

CITY OF COTATI
MINUTES for the Regular Meeting of the Planning Commission

DATE OF MEETING: April 7, 2008
TIME OF MEETING: 7:00 p.m.
PLACE OF MEETING: Cotati City Hall, City Council Chambers
201 West Sierra Avenue, Cotati, CA 94931

I. CALL TO ORDER

Chairman Rock called the meeting to order at 7:03 pm.

II. ROLL CALL

Commissioners Present: Hardy, Kurvers, Pagnusat, Rock, Coleman-Senghor
Commissioners Absent: None
Staff Present: Thompson, Giudice, Lustig, Harris, Rudnansky

III. APPROVAL OF MINUTES

A. For the Regular Meeting of March 3, 2008.

Commissioner Coleman-Senghor stated that he had a concern about Page 3 of the minutes. He stated that he had described concerns regarding road and suggest that language be corrected. He asked staff to go back to the recorder and revise accordingly. He stated that the name of person was Terry, not Heidi, and that she lived on Amber Lane.

A motion would be made at a later date.

IV. CHANGES TO THE AGENDA

There were no changes to Agenda

V. ORAL AND WRITTEN COMMUNICATIONS

There were no oral or written communications

VI. MATTERS AT HAND

A. Public Hearing to Consider a Zoning Clearance for a License Application for a Medical Marijuana Dispensary to be Located at 150 East Cotati Avenue. (This application requires City Council approval for the License.)

PA#: 22/07

Applicant: Organic CARE Center

APN: 144-360-054

Dona Frank

Chair Rock outlined the rules of the meeting, stating that the applicant would give a 10 minute presentation and the remaining public would receive 3 minutes to talk. He asked the public to avoid repetition. He noted that staff would keep track of questions and respond at the end of public hearing.

Hardy recused herself due to proximity of the project site to her residence.

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Assistant to the City Manager (ACM) Marsha Sue Lustig described the project, stating the zoning clearance relates to the use within the CE, East Cotati Corridor zoning district. She stated that issues remaining relate to:

- parking
- lighting
- landscaping

She stated the application is for a medical marijuana dispensary and that the Planning Commission will only be reviewing the zoning clearance. ACM Lustig stated that the City Council will be reviewing the license application for a medical marijuana dispensary at this location for consistency with Ordinance 787.

Regarding landscaping, ACM Lustig stated that the junipers surrounding the property affect sight distance. There is also a need to reduce the amount of landscaping to provide adequate ADA access. Both can be accomplished by removal of the junipers. The applicant has been asked to submit a landscape plan that has been prepared by a professional. Only some of the information requested on landscaping has been submitted.

Regarding lighting, ACM Lustig stated that the applicant has submitted a diagram, but the requested professional analysis has not been provided. Lighting analysis is needed to ensure adequate lighting is provided and at the same time neighbors are not impacted.

Regarding parking, ACM Lustig stated that the site has potential for a maximum of 3 parking spaces, including one ADA-compliant space. The use requires 3 employees and it is not yet clear the number of clients that would be using the facility.

ACM Lustig stated that this meeting would provide the Planning Commission an opportunity to evaluate what the needs are for parking at this location. Staff estimates the need to be 15 to 20 spaces based on survey of other facilities.

In response to Commissioner Pagnusat, ACM Lustig responded that parking requirements were calculated using the retail use category. There is some flexibility and the Planning Commission can determine that less parking is needed. ACM Lustig restated that it is possible that this dispensary would generate a need for 15 -20 parking spaces. ACM Lustig also stated that staff has arrived at the conclusion that more parking than what is available would be necessary. ACM Lustig visited several dispensaries and observed much more available parking at each site.

In response to Commissioner Coleman-Senghor, ACM Lustig stated that it is staff's position that the majority of parking should be located at the facility. She stated that there have been cases where shared parking has been arranged and in that case off-site parking could be acceptable. She also stated that adequate spaces should be provided on-site. ACM Lustig stated that it would not be advisable to have parking located across the street, requiring the patrons to cross the street at this location for safety reasons. She reiterated that the use should minimize impacts, including those related to parking.

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Commissioner Coleman-Senghor stated that he visited another facility on Santa Rosa Avenue and witnessed a substantial number of vehicles, about 16 cars in 15 minutes. In response to a question by Commissioner Coleman-Senghor, ACM Lustig responded that it would be possible that one or more employee could use the ADA space, thus making other spaces available.

Commissioner Pagnusat clarified that the purpose of this meeting is to discuss the zoning clearance.

