

Town of Cedaredge Planning & Zoning Commission
Public Hearing
July 6, 2021
Record of Proceedings

The Cedaredge Planning and Zoning Commission met for a Public Hearing on July 6, 2021, at the Cedaredge Civic Center, 140 NW 2nd Street, Cedaredge, Colorado, with a virtual meeting option available. Chairman Cartin called to order the meeting at 6 p.m. and led the Pledge of Allegiance. Present were Commissioners Dick Cartin, Bob Michael, Doug Hoggatt, Terry Jarbo and Gene Welch; Mayor Raymond F. Hanson; Trustee Jim Atkinson; Town Administrator Greg Brinck; Town Planner Davis Farrar; and Town Clerk Kami Collins.

Chairman Cartin read the vision and mission statement.

Minutes: June 29, 2021 Special Meeting: Mayor Hanson moved and Commissioner Jarbo seconded to approve the minutes from April 6, 2021.

Roll Call Vote: Voting “aye” were Commissioners Cartin, Michael, Jarbo and Welch; Mayor Hanson; and Trustee Atkinson; no Commissioners voted “nay.” Motion passed unanimously.

Chairman Cartin asked Commissioners if anyone had any potential conflict of interest. Vice Chairman Michael recused himself, citing a conflict of interest, and left the meeting at 6:03 pm. Mayor Hanson said he had a conversation with Perry Hotz, the property owner of one of the potential applicants. Mayor Hanson noted he told Mr. Hotz that he could not speak on the issue and ended the conversation.

Chairman Cartin read the rules for Public Hearings.

Public Hearing #1: Kind Castle

Mr. Dyet was late to the meeting, so the Kind Castle Public Hearing was postponed until his arrival.

Public Hearing #2: PUR CannaBliss

- a. Staff Presentation - Planner Farrar presented a written report. Mr. Farrar recommended approval of the Conditional Use Application with the conditions that the applicant use exterior motion activated lights; sufficient odor mitigation is installed; the applicant shall comply with the review agency recommendations; the CUP is approved subject to the Board of Trustees’ approval for the marijuana license; and that the applicant must vacate the internal lot lines on the property.

Trustee Atkinson asked which review agencies were contacted for comment; Administrator Brinck said Public Works and Police Department and all utility companies were contacted and only CDOT responded.

Commissioner Jarbo asked if a questionnaire was sent to the surrounding property owners; Administrator Brinck said that letters were sent to property owners informing them about the Public Hearing.

Commissioner Hoggatt asked if the Town implemented any restrictions of hours of operation; Administrator Brinck said the Board of Trustees restricted hours of operation within Title 11.

- b. Applicant Presentation – Applicants Anthony Heatley, Stephen Paul Black and Janice Prosser presented a PowerPoint presentation.
- c. Questions from Commission to Applicant and/or Staff - Trustee Atkinson asked about the turn lane on Hwy. 65 headed south to the East Main turn lane, so that there is no stack up of cars. Ms. Prosser noted on their highway access permit that CDOT had a list of requirements the applicant will have to comply with to alleviate those concerns. Trustee Atkinson said he thought the space needed a loading site. Trustee Atkinson noted the traffic study indicated 30 vehicles at peak times and said he did not think six spaces is sufficient to meet demand. He asked if traffic could exit the alley; Ms. Prosser noted only headed north. Ms. Prosser noted their engineer said if the RV parking was not required, they could add additional parking spaces. Trustee Atkinson noted drainage was not addressed in the site plan; Ms. Prosser noted that in the Municipal Code, they are required to pave the parking lot and will have curb and gutter on the property, which will address drainage.

Mayor Hanson noted the Town is in the process of applying for a grant to repair/replace sidewalks in town and asked how that conflicted with the applicant's proposal; Administrator Brinck noted that with Conditional Use Application, the applicant is required to build curb and gutter. Mayor Hanson asked if the property was on the Register of Historic Places; Ms. Prosser said no. The building is on the local Register, but not the state or federal registers.

Trustee Atkinson noted the traffic study only accounted for a small passenger car; Ms. Prosser noted the traffic study accommodated both a small car and an RV.

Commissioner Jarbo asked for clarification where the drive-up window will be; Ms. Prosser said the window would be on the south side of the building.

