from doing delivery-only, so I think it's worth a quick check.

Kathy Oetinger, Chair

The issue of the storefront and retail aren't the same as a liquor store being 600 feet from the school, or even on the path home, because it doesn't have the same concerns for influence and the nuisance factor.

Kari Svanstrom, Planning Director

I don't think any of our cannabis businesses have the word "cannabis" or "marijuana" in their names at all. It's pretty discrete in that way, especially in the manufacturing. The question on this one is if the state doesn't require this, are you okay changing this? I'm hearing Chair Oetinger say it doesn't matter because it's not a storefront. Do others agree with that?

Paul Fritz, Commissioner

I'm okay with it.

Linda Kelley, Commissioner

Would this apply to standalone delivery as well as co-location? That's where I need to know if there was a distinction in the rules at the state level, because of the types of products or services each category can provide; so I would be fine since it's not retail, and if the state didn't care about it for standalone or for a co-location, which I'm not quite sure how the state uses that word, I would be fine to not have to put in a distance.

Andrew Longman, 421 Group

I actually asked the Department of Cannabis Control this question and got an official response saying, "Pursuant to the Business and Professions Code 2654(b) local jurisdictions may specify a different radius than what is listed in the DCC regulations."

Linda Kelley, Commissioner

Is that for retail or for any cannabis business?

Andrew Longman, 421 Group

I believe I asked that question specifically for retail, but I'd have to pick through my feed real quick to confirm.

B. PLANNING COMMISSIONER TRAINING –

Planning Commission training was postponed.

7. SUBCOMMITTEE UPDATES

None.

8. PLANNING DIRECTOR'S REPORT

A. Cancellation of November 22, 2022 meeting

Director Svanstrom provided updates.

The Commission asked questions of Director Svanstrom.

9. ADJOURNMENT: Chair Oetinger adjourned the meeting at 9:07 p.m. The next regularly scheduled Planning Commission meeting will take place on Wednesday, December 13, 2022 at 6:00 p.m.