Prior to opening the public hearing, Chair Rock clarified rules and that the topic of discussion should be related to the zoning clearance only.

The Public Hearing opened at 7:32 p.m.

Dona Frank, applicant, stated that of the issues that had been noted, both lighting and landscaping are fixable. She stated that parking is an unknown. She clarified that the existing dispensary in Santa Rosa is not moving to Cotati, but is relocating elsewhere. They are starting a new business in Cotati with a smaller model.

Lisa Gygax, applicant's attorney, stated that she felt that medical marijuana is not a retail use. She said there is limited traffic because the business requires membership. They are trying to set up small town models that protect patients. She also stated that Cotati has strict rules making it difficult to find the right site. Marijuana odor is difficult to control and therefore requires a stand alone building. She stated that the requirement to provide sight distance and ADA clearance is reasonable. She also stated that they have addressed the lighting issue and pointed to page 4 paragraph 6 of their submittal, in which she states the topic of lumens was discussed for each side of the building. She felt that it is easy to provide sufficient lighting without impacting adjacent residents since the units are located upstairs above the parking. Lighting is not a serious problem and their report demonstrates that.

With respect to parking, Ms. Gygax claimed she felt existing parking is adequate. She stated that there is more parking needed at the Santa Rosa facility because they have unlimited membership. Patients only spend about 5-8 minutes at a facility. She pointed out that all employees have attested that they will commute together. She also stated that a parking space would be rented nearby. The proposed facility is designed as a small town model to fit into the Cotati neighborhood.

Ms. Gygax stated that a "lumen" study was submitted on January 29, 2008, and that she has not received a response from staff. She pointed out that parking data for a use like this is not available. She warned that if parking standards were imposed on this business those same standards would need to be applied to other future uses at that site. She felt that the only use that will be "grandfathered" is a law office.

In response to Commissioner Pagnusat, Ms. Gygax described 8 other parking spaces on E Cotati Avenue near Charles Street and 3 additional spaces in front of 150 E. Cotati Avenue and to the east. She also stated that they would be renting parking spaces on a commercial lot nearby.

Commissioner Coleman-Senghor stated that he felt parking to the east is in front of existing business and should be available for that use. Ms. Gygax stated that that building has parking in

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the rear. Commissioner Coleman-Senghor stated that if street parking is counted it should be limited to the 3 spaces in front of business and those spaces across the street.

Commissioner Coleman-Senghor questioned the applicant why, given the nature of business, they did not have a parking/traffic frequency model. Ms. Gygax stated that they will be limited to 1000 patrons and it will likely take 3 months to get to that level. She explained that the number of visits depends on the illness (e.g., MS, cancer, etc.). Ms. Frank stated that visits are between 3-8 minutes per patient.

Commissioner Coleman-Senghor noted that there was no guarantee that patients will be from Cotati.

Ms. Gygax pointed out that she understood they would need to minimize impacts to the City but still wanted to meet the needs of their patients.

Ms. Frank stated that there have never been police calls at their other facilities.

Chair Rock asked how they would provide security for their patients at this site if parking is located off site. Ms. Frank stated that the parking area at their current facility is busy. She also stated that they currently have a good security system (cameras, security guard) and they would have cameras at this proposed location. She stated that they did not expect this to be an issue at the proposed facility.

Chair Rock asked why they are willing to comply with County parking but are not willing to comply with City of Cotati requirements. Ms. Gygax explained that they felt that this was the only building in the City that would comply with the ordinance. She felt that adequate parking was described in their report. They prepared this with assistance from a traffic engineer. She also stated that she did not feel that landscaping is being required to be updated for other uses.

Commissioner Coleman-Senghor asked if the lighting plan was prepared by an authorized lighting professional. ACM Lustig stated that it was not but pointed out that a diagram, prepared by the applicant, was submitted.

Adrien, Marsh Way, stated that some of the parking spaces that were identified are currently being used by the flower sales. If there is parking overflow, he feels it will affect him. He felt certain that traffic flow would increase on his street because clients would use the street as a turnaround. He felt that there is a lot of traffic on Charles Street and East Cotati Avenue and is concerned about additional traffic at that intersection.

Mark Coopersmith neighbor of Adrien, stated his concerns are the same as above. He was not aware of this ordinance and feels it is illegal to sell marijuana. He feels that it is an inappropriate location as it is too close to a rehabilitation center and too close to a park.

Kip Dheil, property owner at 7111 Marsh Way apartment complex, stated he has owned the property for 30 years and is concerned that clients of the proposed facility would use his tenants' parking. He already has parking issues. He was concerned about children living nearby.