Trustee Atkinson asked if the alley is a dedicated alley; Ms. Prosser said it is not a dedicated alley, it has historically been used as a drive through. The property is partially Ms. Prosser's property and partially Curtis McCrackin's property. Ms. Prosser noted that CDOT has requirements on closing that piece of the property as part of the access permit.

Mr. Heatley asked for clarification on the type of paving material outlined in Title 11 and asked if aggregate could be used instead of cobble. Mayor Hanson noted that those in a wheelchair have difficulty traversing some types of materials. Trustee Atkinson noted that the Code is meant to provide for a hard surface material, not specifically only cobble.

- d. Public Comment In Favor - There was no Public Comment in favor of the proposal.
- e. Public Comment Against - There was no Public Comment against the proposal.

- f. Questions from Commission to Applicant and/or Staff - Commissioners had no additional comments.
- g. Staff Rebuttal - Staff had no rebuttal.
- h. Applicant Rebuttal - The applicant had no rebuttal.
- i. Commission Deliberations - Mayor Hanson thanked Mr. Farrar for a good job in the review and Staff Report.
- j. Commission Action - Trustee Atkinson moved to approve Conditional Use Permit for PUR CannaBliss with the staff recommendations and clarifications on the traffic and parking feedback; Commissioner Welch seconded.

Roll Call Vote: Voting “aye” were Commissioners Cartin, Jarbo and Welch; Mayor Hanson; and Trustee Atkinson; no Commissioners voted “nay.” Motion passed unanimously.

Public Hearing #1: Kind Castle

- a. Staff Presentation - Town Planner Davis Farrar presented a written report on the application. Mr. Farrar noted this is the only application that CDOT is requiring a right turn deceleration lane. Trustee Atkinson asked if law enforcement liked the motion detector lighting versus the dawn to dusk; Mr. Farrar said he did not speak to law enforcement, but in his research on dark sky lighting, motion detector lighting is a preferred option for security purposes. Mr. Farrar recommended approval of the Conditional Use Permit with the conditions that exterior lighting be motion activated and not dusk to dawn lighting; sufficient odor mitigation be incorporated; the applicant shall comply with all review agency comments; and the CUP is conditional upon approval of the marijuana application by the Board of Trustees.

- b. Applicant Presentation - Applicant John Dyet presented a PowerPoint presentation.

As Mr. Dyet was connecting his computer, Mr. Farrar asked Administrator Brinck to comment on the public notice posting for the applicants. Administrator Brinck noted that public notice for three of the applicants was properly noticed. Merle Lynch, speaking from the audience, noted that there was an incorrect address and zip code listed in the posting. Town Clerk Collins said that the Town receives mail at both the street address and the PO Box, so the address was correct. She did note that the zip code was incorrect. Mr. Farrar and Administrator Brinck noted that the public notice was substantially correct and sufficed for proper public notice.

Mr. Dyet presented a PowerPoint presentation with additional renderings of the building and landscaping.

- c. Questions from Commission to Applicant and/or Staff - Commissioner Welch asked for clarification on which floor plan Mr. Dyet was proposing, the original or the new amended; Mr. Dyet said either proposal, depending on which option the Commission liked

as far as addressing the issues for the drive through and the traffic study.

Trustee Atkinson asked for some clarification on the usage of the lots surrounding the proposed property; he asked if agreements were in place to use those other two lots. Mr. Dyet said he does have an easement with the adjacent property owner. They cannot build anything on the easement, it can only be used for access. Trustee Atkinson asked Administrator Brinck if a site plan has been submitted for the south lot by that property owner; Administrator Brinck said a plan has been submitted but not approved. Trustee Atkinson said the Town will need an agreement in place with both property owners to utilize their lots. Trustee Atkinson said he has an issue with the drive through at the corner, for traffic safety; Mr. Dyet said CDOT's directive on how they want to see traffic access the property. Mr. Dyet said access on the side street should alleviate that issue. Mr. Dyet said he could do away with the drive through if that was the desire of the Commission. Trustee Atkinson said the Code dictates that 15 feet of landscaping should be on the highway side, which if fully implemented would eliminate the drive through. Trustee Atkinson said the south lot has only highway access and asked Mr. Dyet how he would keep customers from using that south lot's highway access; Mr. Dyet said the signage would be erected to say "No Entrance." Trustee Atkinson said the RV parking stall does not work, since it forces RVs to back onto Centennial. Trustee Atkinson said in his opinion there were several things in the site plan that were not resolved.

Mr. Farrar asked Mr. Dyet if CDOT has seen the updated traffic study; Mr. Dyet said yes. Mr. Farrar noted there was a big difference between traffic with a deceleration lane versus side street entrance. Mr. Farrar noted that the site plan should be subject to staff review before the marijuana license application is forwarded to the Board of Trustees.

Mayor Hanson said the Commission will only consider one floor plan or the other, but not both. Mr. Farrar said the Commission should see the revisions before the application goes before the Board of Trustees. Mr. Dyet said he could come up with an amended floor plan. Commissioner Welch suggested the application be continued until the July 20th Public Hearing for an updated proposal.

Commissioner Jarbo asked how high the signage would be, and for the drive through to better block access to the highway. Mr. Dyet said the sign is 15 feet, and that landscaping would block the highway access.

- d. Public Comment In Favor - Perry Hotz, 680 SW Brook Lane, Cedaredge, addressed the Commission. He and his wife own the building. Mr. Hotz said he believed that many who will speak on the applicant will speak to not remove the current tenant, Connie's Family Restaurant. Mr. Hotz said he has worked with Connie for many decades, and they are currently working with her for her future financial agreement. Mr. Hotz noted Connie is under a month-to-month lease, so there is no guarantee that the restaurant will stay. He noted that he has a long-term lease with Kind Castle, which guarantees two businesses' a long-term arrangement. Mr. Hotz asked the Commission to look favorably on the application.

Jade Raber, 6707 Mariposa Court, Denver, representing 92 High, the owner of the south property, said the property owner has some concerns about Kind Castle using the easement

for the business. Ms. Raber said the property owner is in the process of submitting building plans for that south lot. She said there is no arrangement for use of the easement. She said the property owner would appreciate additional information from the applicant.

Mr. Farrar asked Ms. Raber for clarification on the easement. She said it was a shared easement and their concern is the access to their lot if the drive through is added.

Trustee Atkinson asked if the property line is north of the easement; Ms. Raber said that is.

Trustee Atkinson asked if the new business plans accesses any portion of the easement; Ms. Raber said no and said the property owners' concern was how they are going to separate the two areas. Trustee Atkinson asked that Ms. Raber work with Mr. Dyet to figure out the easement and lot line.

Trustee Jarbo asked if the current posts were on the property or the easement; Ms. Raber said the posts are on the easement. Mayor Hanson reiterated Ms. Raber should work with Mr. Dyet to figure out the easement/parking issue. Commissioner Jarbo asked that arrangement be made by the July 20th Public Hearing.

- e. Public Comment Against - John Hughes, 23152 Ute Trail Road, Cedaredge, said he objected to the sale of marijuana. He said marijuana is already being sold illegally in Cedaredge, and said the Town will get an influx of businesses that will benefit from marijuana, but said it is not a good moral issue for the community. Mr. Hughes also said he is against doing away with Connie's Family Restaurant; he said doing away with the restaurant is a detriment to the community. Mr. Hughes said the community does not need three or four pharmacies and he has not heard that issue considered.

Kurt Widemann, 15519 Heavens View Road, Cedaredge, asked why the Town wants to rezone an area that is already successful. He asked if it was for the betterment of the whole town, or just one person.

Traci Nichols, 155 SW 6th Street, Cedaredge, said she has worked for Connie for over 20 years. She said she is not against marijuana, but is against the location.

Logan Scott, 4805 Grand Mesa Drive, Cedaredge, said he would hate to lose an established business for a new retail business.

LD Burgess, 15679 Happy Hollow Road, Cedaredge, said the Commission's mission statement speaks about the small town atmosphere and said the access on the side street is very close to a residential area. He asked what the Police Department had to say about marijuana in town. He said Connie's is an institution for the community, and that if facade is a concern for the Commission, they should work with the property owner to upgrade the building. He said the location of a marijuana establishment does not fit with the "small town atmosphere."