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Janet Kurvers asked about proposed hours of operation and whether this would affect the parking that will be used.

Oso Koenigshofer, nearby property owner, stated that this use needed to be evaluated carefully because it is a new use. He advised the applicants to consider providing a shuttle service from the Park and Ride to this location.

Dr. Stephen Jamison, Cotati resident, stated this would be the closest facility to the south of the Santa Rosa Avenue location and become a destination location that can expect 250-325 patients per day. He stated that the next nearby facility is located in Fairfax. He works with terminally ill patients and most patients would not be able to walk across East Cotati Avenue. He does not feel parking is adequate at this location.

Theresa Eaton, Cotati resident, recommended that dispensary staff use public transportation.

Tim Ritter, Cotati resident, stated that he will be working at the Organic CARE facility and that he would likely walk. He thinks that city staff is trying to find reasons to not approve this facility.

Sara, fibromyalgia patient in Sonoma County, feels that the facility meets all zoning requirements. She would like the City to explore the use of a shuttle service, taxi service, crossing guard, or delivery service. She doesn't understand how a facility can be denied based upon an issue that was not a requirement in the ordinance. She suggested everybody should look for creative solutions.

Linda Ritter, Cotati resident, said she felt that the business could share clients with her business and that she would be willing to allow parking at her business. She has been to the Santa Rosa facility and has never seen a parking issue. She believes that there is a 1:1 patient to employee ratio at OCC. She feels that a crosswalk at this location to provide safe crossing should be looked into. She suggested in-pavement flashing lights in a crosswalk.

Lane Olson, youth pastor, said adequate consideration has not been given to youth at the church across the street. They have youth activities on Sundays, Wednesday nights, and on occasion other times during the week for fundraising activities. He also noted that they often have youth throughout the week using their basketball courts.

Lauren Goodman, employee of Dona Frank, stated that it is not goal of the facility to serve to children. She stated that she thinks the tax revenue would benefit the city.

Prue Draper, 718 W. School Street, said parking is a big issue and should be looked at carefully. She feels that at Cohousing they do not have enough parking and she regrets that the City didn't require more.

Dorothy Keller, Cotati resident, said she would welcome the opportunity to see if medical marijuana would work for her. She can't understand given the number of bars in the City, why a medical marijuana dispensary would be denied.

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Jennifer Merla, Cotati resident, stated that she works at the Santa Rosa facility, and that some patients share caregivers who pick up the marijuana, which can help the parking situation.

Linell Hardy, 8171 Arthur Street, stated that parking is a problem but feels that this is an existing situation and that there are ways to deal with this, including valet parking or a shuttle bus. She doesn't think that they should have to deal with re-landscaping. She stated that she supports the use and perhaps parking should be forgiven.

Judy Vargas asked why churches were not included in the 500-foot distance requirements since parks and schools were. She also asked why the applicant would purchase the property if renewals would be considered on an annual basis.

The Public Hearing was closed at 8:45 p.m.

City Attorney Rich Rudnansky clarified the following:

He stated that there is a zoning component to this application and that parking is part of that. It is staff's position that the retail model is appropriate for this use, which would require 5 parking spaces. A reduction may be requested with a use permit. Additionally, if the Planning Commission doesn't feel that the business fits any of the business models identified in the parking standards, the Planning Commission may determine an appropriate number of spaces for the use. This site is not the only site that can accommodate this use, but may be only one currently available. Any use at this site would require the same type of evaluation with regards to parking. He stated that other business models that could apply to this use could include clinic or lab but these models have an even higher parking requirement. He suggested that if retail was not supported by Planning Commission, they could suggest another category.

Regarding hours of operation, ACM Lustig described the hours of operation allowed by the ordinance.

In response to Commissioner Coleman-Senghor's question regarding churches versus youth-oriented activities, ACM Lustig stated that the ordinance focused on youth oriented activity and that this matter would be considered as part of the license review by the City Council and not part of this zoning clearance.

ACM Lustig stated that it is possible that a smoke shop is currently located within the 500-foot area but that issue would be discussed at the City Council hearing. She stated that similar to a use permit process, the applicants have been required to address landscaping, lighting, and parking. She stated that odor issues have been successfully addressed at other locations where a medical marijuana dispensary has occupied a space within a building shared by other users. Therefore, a medical marijuana dispensary need not be located in a stand alone building. The requirements in the ordinance strive to prevent creation of a nuisance, and the question is whether 2 or 3 parking spaces are sufficient for this use, or will create a nuisance.