Merle Lynch, 19201 Hwy 65, Cedaredge, thanked the Commission for posting the flag and for reciting the Pledge of Allegiance. He thanked the Commission for their service. Mr. Lynch said he does not have an issue with the applicant or the landlord, but he does have a

problem with zoning, specifically with empty buildings that are underutilized anyway. Mr. Lynch said displacing a longstanding business, regardless of the use, does not make sense and does not fit with the Commission's mission statement.

Craig Keyzer, 250 SW 11th Avenue, Cedaredge, said that when he eats at Connie's he looks over at Pioneer Town, which is a cultural icon, and should not face a marijuana establishment.

- f. Questions from Commission to Applicant and/or Staff - No additional questions.
- g. Staff Rebuttal - No rebuttal.
- h. Applicant Rebuttal - Mr. Dyet said it looks like there are many options in town where a marijuana business could locate, but there really were limited options. The US Bank building was mentioned; a financial institution will not work with a marijuana applicant. Mr. Dyet said he did look at the abandoned service station, and it was not available.
- i. Commission Deliberations - The Commission had no additional deliberations. Mayor Hanson moved to continue the Kind Castle Public Hearing to July 20 at 6 pm; Commissioner Jarbo seconded.

Roll Call Vote: Voting "aye" were Commissioners Cartin, Jarbo and Welch; Mayor Hanson; and Trustee Atkinson; no Commissioners voted "nay." Motion passed unanimously.

- j. Commission Action - No action was taken, since the Public Hearing was continued.

Public Hearing #3: High Q

- a. Staff Presentation - Mr. Farrar presented a written report. Commissioner Jarbo asked for clarification that this proposed location is for recreational only, not medical; Mr. Farrar said yes, recreational only. Mr. Farrar recommended approval of the Conditional Use Application with the recommendations that the applicant uses exterior motion activated exterior light; sufficient odor mitigation is installed; the applicant shall comply with all review agency recommendations; and the CUP is approved subject to the Board of Trustees' approval of the marijuana license.
- b. Applicant Presentation - Renee Grossman gave a PowerPoint presentation to the Commission.
- c. Questions from Commission to Applicant and/or Staff - Commissioner Jarbo asked if the photo on the screen is the proposed Cedaredge location; Ms. Grossman said yes. Trustee Atkinson said the site plan did not appear to work well with the traffic report stating it would support 30 vehicles an hour. Tate Locke, owner of the property, said the traffic study means "one car in, one car out," so it really meant 15 vehicles, not 30. Ms. Grossman said that in three of her four current stores, there is no designated customer parking, and it has never been an issue. Ms. Grossman noted that vehicles could park behind the building and there is sufficient space for vehicles. Trustee Atkinson said the parking lot is small if vehicles are trying to turn around; Mr. Locke said there is flexibility

in where the parking is located. If Ms. Grossman is awarded a license, that would trigger her and Mr. Locke working with an engineer on property development. Mr. Locke noted there is additional space for parking, if needed.

Mr. Farrar noted that in the pre-application meeting, access through the Public Works facility was discussed, but the applicant decided against that. Mr. Locke noted again they have several options for parking and traffic flow.

Ms. Grossman noted that if it was desirable they are willing to put outdoor surveillance cameras on the building facing the park. Mayor Hanson noted he would be in favor.

Commissioner Jarbo asked if the driveway was wide enough for two vehicles to exit/enter at the same time; Ms. Grossman and Mr. Locke said yes.

Commissioner Jarbo asked, similar to the Kind Castle application, if High Q should submit an actual traffic/parking lot plan. Chairman Cartin said those items could be addressed in the motion. Trustee Atkinson noted the driveway needs a backup or hammerhead configuration.

Mr. Farrar suggested that if several changes were proposed, they applicant should come back on July 20.

Ms. Grossman asked for clarification if the 15 feet of landscaping along Highway 65 included the sidewalk or not; Mr. Locke said he had previously spoken with Town Staff who indicated it did include the sidewalk. Administrator Brinck said he did not have Municipal Code in front of him to verify, but would verify.

Mr. Locke noted the application met every single standard requested in the application, and that this phase of the project is just for the concept/preliminary site plan, and that details will be solidified once engineering plans and conversations with CDOT progress.

Trustee Atkinson asked how the property access aligns with the Dollar General access; Mr. Locke said that access is further north on the Highway.

- d. Public Comment In Favor - There was no Public Comment in favor of the proposal.
- e. Public Comment Against - There was no Public Comment against the proposal.
- f. Questions from Commission to Applicant and/or Staff - There were no additional questions.
- g. Staff Rebuttal - No rebuttal.
- h. Applicant Rebuttal - Ms. Grossman said she will work with all relevant agencies to make the application and proposed site work for the Town.
- i. Commission Deliberations - The Commission made no additional deliberations.

- j. Commission Action: Trustee Atkinson moved to approve the Conditional Use Permit with the staff recommendations and with additional staff review of the land use code to make sure the site complies with the code; Commissioner Welch seconded. In discussion Chairman Cartin asked if the High Q application meets all the minimum requirements; he said the additional requirements in the motion weren't necessary. Mr. Farrar said the application meets the minimum standards and that the applicant will have to comply with all land use regulations, and that the Commission must act on the application before them. Chairman Cartin asked Trustee Atkinson if he would drop the additional requirements. Trustee Atkinson said the additional requirements are outlined in the land use code, and the application must comply with the code. Mr. Farrar noted if the Commission wanted the assurance of compliance, the Public Hearing should be continued. Trustee Jarbo asked for clarification where it says the parking lot should be gravel instead of paved. Ms. Grossman noted the lot will be paved; there was a typo on the site plan. Mr. Farrar noted that a condition could be the applicant works with staff to ensure all requirements are met. Commissioner Jarbo said Ms. Grossman was on record saying the issue was a typo on the site plan. Ms. Grossman said that it was her understanding that she would have to bring a final site plan upon approval; Mr. Farrar said no, that this plan would be the one approved as part of the Conditional Use Application. Mr. Locke said when the applicant applies for a building permit, a final site plan will be required and that the building inspector will ensure that all land use regulations are met. Administrator Brinck said the code requires that a Conditional Use Permit requires a full completed site plan. Mr. Locke asked again what is not in compliance with the application; Trustee Atkinson said the setbacks, surface material, calculations on runoff, and traffic circulation. Trustee Atkinson noted the other applicants provided the traffic pattern; Ms. Grossman said she did provide that information. Chairman Cartin asked the Commission to come back to the issue. Commissioner Jarbo said that the motion includes that the applicant is obligated to comply with their oral and written comments at the meeting; he again noted again Ms. Grossman noted the parking lot would be asphalt or concrete, and that it was a typo on her site plan. Chairman Cartin called for a vote on the motion.

Roll Call Vote: Voting "aye" were Commissioners Cartin, Jarbo and Welch; Mayor Hanson; and Trustee Atkinson; no Commissioners voted "nay." Motion passed unanimously.

Public Hearing #4: Topsy Twigs

Administrator Brinck noted that Joshua Patterson, Topsy Twigs, did not properly notice the Public Hearing to neighboring property owners. The Public Hearing will be continued to Tuesday, July 20 at 6 pm to hear the Topsy Twigs Conditional Use Application. Chairman Cartin moved to continue the Topsy Twigs Public Hearing until July 20 at 6 pm; Trustee Atkinson seconded.

Roll Call Vote: Voting "aye" were Commissioners Cartin, Jarbo and Welch; Mayor Hanson; and Trustee Atkinson; no Commissioners voted "nay." Motion passed unanimously.

Ms. Prosser asked how the continuance of Topsy Twigs and Kind Castle changes the overall process for the other two applicants. Administrator Brinck said all applicants have been required to notice for the July 22 Board of Trustees Public Hearing; if the applicants at the continued Public Hearing on July 20 are not ready, their licensing before the Board of Trustees may have to

be continued. Ms. Prosser noted that each applicant was told to be fully ready with complete plans at the July 6 Public Hearing, and alleged that two of the applicants did not comply.

Mayor Hanson moved to adjourn the meeting; Commissioner Welch seconded. Chairman Cartin adjourned the meeting at 10:04 pm.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Kami Collins". The signature is written in a cursive, flowing style.

Kami Collins
Town Clerk