City Attorney Rudnansky stated that "youth-oriented facilities" is defined in the ordinance and read that section of the ordinance.

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Commissioner Pagnusat stated that he felt landscaping and lighting could be worked out as a condition of approval but was concerned that parking cannot be addressed with a Condition of Approval. He stated that if the Commission wants to count on-street parking, it should only consider the three on-street parking spaces contiguous to the property, and he doesn't think parking across street should count because required parking should be at least in front the property it serves. Otherwise, there are 3 on-site parking places.

Commissioner Coleman-Senghor stated he has no concerns about landscaping. He said that the dedication of one space as an ADA space would reduce number of spaces generally available to 3 spaces. His chief concern is that he is trying to justify the parking and cannot make the parking work. He stated that it is the Planning Commission's responsibility to evaluate land use issues and does not feel this application complies with the Land Use Code parking requirements. He thought the Commission should be clear about the parking issue, but the other issues should go before Council. He stated he would be inclined to vote no due to the parking requirements. He stated it is not the responsibility of the City to find a site appropriate for the use. If the applicants cannot find a location, he suggested that maybe it would be appropriate to revisit the ordinance, but that is not the issue presently before the Commission.

Vice Chair Kurvers concurred and understood the Commission is only reviewing parking, lighting, and landscaping issues. He thought the proposed location may be within 500 feet of the smoke shop downtown, and that the church and possibly the Scout Hut could be defined as a youth-oriented facility within 500 feet. He feels that the application is incomplete due to items such as a radius map, and as such, should be considered withdrawn in compliance with the Ordinance. He was extremely persuaded by the doctor and does feel that parking is inadequate. He stated his support for medical marijuana, but that this is not the right location for the facility. He would like the applicant to find a location in Cotati, and thought locations on Gravenstein Highway or on Redwood Drive between Helman and 116 were much more appropriate locations. Given the fact that one employee may need an ADA space, he thought the facility would need 2 ADA spaces. He thought at a minimum the facility would need 7-8 spaces, which is just not available at the proposed site. He stated that he reluctantly is not able to support the proposed facility at this location.

Commissioner Pagnusat agreed with Commissioner Kurvers and stated that parking is an issue which cannot be overcome. He could not see it being resolved, and could not see supporting the application.

Chair Rock stated that he also agreed. He noted that at least one ADA space must be available. As for using public parking, he only knew that on-street parking was rarely counted as parking. For example, Cohousing has shared parking in the back for business owners, and that is not working because they park across the street in the mud. He thought that the applicant was coming from the heart, but the applicant needs to show how the parking will work. Five parking spots are required, and he is not willing to accept public parking as a solution. Other events go on in the community that could use that parking, and residences could be impacted.

Commissioner Coleman-Senghor wanted to clarify that proximity of site to other uses was not in the purview of the Planning Commission review. Chair Rock confirmed that fact, and that Council would review location issues. Commissioner Coleman-Senghor continued that he does support medical marijuana dispensary in the city, but it is a matter of having the right location.

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He reiterated that it is not the responsibility of the City to find that location, but to review for code compliance when the application comes in.

Vice Chair Kurvers made a motion to approve Resolution No. 08-07 to deny the zoning clearance for the medical marijuana dispensary at 150 East Cotati with changes to paragraph 2 of the resolution to reflect that “an application for a medical marijuana license application was submitted” thus eliminating the word “timely.” He stated that he did not feel there was a timely application because it was not a complete application in the first place. Since their response to staff did not reflect a complete submittal, he didn’t feel that an application was submitted.

Commissioner Coleman-Senghor thought that the application had been submitted since it was before the Commission.

City Attorney Rudnansky stated his understanding that the issue was completeness. He understood that staff attempted to inform the applicant of the completeness issues, but the applicants requested that the application be brought forward as quickly as possible.

Second by Commissioner Pagnusat.

Yes: 4 Noes: 0 Absent: 0 Abstain: 0 Vacancy: 1

Chair Rock told the audience that the next step was for this application to be reviewed by the City Council. ACM Lustig stated that the earliest it would likely be heard is May 14, 2008.

VII. REPORTS BY STAFF

City Manager Thompson announced that there would be an upcoming tour at the Green Music Center and that Commissioners were invited.

VIII. REPORTS BY COMMISSION

Chair Rock welcomed Commissioner Coleman-Senghor back as a member of the Planning Commission.

IX. ADJOURNMENT

Chair Rock adjourned the meeting at 9:15 p.m.

*Submitted by:
Alicia Giudice
Associate Planner*